MAYOR OF LONDON

Dated: 2019

(1) The Greater London Authority

(2) Morley College Ltd

GLA Adult Education Budget 2019-23

Contract Terms and Conditions

For the 2019 to 2023 funding period (1 August 2019 to 31 July 2023)

European Union
European
Social Fund

COPYRIGHT

Greater London Authority
July 2019
Published by
Greater London Authority
City Hall
The Queen's Walk
More London
London SE1 2AA
www.london.gov.uk
enquiries 020 7983 4000
minicom 020 7983 4458
Copies of this report are available
from www.london.gov.uk

CONTENTS

Terms and Conditions		3
1	Definitions	3
2	Commencement and Continuation	6
3	Contract Management	7
4	Service Delivery	7
5	Assignment and subcontracting	7
6	Freedom of Information and Confidentiality	9
7	Equality of Opportunity	12
8	Learner Health, Safety & Welfare	13
9	Liability	16
10	Insurance	17
11	Limitation of Liability	17
12	Access and Monitoring	18
13	Funding and Payment	20
14	Review of Contractual Performance and Reconciliation of Contracts	22
15	Prohibited Activities	23
16	Data Protection and Protection of Personal Data	24
17	Submission of Learner Data	25
18	Quality Assurance and Raising Standards	27
19	Fraud and Irregularity	33
20	European Funding and Other Sources of Funding	34
21	Breach	35
22	Termination	36
23	Transfer of Responsibility on Expiry or Termination	39
24	Force Majeure	39
25	Public Reputations of the Parties/Press Releases	40
26	Branding and logos	40
27	Retention of Documents	41
28	Status of Contract	41
29	Waiver	41
30	Third Party Rights	41
31	Notice	41
32	Governing / Jurisdiction	42

33 Dispute Resolution 42
34 Feedback and Complaints 42
35 State Aid 43
36 Intellectual Property Rights 43
37 Disposal of Assets and Change of Use 44
38 Headings 45
39 Entire Contract / Amendments 45
Schedule 1 48
Schedule 2 49
Schedule 3 56
Schedule 4 75
Schedule 5 84
Schedule 6 91
Appendix A 93
Appendix B 94
Appendix C 96
Appendix D 97
Appendix E 98
Appendix F 99

Terms and Conditions

This Contract is made this 1st Day of August 2019 between:

Morley College Ltd, (61 Westminister Bridge Rd, London, SE1 7HT) Hereinafter called the Contractor:

AND

GREATER LONDON AUTHORITY Hereinafter called the GLA

GENERAL TERMS AND CONDITIONS

It is agreed as follows.

1 **Definitions**

AEB Services	Services to Learners paid for through the GLA's Adult Education Budget.
Child	means a person under the age of 18
Confidential Information	means any information, including Personal Data as defined by the Data Protection Act 2018, and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know- how, personnel, and suppliers of the Parties including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked "confidential").
Contract	means the Contract between the above-named parties consisting of these Terms and Conditions, the specification and any other documents (or parts thereof) specified in the Contract and any variations to the Contract agreed and signed by both Parties, in writing and/or digitally on OPS.
Contractor Personnel	means all persons employed or engaged by the Contractor together with the Contractor's servants, agents, consultants and subcontractors (and all persons employed by any subcontractor together with the Subcontractor's servants, consultants, agents, Contractors and subcontractors) used in the performance of its obligations under this Contract.

Contractor Related Parties	means any employee, officer, consultant, agent or any other person whatsoever acting for or on behalf of the Contractor or otherwise under the Contractor's control and direction (including but not limited to subcontractors).
Crown Body	means any department, office or agency of the Crown, including Ofsted, the Care Quality Commission, the Charity Commission, the Office for Students, any and all Local Authority or Combined Authority bodies.
Data Protection Laws	means the Data Protection Act 2018 and Electronic Communications (EC Directive) Regulations 2003 and any other data protection laws and regulations applicable in the UK (or in any relevant part thereof), including, General Data Protection Regulation (EU) 2016/679 or similar and any codes of practice, guidelines and recommendations issued by the Information Commissioner, any replacement body or other relevant supervisory authority, all of which are current at the time of any Data processing by the Service Provider (and in the event of any conflict between the Data Protection Laws and Law, Data Protection Laws shall take precedence) and references to "**Data Subjects**", "**Personal Data**", "**Process**", "**Processed**", "**Processing**", "**Special Personal Data**", "**Sensitive Personal Data**" and "**Data Processor**" have the meanings set out in, and will be interpreted in accordance with the Data Protection Act 2018 and General Data Protection Regulation (EU) 2016/679 ("**GDPR**").
Exempt Information	means any information or class of information (including but not limited to any document, report, contract or other material containing information) relating to this Contract or otherwise relating to the Contractor, which potentially falls within an exemption to FOIA (as set out therein).
Expiry Date	means 31 July 2023.
FOIA	means the Freedom of Information Act 2000 and all regulations made there from time to time or any superseding or amending enactment and regulations, and words and expressions defined in the FOIA shall have the same meaning in clause 6.
FOIA Notice	means a decision notice, enforcement notice and/or an information notice.
Funds	means the monies paid by the GLA to the Contractor pursuant to this Contract and **"Funding"** shall have the same meaning.

Funding Rules	means the documents which set out the detailed requirements with which the Contractor must comply in respect of each Learning Programme delivered under this Contract as may be amended by the GLA from time to time; as follows: • GLA AEB Funding and Performance Management Rules for Procured Providers • GLA AEB Funding Rates and Formula for all Providers
GDPR Principles	means as set out in Article 5 of GDPR.
High Needs Learner	means a Learner aged 16 to 18, or any young person aged 19 to 25 subject to an Education Health and Care Plan, who requires additional support.
Inspectorates	means one, any or all of the inspectorates: Office for Standards in Education, Children's Services and Skills (Ofsted), the Quality Assurance Agency for Higher Education, the Office for Students, and the Care Quality Commission (CQC).
Learner	means any third party including any student or similar to whom the Contractor is required to deliver any of the Services.
Learner Files/ Evidence Packs	means any information relating to a Learner generated by the Contractor, the Learner or a third party for the purpose of the delivery of the Learning Programme.
Learning Programme	means a programme of education and/or training delivered by the Contractor under this Contract.
Local Enterprise Partnership (LEP)	means the London Economic Action Partnership and/or the Coast to Capital Local Enterprise Partnership as appropriate.
Minimum Standards	means the minimum acceptable performance level for providers. These are an aggregated national calculation based on individual providers' overall Qualification Achievement Rates (QAR) which are typically calculated at qualification level for education and training. The overall QAR is the number of achieved learning aims as a percentage of the total number of learning aims in the cohort that ended.
Minor Breach	shall have the meaning given to it in clause 21.2.
Offender Management	means an officer from Her Majesty's Prison and Probation Service who is working directly with an offender serving their sentence in the community.

Ofsted	means the Office for Standards in Education.
OPS	means the "**GLA Open Project System**", being the GLA's on-line management information system (MIS), or any successor system and/or any other system which performs any of the same functions and which GLA notifies to the Contractor from time to time.
Parties	means the GLA and the Contractor.
Premises	means the location where the Services are to be performed, as detailed in the Contract.
Register	means The Register of Training Organisations maintained by the ESFA of organisations qualified to receive Funding from the ESFA other than for apprenticeships, or any subsequent register which serves a similar purpose.
Regulatory Body	means those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate or investigate the matters dealt with in this Contract or any other affairs of the Contractor or the GLA, including, without limitation Ofsted.
RIDDOR	means The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013.
Serious Breach	shall have the meaning given to it in clause 21.3.
Services	means the services to be provided as set out in the Funding Rules, the Contractor's tender, and the Specification and the definition of Expiry Date.
Specification	means the documents setting out the GLA's requirements for the Services to be provided under this Contract.
Termination Date	means any date on which this Contract terminates in accordance with clause 22.

2 Commencement and Continuation

2.1 The Contract shall commence on 1 August 2019.

2.2 Subject to clause 2.3 the Contract shall expire on the relevant Expiry Date for the respective Service, or in the event of earlier termination the Termination Date.

2.3 The GLA may extend the Contract for such a period or periods as may be necessary for Learners recruited by the Contractor prior to the relevant

Expiry Date, to complete their Learning Programmes and where this provision is so exercised by the GLA a new Expiry Date for that Service shall be notified by the GLA in writing and the definition of Expiry Date shall be updated accordingly.

3 Contract Management

3.1 The GLA and the Contractor will each nominate a contact for the purpose of dealing with queries and issues under this Contract and advise the other of the contact details.

3.2 The Contractor must ensure appropriate members of staff register as users on OPS. It is the Contractor's responsibility to maintain appropriate user roles on an on-going basis.

4 Service Delivery

4.1 The Services to be delivered under this Contract are the delivery of the Learning Programmes as set out in Schedule 1, the Summary of Programme Funding. The detailed requirements in respect of each Learning Programme are set out in the Funding Rules as amended from time to time by the GLA and which for the avoidance of any doubt form part of the terms and conditions of this Contract.

4.2 The Services are to be delivered in accordance with the specific requirements of the GLA, any tender document submitted by the Contractor as set out and varied in Schedule 3 and the Supporting Documentation as attached at Schedule 2 which sets out the activity and/or scheduled payment profiles for the Services agreed by the Parties, which all form part of the terms and conditions of the Contract.

4.3 The Contractor must provide evidence that it has worked in partnership with the LEP to ensure that the delivery of the Services takes account of the LEP's local economic and skills priorities.

5 Assignment and subcontracting

5.1 The Contractor may not subcontract without the prior approval of the GLA.

5.2 The Contractor must comply with the requirements on subcontracting delivery of the Services set out in the GLA's Funding Rules as amended and updated. Subcontracting any part of the Contract shall not relieve the Contractor of any obligation or duty attributable to him under the Contract or these conditions. The Contractor is responsible for all the actions of its subcontractors connected to or arising out of the delivery of the Services which it subcontracts.

5.3 Services under this Contract may only be subcontracted to one level unless otherwise specified in the Funding Rules when the Contractor must obtain the consent of the GLA in writing.

5.4 Where the Contractor has subcontracted any duties or obligations arising out of this Contract, the Contractor shall ensure that there is in place a legally binding subcontract and send copies of the subcontract to the GLA if requested in writing to do so. Where the Contractor enters into a subcontract for the purpose of performing the Contract, the Contractor shall ensure that the subcontract includes any terms specified in the Funding Rules.

5.5 The Contractor shall ensure that any subcontract entered into for the purpose of delivering the Services under this Contract contains a term providing that the GLA has the right to enforce the terms of the subcontract.

5.6 The Contractor shall ensure that subcontractors are selected fairly and have sufficient capacity, capability, quality and financial standing to deliver the Services.

5.7 The Contractor shall:

5.7.1 make payment to any subcontractor within 30 days of receiving a valid claim for payment;

5.7.2 ensure that that any invoices for payment submitted by the subcontractor are considered and verified by the Contractor in a timely fashion and if there is any undue delay in considering and verifying the invoice, then the invoice shall be regarded as valid and undisputed for these purposes; and

5.7.3 ensure that any subcontract entered into for the purpose of delivering the Services under this Contract contains a term giving effect to the requirements of this clause 5.7.

5.8 The Contractor may not assign any rights, duties or obligations under this Contract without the consent of the GLA.

5.9 The Contractor shall not without the prior written consent of the GLA assign, novate or otherwise dispose of or deal in any other manner with (including by means of a change in ownership of the Contractor) any or all of its rights, obligations or liabilities under this Contract. The Contractor shall give the GLA at least 12 weeks' notice of any such plans. The GLA reserves the right to take whatever actions it deems necessary, including but not limited to terminating the Contract if it considers in its absolute discretion that any, or

any proposed, assignment, novation, disposal or other dealing, including any change in ownership of the Contractor, may or would:

a. put public funds at risk,

b. put at risk the delivery of the Services to students, and/or

c. The GLA has any other material concerns about the proposed assignment, novation, disposal or other dealing including without limit of any procurement regulations, guidance or rules.

6 Freedom of Information and Confidentiality

6.1 Freedom of Information

6.1.1 The Contractor acknowledges and agrees that the GLA is subject to legal duties under FOIA, which may require the GLA to disclose on request information relating to this Contract or otherwise relating to the Contractor.

6.1.2 The Contractor acknowledges and agrees that the GLA is required by law to consider each and every request made under FOIA for information.

6.1.3 The Contractor acknowledges and agrees that all decisions made by the GLA pursuant to a request under FOIA are solely a matter for and at the discretion of the GLA.

6.1.4 Notwithstanding anything in this Contract to the contrary (including without limitation any obligations of confidentiality), the GLA shall be entitled to disclose information in whatever form pursuant to a request made under FOIA, save that in relation to any information that is Exempt Information the GLA shall use reasonable endeavours (but shall not be obliged) to consult the Contractor and shall not:

6.1.4.1 confirm or deny that information is held by the GLA; or

6.1.4.2 disclose information requested

to the extent that in the GLA's opinion the information is eligible in the circumstances for an exemption and therefore the GLA may lawfully refrain from doing either of the things described in parts 6.1.4.1 and 6.1.4.2 of this clause.

6.1.5 In relation to information relating to the Contractor or the Contract which the Contractor requests should be exempt under the FOIA. the Contractor shall indemnify the GLA for any and all costs (including legal fees) incurred by the GLA in:

6.1.5.1 assessing the application of any exemption under FOIA; and/or

6.1.5.2 responding to any FOIA notice; and/or

6.1.5.3 lodging any appeal against a decision of the Information Commissioner in relation to disclosure

where such costs are incurred pursuant to efforts by the GLA to withhold Exempt Information.

6.1.6 The GLA shall in no event be liable for any loss, damage, harm or detriment, howsoever caused, arising from or in connection with the disclosure under FOIA of any Exempt Information or other information whether relating to this Contract or otherwise relating to the Contractor.

6.1.7 The Contractor shall assist the GLA as reasonably necessary to enable the GLA to comply with its obligations under FOIA.

6.2 Confidentiality
The Contractor hereby warrants that:

6.2.1 any person employed or engaged by it (in connection with this Contract in the course of such employment or engagement) shall treat all Confidential Information belonging to the GLA as confidential, safeguard it accordingly and only use such Confidential Information for the purposes of this Contract; and

6.2.2 any person employed or engaged by it (in connection with this Contract in the course of such employment or engagement) shall not disclose any Confidential Information to any third party without prior written consent of the GLA, except where disclosure is otherwise expressly permitted by the provisions of this Contract.

6.3 The Contractor shall take all necessary precautions to ensure that all Confidential Information obtained from the GLA is treated as confidential and

not disclosed (without prior approval) or used other than for the purposes of this Contract by any of its employees, servants, agents or subcontractors.

6.4 The provisions of clauses 6.1 and 6.2 shall not apply to any information:

6.4.1 which is or becomes public knowledge (other than by breach of clauses 6.1 and 6.2);

6.4.2 which was in the possession of the receiving party, without restriction as to its disclosure, before the date of receipt from the disclosing party; or

6.4.3 which must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the party making the disclosure, including any requirements for disclosure under FOIA or the Environmental Information Regulations.

6.5 Nothing in this clause 6 shall be deemed or construed to prevent the GLA from disclosing any Confidential Information obtained from the Contractor:

6.5.1 to any Crown Body, any Central Government Body, Non-Departmental or Quasi Government Body or agency, central or local;

6.5.2 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;

6.5.3 the European commission, ESF Managing Authority and ESF auditors;

6.5.4 to any professional adviser, consultant, contractor or other person engaged by the GLA directly in connection with this Contract, provided that such information is treated as confidential by the receiving consultant, contractor or any other person; or

6.5.5 on a confidential basis to any proposed successor body in connection with any assignment disposal of its rights, obligations or liabilities under this Contract.

6.6 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the course of the Services, the Contractor undertakes to maintain adequate security arrangements that meet the requirements of professional standards and best practice.

6.7 The Contractor will immediately notify the GLA of any breach of security in relation to Confidential Information and all data obtained in the course of the

Services and will keep a record of such breaches. The Contractor will use its best endeavours to recover such Confidential Information or data however it may be recorded. The Contractor will co-operate with the GLA in any investigation that the GLA considers necessary to undertake as a result of any breach of security in relation to Confidential Information or data.

6.8 The Contractor shall, at its own expense, alter any security systems at any time during the Contract Period at the GLA's request if the GLA reasonably believes the Contractor has failed to comply with clause 6.6.

6.9 The GLA reserves the right to publish details of this Contract and the payments made under it to comply with the Government's transparency requirements.

6.10 The provisions of this clause 6 will apply for the duration of the Contract and after its termination.

7 Equality of Opportunity

7.1 The Contractor shall not unlawfully discriminate within the meaning and scope of the provisions of the Equality Act 2010 or any statutory modification or re- enactment thereof or any other statutory provision relating to discrimination in employment or the provision of Services. The Contractor shall take all reasonable steps to ensure the observance of these provisions by all servants, employees or agents of the Contractor and all subcontractors employed in the execution of the Contract. The Contractor will comply with the detailed requirements in relation to equality of opportunity set out in clauses 7.2 to 7.4.

7.2 The Contractor will, in delivering the Services under this Contract, demonstrate that it has had regard to the duties placed on the GLA and the Contractor by the Equality Act 2010. The Contractor will take all reasonable steps to ensure the observance of these provisions by all servants, employees or agents of the Contractor and all subcontractors employed to deliver the Services.

7.3 The Contractor shall ensure that equality of opportunity is built into all aspects of the Services; the business planning process; and the self-assessment process. The Contractor shall use analysis of data to inform future planning to improve the representation, participation and success of underrepresented and underachieving groups and challenge stereotyping. The Contractor shall use appropriate, specific and measurable objectives. These will be proportionate, relevant and aligned to the Services the Contractor is funded to deliver.

7.4 The GLA may use a variety of equality information and data to support judgements about quality and eligibility for Funding. These may include but

are not limited to: inspection judgements for equality and diversity, judgements from the Equality and Human Rights Commission, and the success and participation rates of different groups of Learners.

8 Learner Health, Safety & Welfare

8.1 The Contractor shall ensure so far as reasonably practicable that learning takes place in safe, healthy and supportive environments, which meet the needs of Learners. The Contractor shall provide information to the GLA, as and when specifically requested, to give assurance that adequate arrangements exist for Learner Health, Safety and Welfare.

8.2 Where part of the learning takes place in an environment outside the direct control of the Contractor, the Contractor shall take all reasonable steps to ensure that adequate arrangements are in place to ensure the health and safety of Learners.

8.3 The Contractor shall make arrangements for ensuring that the Services are provided with a view to safeguarding and promoting the welfare of Children receiving education or training at the institution or under the auspices of the Contractor in an environment outside the direct control of the Contractor. In doing so, the Contractor shall have regard to any guidance published, from time to time, by the Secretary of State for Education which sets out the expectations in relation to safeguarding practice within further education institutions. References to 'must' in any such guidance shall be treated as 'should' for the purposes of this Contract, save for any references to legal requirements arising from the Safeguarding Vulnerable Groups Act 2006 in respect of referrals to the Disclosure and Barring Service. Failure to do so may constitute a Serious Breach of this Contract.

8.4 The Contractor shall make arrangements for ensuring that the Services are provided with a view to safeguarding and promoting the welfare of High Needs Learners aged 18 to 25 receiving education or training at their institution or under the auspices of the Contractor in an environment outside the direct control of the Contractor. This must include the adoption of safer recruitment procedures. In doing so, the Contractor shall make those arrangements as if such Learners were Children and will have regard to any guidance published, from time to time, by the Secretary of State for Education which sets out the expectations in relation to safeguarding practice within further education institutions as if it applied to those Learners as if they were Children. References to 'must' in any such guidance shall be treated as 'should' for the purposes of this Contract, save for any references to legal requirements arising from the Safeguarding Vulnerable Groups Act 2006 in respect of referrals to the Disclosure and Barring Service. Failure to do so may constitute a Serious Breach of this Contract.

8.5 The Contractor must carry out appropriate disclosure and barring service checks on all overseas applicants for employment where such applicants would be employed to work in regulated activity relating to Children or vulnerable adults (as defined by the Safeguarding Vulnerable Groups Act 2006) if successful and must seek additional information about an applicant's conduct.

8.6 In working with other organisations/bodies, the Contractor shall make arrangements to co-ordinate and co-operate effectively for reasons of Learner health, safety and welfare. In particular, respective responsibilities shall be clearly identified and documented as appropriate, to ensure understanding.

8.7 In providing the Services, the Contractor must ensure it actively promotes the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs and promote principles that support equality of opportunity for all.

8.8 In providing the Provision, the Contractor must comply with the general duty on specified authorities in section 26 of the Counter-Terrorism and Security Act 2015 (the Prevent duty) and must have regard to statutory guidance issued under section 29 of the Counter-Terrorism and Security Act 2015. Failure to do so may constitute a Serious Breach of this Contract.

8.9 In providing the Provision, the Contractor must comply with the duty on partners of a panel in section 38 of the Counter-Terrorism and Security Act 2015 (the Channel co-operation duty). Failure to do so may constitute a Serious Breach of this Contract.

8.10 The Contractor shall not employ or engage, or continue to employ or engage, any person who is subject to a prohibition order made under section 141B of the Education Act 2002 to carry out teaching work (as defined in regulation 3 of the Teachers' Disciplinary (England) Regulations 2012) in respect of any Learners under the age of 19 and High Needs Learners aged 19 to 25 (as if those Learners were pupils for the purposes of the definition of teaching work in regulation 3 of the Teachers' Disciplinary (England) Regulations 2012)

8.11 Before employing or engaging a person to carry out teaching work in respect of any Learners under the age of 19 and High Needs Learners aged 19 to 25 (as if those Learners were pupils for the purposes of the definition of teaching work in regulation 3 of the Teachers' Disciplinary (England) Regulations 2012), the Contractor shall take reasonable steps to ascertain whether that person is subject to a prohibition order made under section 141B of the Education Act 2002, or an interim prohibition order made under regulation 14 of the Teachers' Disciplinary (England) Regulations 2012.

8.12 The Contractor shall, in circumstances where it subcontracts the management and/or delivery of the Services under this Contract, ensure that all the provisions in respect of Learner Health, Safety and Welfare in this clause 8 are included in its contract with subcontractors.

8.13 The Contractor shall inform the GLA of the death of any Learner which is a result of work undertaken whilst in employment and who is undertaking a related Learning Programme. This shall be done by informing the GLA's representative by telephone or email immediately upon the Contractor becoming aware of the event.

8.14 The Contractor shall report all RIDDOR reportable incidents in line with the Regulations and shall investigate or assess the circumstances of all Learner incidents within the scope of RIDDOR and follow HSE guidance 'Investigating accidents and incidents: A workbook for employers, unions, safety representatives and safety professionals' (HSG245) ISBN 0717628272. The Contractor shall only use persons competent to investigate/assess Learner incidents with a view to identifying the causes of any incident and lessons to be learned.

8.15 The Contractor shall also monitor, and act on, any other harm to Learners to the extent that the Contractor could reasonably be expected to do so and/or where the harm could affect the quality of the learning experience. Harm includes (but is not limited to) incidents that cause absence from learning, any loss to the Learner of any physical or mental faculty or any disfigurement and incidents of bullying and harassment.

8.16 The Contractor shall co-operate with the GLA and Department for Work and Pensions for the purposes of the Industrial Injuries Disablement Benefit (IIDB) in respect to those Learners to which it applies.

8.17 The Contractor and/or the Contractor Related Parties must be able to demonstrate that they have robust record-keeping procedures in respect of health, safety and safeguarding through checks on record keeping undertaken. Failure to do so will constitute a Serious Breach.

8.18 Where the Contractor or one of its Contractor Related Parties refer:

(a) a safeguarding concern related to sexual violence to Local Authority children's social care/adult social care and/or the police, or

(b) an allegation of abuse made against a teacher or other member of staff to the designated officer(s) (at the local authority), the Contractor must, as soon as practicable, inform the GLA via email to aeb@london.gov.uk. Such notification must include the name of the institution, a high level summary of the nature of the incident (without sharing personal information about victims

or alleged perpetrators) and confirmation of whether it is, or is scheduled to be, investigated by the Local Authority and/or the police.

8.19 Where the Contractor makes a referral of an individual for the purposes of determining whether that individual should be referred to a panel for the carrying out of an assessment under section 36 of the Counter-Terrorism and Security Act 2015 of the extent to which that individual is vulnerable to being drawn into terrorism, the Contractor shall ensure it notifies the GLA that a referral has been made provided always that no Personal Data shall be provided in breach of Data Protection Laws.

8.20 Where the Contractor has made a referral or provided information to the Disclosure and Barring Service in compliance with any duties of the Contractor under the Safeguarding Vulnerable Groups Act 2006, the Contractor shall ensure that it informs the GLA that a referral has been made / information has been provided, provided always that no Personal Data shall be provided in breach of the Data Protection Laws.

9 Liability

9.1 The Contractor shall indemnify and keep indemnified the GLA, their servants, employees, and agents against all loss, damage or liability (whether civil or criminal), claims, demands, costs and expenses incurred by or made against the GLA, their servants, employees, or agents in respect of any loss or damage or personal injury (including death) howsoever arising out of or in the course of or caused by the act or omission (including without limitation any negligent act or omission) or wilful default of the Contractor, their servants or agents in the delivery of the Service except to the extent (if any) that it was also caused or contributed to by the negligent act or omission or wilful default of the GLA or their servants or agents.

9.2 The Contractor warrants to the GLA that to the best of its knowledge and belief all works carried out under the Contract will not infringe, in whole or in part, any copyright or any other intellectual property right of any person and agrees to indemnify the GLA against any and all claims, demands, proceedings, expenses and losses, including any of a consequential nature, arising directly or indirectly out of any act of the foregoing in relation to any works, where such an act is, or is alleged to be, an infringement of a third party's copyright or other intellectual property right. This warranty and indemnity shall survive the termination of the Contract and shall exist for the life of the copyright or other intellectual property right.

9.3 The liability of the Contractor under this clause shall not exceed twice the value of the Contract or £1,000,000 whichever is the greater save that this limit shall not apply to claims in respect of death or personal injury.

9.4 The GLA reserves the right to require the Contractor to secure the provision of an appropriate guarantee in respect of the Contractor's liabilities under this Contract.

10 Insurance

10.1 Without prejudice to the Contractor's liability to indemnify the GLA under this Contract the Contractor shall at its own cost:

10.1.1 maintain a policy or policies of insurance to cover the liability of the Contractor in respect of any act or default for which it may become liable to indemnify the GLA under this Contract including (without limitation) professional indemnity insurance of not less than £1,000,000 per incident;

10.1.2 maintain employer's liability insurance as required by law;

10.1.3 ensure that any third-party contractor engaged by the Contractor in or about its provision of the Services has public liability insurance of not less than £5,000,000 per incident; and

10.1.4 maintain public liability insurance to cover injury and loss to any assets and to third parties, such insurance to:

10.1.4.1 be of an amount not less than *£10,000,000* per incident or series of incidents arising out of one event;

10.1.4.2 be maintained with a reputable insurer authorised to underwrite such risks in the United Kingdom;

10.1.4.3 be endorsed so that any care, custody or control exclusion shall be deleted in respect of any assets belonging to the GLA including any GLA premises; and

10.1.4.4 provide indemnity to principals cover to the GLA.

10.2 The GLA also reserves the right to require the Contractor to insure against any act or default which arises as a result of fraud or other criminal activity by the Contractor, its employees, agents or subcontractors.

10.3 The Contractor shall provide to the GLA upon written request with copies of all and any insurance certificates relating to the above insurances.

11 Limitation of Liability

11.1 The GLA shall not be liable to the Contractor for any indirect or consequential loss, damage, injury or costs whatsoever.

12 Access and Monitoring

12.1 The GLA shall, where practicable, give the Contractor reasonable advance notice in writing of proposed visits to the Contractor or its subcontractors, to observe the delivery of the Services, by any person who has taken or will take no direct part in the conduct or content of the Services.

12.2 For monitoring and evaluation purposes, the GLA or their representatives, the ESF Managing Authority or their representatives, the Secretary of State or their representatives, the National Audit Office, Representatives of the European Commission and the European Court of Auditors, the Inspectorates and HM Treasury shall have the right to visit all or any site(s) and view operations relating to the Services and to inspect relevant documents and interview Learners and the Contractor's staff during these visits in order to:

12.2.1 examine, audit or take copies of any original or copy documentation, accounts, books and records of the Contractor and its subcontractors that relate to the Contract;

12.2.2 visit, view or assess the design, management and delivery relating to the Contract at any Premises where those operations are carried out (including those of subcontractors) and conduct relevant interviews, including interviews with Learners, during these visits at any reasonable time; and/or

12.2.3 carry out examinations into the economy, efficiency and effectiveness with which the Contractor has used the GLA's resources in the performance of the Contract.

12.3 The Contractor shall, if required by any of the representatives stated at clause 12.2 provide appropriate oral or written explanations.

12.4 The GLA reserves the right, at any reasonable time, and as it may deem necessary to require the Contractor at its own cost to:

12.4.1 provide evidence of financial resources and the level of turnover sufficient to enable it to continue to perform the Contract;

12.4.2 provide such assurance as the GLA may require that the delivery of the Services complies with the requirements of the Contract;

12.4.3 obtain a report by an independent accountant of the GLA's choice on:

12.4.3.1 the financial systems and controls operated by the Contractor or its subcontractors;

12.4.3.2 the accuracy and regularity of Funding claims in respect of payments claimed or received under the Contract; and

12.4.3.3 the evidence held by the Contractor or its subcontractors to support delivery of the Services in accordance with the terms of the Contract.

12.4.4 The Contractor must agree the instructions for the work with the GLA. The report and the work required in order to produce the report shall be carried out to the satisfaction of the GLA, and the GLA must be able to place reliance on it. The Contractor shall provide a copy of the interim and final report to the GLA as soon as they are available. The GLA reserves the right to require the Contractor to publish the report.

12.4.5 provide a copy of the Contractor's latest audited Accounts and submit further copies of the audited Accounts as they become available;

12.4.6 submit any claim for payment or management information provided to support a claim for payment to be audited by an independent auditor chosen by the GLA; and/or

12.4.7 provide any additional evidence to support payments made under this Contract, as the GLA shall reasonably require.

12.5 The Contractor shall in performing the Services comply fully with all relevant rules and regulations of the GLA in force from time to time especially when on the GLA's premises.

12.6 In addition to the other requirements to provide information set out in this Contract the GLA reserves the right to request information from the Contractor in order to exercise its responsibilities and/or to fulfil requirements to provide information to the Secretary of State, to account to Parliament and to meet European funding requirements. On occasion, the GLA will require urgent information from the Contractor.

12.7 The Contractor shall provide the GLA or agents acting on its behalf with the information it requires under clause 12.6 at the times and in the formats specified. This information shall be of sufficient quality to meet the purposes for which it has been requested.

12.8 Failure to comply with any request for information under clause 12.6, at all or in the required timescales, will constitute a Minor / Serious Breach of this Contract.

13 Funding and Payment

13.1 Subject to clause 13.2 and in consideration of the Contractor delivering the Services in accordance with clause 4, the GLA agrees to pay the Contractor the amounts set out in Schedule 2 ("the Maximum Contract Value") and such payments are to be made in accordance with the Funding Rules, on condition that the Contractor delivers the Services in accordance with the terms and conditions of the Contract.

13.2 Payment will not be made in accordance with clause 13.1 where the GLA has reasonably concluded that the Contractor is at serious risk of failure to deliver the Services following a review of the quality of the Services by the GLA.

13.3 In the event that the Contractor exceeds its Maximum Contract Value without the prior express authorisation of the GLA it does so at its own risk. There is no obligation on the GLA to make any payment in excess of the Maximum Contract Value unless this has been specifically authorised by the Agency in accordance with clauses 13.4, 13.5 or otherwise.

13.4 The Maximum Contract Value may be varied by the GLA in accordance with the Funding Rules. Any such variation may result in a reduction or an increase in the Maximum Contract Value, in accordance with the Funding Rules. Any such variation will take effect only when notified by the GLA and Schedule 2 shall be updated accordingly to reflect the variation.

13.5 Where the GLA identifies that the Contractor is failing to deliver the value of learning of this Contract it reserves the right in its absolute discretion to reduce the Maximum Contract Value for that Learning Programme.

13.6 The GLA will restrict delivery of this Contract against the Maximum Contract Value as detailed in Schedule 2 up to the Expiry Date. Schedule 2 confirms the Maximum Contract Value available for each financial year and each funding year. Where the delivery of the Services within a financial year or a funding year fails to meet the minimum levels of performance over that period or where the delivery in this period would result in the overall Maximum Contract Value being exceeded, the GLA reserves the right at its absolute discretion to vary the Maximum Contract Value accordingly.

13.7 In delivering the Services to Learners starting on a Learning Programme on or after 1 August 2019 the GLA reserves the right to give at least 8 weeks' notice in writing of its intention to cease funding for any new Learners recruited on a Learning Programme from the date specified in the notice. The

GLA will not be liable to make payments in respect of any Learners recruited after the date specified in the notice.

13.8 The GLA intends to review the performance of the Contractor during the second and third years of this contract. The GLA may use its power of termination in clause 13.7 following such a review.

13.9 The GLA reserves the right to give three months' notice to reduce the Maximum Contract Value without the need to give a reason.

13.10 Payment by the GLA shall be without prejudice to any claims or rights, which the GLA may have against the Contractor and shall not constitute any admission by the GLA as to the performance by the Contractor of its obligations hereunder. Prior to any such payment, the GLA shall be entitled to make deductions or deferments in respect of any disputes or claims whatsoever with or against the Contractor, arising from this Contract or any other Contract between the Contractor and the GLA.

13.11 Where the GLA carries out a review, investigation or audit of a sample of the evidence which the Contractor is required to provide under the Contract to support the payments made by the GLA and identifies errors in that evidence which it deems are material, the GLA reserves the right at its absolute discretion to require the Contractor to carry out 100% audit of all or part of the Services and/or to recover from the Contractor the greater of:

13.11.1 an amount based on the error rate identified and the total value of the Contract; or

13.11.2 any amount recovered from the GLA as a result of such errors by anybody such as the ESF Managing Authority or the European Commission.

13.12 The amounts recovered under clause 13.11 may be recovered by making adjustments to data submitted by the Contractor under the Contract, or by raising an invoice for payment by the Contractor, or making deductions from future payments due to the Contractor under the Contract or any other contract which the Contractor may hold with the GLA. Failure to settle such amounts by the Contractor will constitute a Serious Breach under clause 21 of the Contract. The decision of the GLA as to the amount of recovery under this clause 13 is final.

13.13 All payments by the GLA will be made via BACS.

13.14 The Funds paid by the GLA to the Contractor is not subject to VAT. If HM Revenue and Customs subsequently rule that VAT is payable, then the amount of the Funds shall be deemed to be inclusive of any VAT. We will not

be obliged to make any further payment in addition in respect of any VAT which may be payable in relation to this Contract.

13.15 The Contractor represents and undertakes to the GLA as fundamental conditions of this Contract that:

13.15.1 it has fully considered and, where appropriate, have taken professional advice in relation to the VAT treatment of the Funds (i) to be paid to the Contractor by the GLA under this Contract; and (ii) to be made the Contractor to subcontractors in connection with the Services to be delivered;

13.15.2 notwithstanding clause 13.14, the Contractor will not claim for or use any part of the Funds in respect of any recoverable VAT payable on any taxable supplies made to third parties in respect of the Services, save as specifically authorised in writing in advance by the GLA;

13.15.3 if the Contractor becomes liable to pay VAT in relation to any payments due to any subcontractor in connection with this Contract and such VAT was not included within the Funds (and so becomes an additional cost to the delivery of the Services), the Contractor will be required to fund such additional cost out of its own resources; and

13.15.4 if the Contractor becomes entitled to recover the VAT on any items for which it has received a payment from the GLA pursuant to this Contract it will immediately notify the GLA of this in writing and it will repay the amount or amounts equivalent to such recovered VAT within twenty (20) Working Days of receipt of such recovered VAT by the Contractor.

14 Review of Contractual Performance and Reconciliation of Contracts

14.1 Where the Contractor receives profile payments from the GLA, payments will be reconciled to cash earned by actual delivery of the Services for the period to the timetable published in the Funding Rules.

14.2 Where the Contractor's actual delivery, as against the Maximum Contract Value, will result or has already resulted in an overpayment to the Contractor by the GLA, the GLA will withhold from, or deduct the amount owed from, payments due to the Contractor under the Contract for current or subsequent months or years accordingly.

14.3 Where the Contractor's actual delivery, as against the Maximum Contract Value, has resulted in an underpayment to the Contractor by the GLA, the GLA will adjust the amount due to the Contractor accordingly. This adjustment shall not exceed the Maximum Contract Value for each financial year and each funding year as set out in Schedule 2 of this Contract.

14.4 Should there be an under or over payment to the Contractor, the GLA will consider the underlying causes for that, in accordance with the Funding Rules and, may at its absolute discretion require a Contract variation to amend the Maximum Contract Value.

14.5 A Contract review will take place after the end of each funding year and at the end of the period of this Contract in respect of the Services specified in Schedule 2 of this Contract. The GLA will notify the Contractor of the actual amount of money, which has been earned against the Services delivered, and compare this to the total payments made and to the overall maximum value specified in Schedule 2. At this stage final cash reconciliation will take place. Any overpayment made to the Contractor by the GLA will be repayable within 30 days of receiving an invoice. The GLA reserves the right to set off any amounts owing due to the Contractor under any other contract it has with the GLA. The GLA will pay any outstanding monies owed, up to the Maximum Contract Value as specified in Schedule 2 of this Contract, within 30 days of final reconciliation being completed.

14.6 The evidence required in respect of each Learning Programme is set out in the Funding Rules and the Contractor must retain such evidence for inspection on demand.

14.7 In 2019-20, the value of the Contractor's delivery will be calculated using the latest validated ILR, EAS and ESF Supplementary data provided by the Contractor. From 2020 onwards, the GLA reserves the right to amend the basis of the calculation of the Contractor's actual delivery depending on arrangements yet to be agreed between the GLA and the Education and Skills Funding Agency. The GLA will reconcile this funding at the end of the funding year based on the annual final funding claim and evidence the Contractor has provided. The GLA will recover any overpayments.

15 Prohibited Activities

15.1 The Contractor shall not offer or give, or agree to give, to any member, employee or representative of the GLA any gift or consideration of any kind as an inducement or reward for doing or refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other Contract with the GLA or for showing or refraining from showing favour or disfavour to any person in relation to this or any such Contract. The Contractor's attention is drawn to the criminal offences created

by the Bribery Act 2010. Any offence by the Contractor or its employees or by anyone acting on its behalf under the Bribery Act 2010 in relation to this or any Contract with the GLA or Her Majesty's Government shall entitle the GLA to terminate the Contract and recover from the Contractor the amount of any loss resulting from such termination and/or to recover from the Contractor the amount of value of any gift, consideration or commission.

15.2 The Contractor shall not enter into any Contract with any political or religious organisation using any Funding provided by the GLA under this Contract if the effect of that Contract would be to promote a particular political or religious point of view.

15.3 The Contractor shall not hold itself out as acting on behalf of the GLA without the GLA's permission.

15.4 The Contractor will not claim for or use any part of the Funds in respect of support or assistance, whether directly or indirectly, for activities which may be perceived as political or of an exclusively religious nature or which may bring the GLA or the Mayor of London into disrepute.

16 Data Protection and Protection of Personal Data

16.1 The Parties shall ensure that information acquired by the Parties and Subcontractors in the delivery of this Contract will at all times comply with the Data Protection Laws, and all Personal Data acquired by either party from the other shall be returned to the disclosing party on request. Both Parties hereby acknowledge that performance of a duty imposed by the Data Protection Laws shall not constitute a breach of any obligation in respect of confidentiality which may be owed to the other party. The clause shall not affect the GLA's ability to make a search on the Contractor with a credit reference agency.

16.2 With respect to the Parties' rights and obligations under this Contract the Parties agree that:

16.2.1 they are both separate Controllers for the purposes of the Data Protection Laws;

16.2.2 the framework of all data sharing pursuant to clause 17.1 between the Parties shall comply with the Data Protection Laws; and

16.2.3 the Parties shall enter into a separate data sharing agreement (in the form the GLA directs) prior to any sharing of Personal Data by the Contractor with the GLA pursuant to this Contract either:

16.2.3.1 on a Controller to Controller basis pursuant to clause 17.1 or otherwise; and/or

16.2.3.2 in the event that the Contractor acts as a Processor for the GLA the Contractor shall comply with the obligations set out in Schedule 5.

16.3 The Contractor shall:

16.3.1 share properly anonymised or aggregated Learner Data and Workforce Data (as defined in clause 17) with the GLA in compliance with its obligations under clause 17; and

16.3.2 provide Learner's (and any other relevant Data Subjects) the fair processing information required by the Data Protection Laws to cover off that anonymisation, aggregation and data sharing with the GLA as a Controller.

16.4 If there is a conflict between this clause 16 and the Funding Rules this clause takes precedence and nothing contained within the Funding Rules shall vary or amend this clause 16.

16.5 Where the Contractor is providing the Services to Learners claiming out of work benefits, the Secretary of State for Work and Pensions (or their successor) is the Data Controller in relation to Personal Data which the Contractor is required to provide to the Secretary of State for Work and Pensions. This clause 16 will be enforceable by the Secretary of State for Work and Pensions in relation to any Personal Data processed by the Contractor on their behalf.

16.6 Where the Contractor is providing the Service to Learners who are subject to active management by the Offender Manager in respect of an order or licence, the Secretary of State for Justice (or their successor) is the Data Controller in relation to Personal Data which the Contractor is required to provide to the Secretary of State for Justice.

17 Submission of Learner Data

17.1 The Contractor must supply the GLA data on each individual Learner (and where relevant member of its workforce involved in the Provision), in accordance with the Funding Rules and any guidance issued by the GLA from time to time.

17.2 The Contractor must supply the GLA with data in accordance with the following:

17.2.1 in line with agreed audit arrangements;

17.2.2 in adherence with the Data Protection Laws;

17.2.3 to support payments to be made;

17.2.4 to enable reconciliation to take place; and

17.2.5 to support the contract management and allocation processes.

Data to be supplied pursuant to clause 17.1 ("Learner Data") must be transmitted to the GLA securely through the GLA's OPS and/or the Education and Skills Funding Agency as required by the GLA. The Contractor must keep its information on OPS fully updated. Access to the OPS is restricted and the Contractor agrees to comply with the conditions of use regarding the supply of data to the GLA set out in this clause 17 and the Funding Rules and any guidance issued by the GLA from time to time.

17.3 To the extent possible, the Contractor shall anonymise and/or aggregate the data supplied under clause 17.2.

17.4 The Contractor is responsible for the accuracy of the Learner Data, where the GLA is concerned about the quality of the Learner Data, including the completeness or accuracy of the data, provided by the Contractor, the GLA may require the Contractor to supply Learner Data more frequently for such a period as the GLA shall require.

17.5 The GLA reserves the right to require the Contractor, at its own cost, to carry out such work as the GLA deems necessary to improve the quality of data.

17.6 The GLA reserves the right to suspend payments to the Contractor under the Contract where Learner Data quality gives rise to concern about the accuracy of the Learner Data provided by the Contractor.

17.7 Failure to transmit complete and accurate Learner Data to the GLA in accordance with this clause 17 will constitute a Serious Breach of Contract in accordance with clause 21 of the Terms and Conditions of the Contract.

17.8 Where the Contractor is providing the Services to Learners claiming out of work benefits, it must provide data to the Secretary of State with responsibility for unemployment or their nominated representative in accordance with the legal requirements notified to the Contractor ("Unemployment Data") in accordance with Data Protection Laws. Failure to transmit complete and accurate data under this clause 17 will constitute a Serious Breach of Contract in accordance with clause 21 of the General Terms and Conditions of the Contract and may result in payments for this part of the Services to be delayed or withheld.

17.9 The Contractor must update the course information funded by the GLA at www.coursedirectoryproviderportal.org.uk in accordance with the course directory data requirements which can be found at: https://coursedirectoryproviderportal.org.uk/Help.

17.10 The Contractor shall register with UKRLP and maintain contact details on an on-going basis.

17.11 The Contractor must submit data about any member of its workforce delivering GCSE English and Maths ("Workforce Data") pursuant to clause 17.1 in the format and to the timescales as required by the GLA.

18 Quality Assurance and Raising Standards

18.1 The Contractor undertakes to the GLA that it has the resources and skills necessary to carry out the Contractor's obligations pursuant to this Contract.

18.2 The Contractor shall comply with the Funding Rules published by the GLA as amended from time to time and any other requirements, which may from time to time be issued by the GLA, Ofsted, the awarding organisations, the ESF Managing Authority or its representatives, the European Commission and other Regulatory Bodies and of which the Contractor is made aware.

18.3 The Contractor shall ensure that all activities carried out pursuant to this Contract shall be documented in accordance with the requirements of the GLA and shall provide such documentation to them as the GLA shall request from time to time.

18.4 The Contractor shall continuously seek to improve the Services and raise standards to benefit the Learner. The Contractor shall have the primary responsibility for improving standards and will need to demonstrate to the GLA satisfaction that it has an effective quality assurance system based on the implementation of its own quality improvement process. The GLA reserves the right to require the Contractor to provide the GLA, Ofsted or any other Inspectorate with evidence to support the quality improvement processes.

18.5 The Contractor shall use all reasonable endeavours to:

18.5.1 minimise drop-out rates and deliver high completion and achievement rates and appropriate progression;

18.5.2 meet the minimum quality standards published by the Department for Education and / or the GLA that apply to the appropriate Services purchased;

18.5.3 ensure competent and appropriately qualified staff deliver and assess learning. The Contractor shall be responsible

for the continuing professional development and training of its staff;

18.5.4 offer equality of access to learning opportunities and close equality gaps in learning and outcomes;

18.5.5 provide a safe, healthy and supportive environment, which meets the needs of Learners;

18.5.6 provide good management and leadership of the learning process;

18.5.7 deliver value for money and financial probity; and

18.5.8 ensure all subcontractors delivering Services under the Contract on behalf the Contractor comply with the requirements set out in clauses 18.5.1 to 18.5.7 above.

18.6 Failure to meet the requirements set out in clauses 18.5.1 to 18.5.8 may result in the GLA assessing the Contractor to be in Serious Breach of the Contract under clause 21 of the Contract.

18.7 The Contractor must take all reasonable steps to meet the relevant requirements for data gathering for the FE Choices Performance Indicators as outlined currently at https://www.gov.uk/government/collections/fe-choices-information-for-providers and in any subsequent updates to these web pages.

18.8 Where appropriate, the Contractor shall confirm in writing to the GLA that their Centre Approval Status is still current. The written statement will need to confirm approved centre status for the specific Regulated Qualification Framework (RQF) titles and levels, including awarding body name(s). The Contractor must notify the GLA immediately in writing if it receives any sanction from an awarding body.

18.9 The GLA may assess the quality and delivery of the Services and the Contractor's compliance with the requirements in clauses 18.5.1 to 18.5.8 during the term of the Contract. The Contractor will be informed of the outcome of that process. Where the GLA assesses the Contractor to be in Serious Breach of Contract following such assessment the GLA will issue a notice in accordance with clause 21.6.1 of the Contract which may:

18.9.1 require the Contractor to meet improvement indicators to improve the quality of its Services. The GLA will meet with the Contractor to discuss and reach agreement on implementation of these actions and improvement indicators and to agree arrangements for monitoring and

reviewing progress. In such cases reviews will take place at the frequency specified by the GLA and in agreement with the Contractor;

18.9.2 agree detailed improvement plans and measures that set out clearly the expected timescale for improvement;

18.9.3 agree arrangements for more frequent monitoring of quality improvement plans.

18.10 The GLA may at its discretion agree a programme of support for the Contractor to assist it in taking action to improve the quality of the Services.

Financial Health

18.11 The GLA may undertake a desk-based assessment of financial health and control. Should the GLA, at its absolute discretion, consider that the outcome of any financial health and/or control assessment is deficient, the GLA may, in its absolute discretion take one or more of the following actions:

18.11.1 require the Contractor to, and the Contractor shall, accept and comply with additional Contract obligations relating to the improvement of financial health and/or control arrangements;

18.11.2 require the Contractor to suspend the recruitment of Students to the Services and/or cap any growth in Student numbers;

18.11.3 reduce, suspend or recover payment to the Contractor; and/or

18.11.4 give consideration to what changes, if any, are required in its allocations when finalising the amount of Funding in any subsequent Contract between the parties; and/or

18.11.5 terminate in accordance with clause 22.5.1

18.12 Where the Contractor fails to comply with requirements imposed under clauses 18.11.1 and/or 18.11.2, the GLA shall consider termination under clause 22.5.2.

Ofsted Inspection

18.13 Ofsted may, at any time during the Term, undertake an inspection of the Contractor.

18.14 When the Contractor receives notification from Ofsted that the Services are to be inspected, the Contractor shall on request provide the GLA with details

of its quality improvement activity, and any other relevant information in accordance with the required timescale of Ofsted. The Contractor must notify the GLA of the date of the meeting at which Ofsted will give feedback on the inspection and allow the GLA's nominated representative to attend the meeting. The Contractor must confirm to the GLA in writing the outcome of the inspection within 5 working days of receiving the feedback from Ofsted.

18.15 The GLA will consider the outcome of any such Ofsted inspection of the Contractor as follows:

Inadequate in part

18.15.1 Where Ofsted has assessed the Services to be inadequate in any sector specific areas, the GLA may, in its absolute discretion take one or more of the following actions:

18.15.1.1 require the Contractor to accept and comply with additional Contract obligations relating to the improvement of the Services assessed as inadequate;

18.15.1.2 require the Contractor to suspend the recruitment of Learners to, and/or to cap any growth in, the Services which is assessed as inadequate;

18.15.1.3 give consideration to the Services which are assessed as inadequate in its allocations when finalising the amount of Funding in any subsequent Contracts between the Parties;

18.15.1.4 reduce, suspend or recover payment to the Contractor in respect of that part of the Services assessed as inadequate; and/or

18.15.1.5 terminate in accordance with clause 22.5.4.

Inadequate overall

18.15.2 Where the GLA is made aware that Ofsted has provisionally assessed the Services to be inadequate overall, the GLA may, in its absolute discretion take one or more of the following actions:

18.15.2.1 require the Contractor to accept and comply with temporary additional Contract obligations relating to the improvement of the overall Services, including but not limited to, requiring the Contractor to temporarily suspend the recruitment of Learners and/or temporarily

cap any growth in those Learning Programmes which are assessed as inadequate; and/or

18.15.2.2 commence discussions with the Contractor and the Local Authority within whose area the Contractor is located, either with Ofsted or not, as part of considering what actions as specified in clauses 18.15.2.4 to 18.15.2.8 may be taken.

18.15.2.3 Where Ofsted has confirmed its assessment that the Services are inadequate overall, the GLA may, in its absolute discretion take one or more of the following actions:

18.15.2.4 require the Contractor to accept and comply with additional Contract obligations relating to the improvement of the overall Services;

18.15.2.5 require the Contractor to suspend the recruitment of Learners to, and/or to cap any growth in, those Learning Programmes which are assessed as inadequate;

18.15.2.6 give consideration to the assessment of inadequate in its allocations when finalising the amount of Funding in any subsequent Contracts between the Parties;

18.15.2.7 reduce, suspend or recover payment to the Contractor; and/or

18.15.2.8 terminate this Contract in accordance with clause 22.5.4 (Termination).

18.15.3 The failure of the Contractor, as assessed by the GLA, to comply with any requirements of clauses 18.15.2.4 to 18.15.2.6 within such time as the GLA may deem reasonable may lead to the GLA taking such actions as it deems appropriate which may include, but is not limited to, terminating in accordance with clause 22.5.3 (Termination).

18.15.4 The GLA will take action based on Ofsted's provisional and confirmed outcomes as in clauses 18.15.2 to 18.15.2.3 above. Where the GLA is made aware that the Contractor has made a complaint about the graded outcome of the overall assessment by Ofsted, the GLA will continue to progress action under clauses 18.15.2 to 18.15.2.3 but will

be mindful of the implications arising from the outcome of a complaint. The GLA will review any decisions made at such time as outcomes of any complaint are made known.

Minimum standards

18.16 The GLA may, at any time during the Term, undertake an assessment of the quality and delivery of the Services which may include analysis of performance against the minimum quality standards, as published by the Department for Education and / or the GLA as well as the contractual targets set out in Schedule 2. Where the GLA assesses that the Services, in whole or in part, fall below the required standards, the GLA may, in its absolute discretion, take one or more of the following actions:

18.16.1 require the Contractor to accept and comply with additional Contract obligations relating to the improvement of the Services;

18.16.2 require the Contractor to suspend the recruitment of Learners to, and/or to cap any growth in, those Learning Programmes which are identified as below the required standards;

18.16.3 give consideration to the Services which are below the required standards in its allocations when finalising the amount of Funding in any subsequent Contracts between the Parties;

18.16.4 reduce, suspend or recover payment to the contractor in respect of that part of the Services to which the failure to meet the required standards relate; and/or

18.16.5 terminate this Contract in accordance with clause 22.5.7 (Termination) in full, or that part of the Services failing to meet the required standards.

18.17 The failure of the Contractor, as assessed by the GLA, to comply with any requirements of clauses 18.16.1 to 18.16.4 within such time as the GLA may deem reasonable may lead to the GLA taking such actions as it deems appropriate which may include, but is not limited to, terminating in accordance with clause 22.5.7 (Termination).

18.18 The Contractor must make the GLA aware of any Notification of Minimum Standards by the Education and Skills Funding Agency within five working days of receiving the notification.

18.19 Where the Contractor subcontracts any part of the Services under this Contract, the Contractor must ensure that the subcontractor is able to meet the minimum quality standards and any other quality threshold required by the GLA or identified through an inspection by Ofsted. The GLA may request evidence from the Contractor that the Services delivered by the subcontractor meet the requirements of the Contract.

18.20 The Contractor shall for those staff delivering the services be responsible for their professional development and training and meeting any legal requirements to ensure that they are appropriately qualified and trained.

19 Fraud and Irregularity

19.1 The Contractor shall notify the GLA immediately where it becomes aware of any instance of suspected fraud or financial irregularity in the delivery of the Contract including, but not limited to, cases of:

19.1.1 collusion with members of the staff of the GLA or employees of the Department for Education;

19.1.2 computer fraud;

19.1.3 the submission to the GLA of inaccurate, incomplete, misleading or falsified information for the purpose of a claim for Funding;

19.1.4 fraud involving awarding organisations; and

19.1.5 fraud involving subcontractors

provided that nothing in this clause 19 shall require the Contractor to do anything, which may cause it to infringe any law.

19.2 Where the GLA has reasonable cause to suspect that fraud or irregularity has occurred in relation to the delivery of the Contract and payments made hereunder, the GLA shall have the right of access to the Contractor's premises at any reasonable time with or without notice to examine and remove or copy all relevant documents and records including electronic records and to interview the Contractor's servants or agents engaged with the delivery of the Contract.

19.3 Where the GLA has reasonable cause to suspect that fraud or irregularity has occurred in relation to the delivery of the Contract or any other contract between the GLA and the Contractor and payments made there under it shall have the right to suspend payments and/or require the Contractor to suspend recruitment of Learners under this Contract and any other Contract between the Parties.

19.4 The Parties shall co-operate in the identification of Learners who may be unlawfully claiming benefits. The GLA may from time to time brief the Contractor as to the co-operation and assistance it reasonably requires including the provision of information regarding fraud by Learners.

20 European Funding and Other Sources of Funding

20.1 The Funding under this Contract will be used as match funding and so:

20.1.1 the Contractor must follow the match funding rules that are set out in the GLA's Funding Rules which include the use of the ESF logo;

20.1.2 the Contractor must not use the Funding paid under this Contract to support bids or claims that will be used to secure funding from any European source, either on its own behalf or on behalf of the GLA, including but not limited to as match funding;

20.1.3 where the Contractor or any of its subcontractors has access to other funding streams, the Contractor or any of its subcontractors will be required to demonstrate through accounting, management information systems and any other relevant evidence (in the sole discretion of the GLA or any other body undertaking the audit or monitoring), to the GLA and anybody set out in clause 12.2 that no double funding has occurred in respect of the Services delivered under the Contract;

20.1.4 where the GLA identifies double funding in respect of the Services, or any part thereof, the Contractor will be liable to repay to the GLA any sums paid, or part thereof, by the GLA in respect of the Services for which the Contractor has received funding from another source and the GLA reserves the right to deduct such sums from any monies owed to the Contractor under the Contract or any subsequent Contract or any other contract which the Contractor may hold with the GLA;

20.1.5 the GLA reserves the right to use payments made under the Contract as match funding for ESF projects. Where requested to do so in writing by the GLA, the Contractor shall provide such information, data or evidence, and in the form as the GLA specifies, to enable the GLA to comply with the requirements of ESF;

20.1.6 the Contractor shall inform Learners or others that the Services delivered have been financed in whole or part by ESF; and

20.1.7 the Contractor will not claim for or use any part of the Funds in respect of works, services, supplies or activities which a person has a statutory duty to provide (except with the GLA's prior written consent).

20.2 The Contractor must ensure that all Learners are aware of the support of the ESF in respect of the Services being delivered under this Contract.

20.3 Where the Contractor fails to comply with requirements imposed under clauses 20, the GLA shall consider termination under clause 22.5.6.

21 Breach

21.1 For the purpose of this clause, the following definitions shall have the meanings set out below:

21.2 "Minor Breach" shall mean a delay or non-performance by either Party of its obligations under the Contract which does not materially, adversely or substantially affect the performance or delivery of the Service or the provision of a safe, healthy and supportive learning environment;

21.3 "Serious Breach" shall mean any breach defined as a Serious Breach in the Contract or any breach or breaches which adversely, materially or substantially affect the performance or delivery of the Services or compliance with the terms and conditions of the Contract or the provision of a safe, healthy and supportive learning environment. Failure to comply with legislation, or actions or omissions by the Contractor that endanger the Health or Safety of Learners would constitute a Serious Breach.

21.4 For the avoidance of doubt:

21.4.1 neither Party shall be liable for any Minor Breach or Serious Breach under this clause, which occurs as a direct result of any act or omission by the other Party, its staff or agents; and

21.4.2 in the event of a breach the Party not in breach may enforce the clauses in the Contract relating to breach even if it has not done so in the event of earlier breaches.

Minor Breach

21.5 Without prejudice to any other remedy, in the event of a Minor Breach, the Parties will adopt the following procedure:

21.5.1 the Party not in breach shall be entitled to serve written notice on the Party in breach, giving full details of the breach and requiring the other Party to remedy the breach within a specified period; and

21.5.2 if the Party in breach fails to remedy the Minor Breach within the time specified in notice served under clause 21.5.1 or such other period as may be agreed between the Parties it shall constitute a Serious Breach by the Party in breach.

Serious Breach

21.6 Without prejudice to any other remedy, in the event of a Serious Breach, which is capable of remedy, the Parties shall adopt the following procedure:

21.6.1 the Party not in breach shall be entitled to serve written notice on the other Party giving full details of the breach and requiring the Party in breach to remedy the breach within a specified time period;

21.6.2 where the GLA has served a notice under clause 21.6.1 the GLA has the right to require the Contractor to suspend the recruitment of Learners until the GLA has confirmed that the breach has been remedied;

21.6.3 in the event that a Serious Breach of the Contract by the Contractor cannot be remedied within the period specified in the notice served under clause 21.6.1 or such other period as may be agreed between the Parties the GLA may cease funding the Contractor in respect of that part of the Service to which the Serious Breach relates; and

21.6.4 in the event that any Serious Breach cannot be remedied at all or within the period specified in the notice served in accordance with clause 21.6.1 or such other period as may be agreed between the Parties, the Party not in breach may at its sole discretion terminate the Contract or that part of the Service to which the breach relates with immediate effect on notice in writing to the other Party.

22 Termination

22.1 The Contractor shall notify the GLA in writing immediately upon the occurrence of any of the following events:

22.1.1 where the Contractor is an individual and if a petition is presented for the Contractor's bankruptcy or a criminal

bankruptcy order is made against the Contractor, or it makes any composition or arrangements with or for the benefit of creditors, or makes any conveyance or assignment for the benefit of creditors, or if an administrator is appointed to manage their affairs;

22.1.2 where the Contractor is not an individual but is a firm; or a number of persons acting together in any capacity; if any event in clauses 22.1.1 or 22.1.3 of this condition occurs in respect of any partner in the firm or any of those persons or a petition is presented for the Contractor to be wound up as an unregistered company; or

22.1.3 where the Contractor is a company, if the company passes a resolution for winding-up or the court makes an administration order or a winding-up order, or the company makes a composition or management with its creditors, or an administrator, receiver or manager is appointed by the company, a creditor or by the court, or possession is taken of any of its property under the terms of a floating charge.

22.2 On the occurrence of any of the events described in clause 22.1 the GLA shall be entitled to terminate this Contract by notice to the Contractor with immediate effect.

22.3 Where the Contractor is an individual, if he shall die or be adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983 the GLA shall be entitled to terminate this Contract by notice to the Contractor or its representatives with immediate effect.

22.4 Either Party may terminate this Contract with immediate effect by giving notice in writing if in the event that in the reasonable opinion of the Party wishing to terminate this Contract, the conduct of the other in performing its obligations under this Contract amounts to a fundamental breach of the Contract, which is incapable of remedy.

22.5 The GLA reserves the right to terminate this Contract with immediate effect by giving notice in writing if:

22.5.1 the outcome of any financial health and/or control assessment undertaken in relation to the Contractor is deficient;

22.5.2 the Contractor fails to comply with requirements imposed under clauses 18.11.1 and/or 18.11.2;

22.5.3 the Contractor fails to comply with requirements imposed under clauses 18.15.2.4, 18.15.2.5 and/or 18.15.2.6;

22.5.4 an Ofsted inspection results in the Services in part thereof being assessed as inadequate;

22.5.5 there is a finding of unlawful State aid in respect of the Funding;

22.5.6 the Contractor fails to comply with requirements imposed under clause 20; and/or

22.5.7 the GLA assesses that the Services delivered under this Contract, in whole or part, are below the minimum standards.

22.6 In addition to the rights of termination under any other clauses of this Contract, either Party shall be entitled to terminate this Contract in respect of all or part of the Service provided under the Contract by giving to the other not less than three months' notice to that effect without the need to give a reason for termination.

22.7 The Contractor must notify the GLA in writing if there is a change in its name at least one month prior to the change taking effect.

22.8 The Contractor must notify the GLA in writing if there is a change in its ownership at least 12 weeks prior to the change taking effect.

22.9 Termination under this clause 22 shall not prejudice or affect any right of action or remedy, which shall have accrued or shall thereupon accrue to the Parties under this Contract.

22.10 Where the Contractor goes into administration or liquidation, the GLA must be assumed to be a creditor of the Contractor. The Contractor must take steps to ensure that the GLA is provided with details of the administrator or liquidator and receives notification of any creditors meetings. The GLA will confirm whether in fact it is a creditor within 8 weeks of being notified that the Contractor is in administration or liquidation.

22.11 The Contractor shall upon termination of the Contract immediately deliver up to the GLA all correspondence, documents, specification papers and other property belonging to the GLA, which may be in its possession or under its control.

22.12 The Contractor must not recruit new Learners after notice of termination of the Contract has been given. The GLA will not be liable to make payments in respect of any Learners recruited in breach of this Clause.

23 Transfer of Responsibility on Expiry or Termination

23.1 The Parties agree that if upon termination of this Contract or any part of the Service being provided under the Contract, circumstances arise in which the Transfer of Undertakings (Protection of Employment) Regulations 2006 are applicable, the Parties shall in good faith co-operate with each other in the disclosure of information and the provision of other assistance and comply with the provisions of paragraph 1 in Schedule 4 of the Contract so as to facilitate such outcome in relation to the relevant employees as may be acceptable to the Parties.

23.2 The Parties agree that on termination or expiry of this Contract for any reason, the continuity of the Services is of paramount importance. The Contractor shall do its utmost to minimise disruption caused to Learners and to assist the implementation of any contingency plan proposed by the GLA either prior to or after the termination of expiry of this Contract, to deal with the effects of such termination or expiry in so far as it is practicable to do so.

23.3 On termination or expiry of this Contract for any reason the Learner Files will become the property of the GLA. The Contractor shall allow the GLA, its servants or agent to have access to its premises to remove Learner Files or shall otherwise comply with a request by the GLA to transfer Learner Files to the GLA or to any third party nominated by the GLA.

23.4 The Contractor shall, at no cost to the GLA, promptly provide such assistance and comply with such timetable as the GLA may reasonably require for the purpose of ensuring an orderly transfer of responsibility for provision of the Services (or its equivalent) upon the expiry or other termination of this Contract. The Contractor shall use all reasonable endeavours to ensure that its employees and its subcontractors are under a similar obligation. The GLA shall be entitled to require the provision of such assistance both prior to and after the expiry or other termination of this Contract.

23.5 Such assistance may include, (without limitation) delivery of documents and data in the possession or control of the Contractor or its subcontractors, which relate to performance, monitoring, management and reporting of the Learning Programme, including the documents and data, if any, referred to in the Schedules.

23.6 The Contractor undertakes that it shall not knowingly do or omit to do anything which may adversely affect the ability of the GLA to ensure an orderly transfer of responsibility for provision of the Services.

24 Force Majeure

24.1 Neither party shall be liable for any delay or failure to meet its obligations under this Contract due to any cause outside its reasonable control, including

(without limitation), inclement weather, Acts of God, war, riot, malicious acts of damage, civil commotion, strike, lockout, industrial dispute, refusal of licence, power failure or fire. If performance of the service is substantially prevented for a continuous period of 6 months by virtue of any of the aforesaid events, then either party may terminate this Contract by written notice to the other.

25 Public Reputations of the Parties/Press Releases

25.1 Both Parties recognise their respective public reputations and legal responsibilities. Each Party shall use all reasonable endeavours not to harm or compromise these.

25.2 The text of any press release or other communication to be published by or in the media concerning the subject matter of this Contract shall require the approval of each Party which shall not be unreasonably withheld or delayed.

26 Branding and logos

26.1 All publicity generated by the Contractor referring to the Mayor of London, the GLA and/or each of their respective names, logos or branding including (without limitation) all press and media releases must be approved in writing at least two weeks in advance of any release of publicity material (in any form) by the GLA. The Contractor shall also ensure that any proposals for any launch or other related publicity activity are approved in writing by the GLA at least one month before the date of such proposed launch or other related publicity activity.

26.2 The Contractor shall comply with the requirements of the endorsement identity notified by the GLA (including as to ESF publicity) from time to time on all and any promotional materials or activities in relation to the Services. This shall include but not be limited to prospectuses, direct mail advertising, TV and radio advertising, merchandising or any other literature or products.

26.2.1 The Contractor shall be given access to any logos and statements, which it is required to use. The Contractor will be required to use logos and statements in accordance with the terms of use and should not alter or amend such logos or statements. Logos and statements are only to be used in relation to the Services under this Contract. Any breach of this clause 26 or the requirements or terms of use of which the Contractor is made aware shall constitute a Serious Breach under clause 21 of the General Terms and Conditions of this Contract.

26.2.2 The Contractor may also be required to use logos from other co- branding or co-funding participants and must comply with any terms which apply to the use of such logos.

26.3 The Contractor must ensure that the terms of this clause 26 are contained in any subcontract of the Services.

27 Retention of Documents

27.1 The Contractor will be required to retain all documents necessary to verify the Services provided by itself or by its subcontractors. Documents to support claims must be retained for a minimum of three years after the European Commission has made its final payment. This is expected to be until at least 31 December 2030.

27.2 Confirmation of the document destroy date will be notified in writing by the GLA. Without prejudice to any of the other rights under the Contract to recover Funds, the GLA will be entitled to recover from the Contractor any sums which it is required to repay to the European Social Fund as a result of the Contractor's failure to comply with this clause.

27.3 The provisions of this clause shall apply during the continuance of this Contract and after its termination howsoever arising.

28 Status of Contract

28.1 Nothing in this Contract shall have the effect of making the Contractor, the servant or agent of the GLA. The Contractor (if an individual) represents that he is regarded by both the Inland Revenue and the Department for Work and Pensions as self-employed and accordingly shall indemnify the GLA against tax, national insurance contributions or similar imposed for which the GLA may be liable in respect of the Contractor by reason of this Contract.

29 Waiver

29.1 No failure or delay on the part of either Party hereto to exercise any right or remedy under this Contract shall be construed or operate as a waiver thereof nor shall any single or partial exercise of any right or remedy as the case may be. The rights and remedies provided in this Contract are cumulative and are not exclusive of any rights or remedies provided by law.

30 Third Party Rights

30.1 Save as specifically provided in the Contract none of the terms of this Contract are intended to be enforceable by any Learner or other third party.

31 Notice

31.1 Any notice or other document to be given under this Contract shall be in writing and shall be deemed to have been duly given if left at or sent by first class post by Royal Mail Special Delivery or other fast postal service or by facsimile or other electronic media to a Party at the address or relevant telecommunications number for such Party or such other address as the Party may from time to time designate by written notice to the other

31.2 All such notices and documents shall be in the English language. Any notice or other document shall be deemed to have been received by the addressee two working days following the date of despatch of the notice or other document by post or, where the notice or other document is sent by hand or on the day of delivery or where notice is given by facsimile or other electronic media, on the working day following the delivery or transmission provided that a printed report is obtained confirming successful transmission or if the addressee acknowledges receipt. To prove the giving of a notice or other document it shall be sufficient to show that it was despatched.

32 Governing / Jurisdiction

32.1 This Contract shall be governed by and construed in accordance with English Law.

33 Dispute Resolution

33.1 Any dispute, difference or question arising between the Parties either during the currency of the Contract or afterwards shall be referred to the nominated contacts for the GLA and the Contractor for discussion and review in order to try to resolve the same.

33.2 In the event of the nominated contacts being unable to resolve the relevant issue, either party may request in writing that the matter is referred to the GLA's nominated representative and the Contractor's representative nominated for this purpose (jointly "the Dispute Resolution Panel") for formal review and consideration. Any request for referral to the Dispute Resolution Panel must include details of the dispute and any proposals to resolve it.

33.3 The Dispute Resolution Panel will meet within 28 days of receiving a request for referral made in accordance with clause 33.2 above.

34 Feedback and Complaints

34.1 The primary responsibility for receiving feedback and investigating complaints/whistleblowing promptly and thoroughly in respect of the Services shall rest with the Contractor. The Contractor shall have procedures in place, which are acceptable to the GLA, to gather and act upon feedback and complaints/whistleblowing from Learners and/or their representatives and employers and the wider community.

34.2 The Contractor must ensure that Learners are made aware of its procedure for dealing with complaints/whistleblowing and that the procedure is clear and accessible to Learners who wish to complain.

34.3 The Contractor shall be responsible for resolving complaints/whistleblowing in accordance with its own procedures and any guidance issued by the GLA.

34.4 Where a complaint/ whistleblowing has not been resolved to the satisfaction of the complainant the Contractor will advise the complainant of his or her right to complain to the GLA and co-operate with any investigation carried out by the GLA and act on any recommendations made by the GLA following the investigation.

35 State Aid

35.1 The Contractor should satisfy itself, if the European rules on State Aid apply to the Services delivered under this Contract and shall comply with the State aid requirements in the Funding Rules.

35.2 Where the rules on State Aid apply, the GLA will supply to the Contractor details of the records that the Contractor will need to collect and retain.

35.3 The GLA reserves the right to require the Contractor to obtain a contribution towards the cost of the Services delivered under this Contract from the employer of any participant. Where a contribution is required, the GLA will confirm to the Contractor in writing the exact percentage of the contribution.

35.4 Where GLA requires the Contractor to obtain a contribution towards the cost of the Services under clause 35.3 above, the Contractor must provide evidence that the contribution has been received.

35.5 In the event that any Funding paid under this Contract is deemed to constitute unlawful state aid the GLA reserves the right to require immediate repayment of any such Funding together with interest applicable to the same in accordance with the relevant reference rates.

36 Intellectual Property Rights

36.1 *Definitions*

Confidential Information
Includes all designs, drawings, data, specifications and all other technical business and similar information relating to the Services including all readable or computer or other machine-readable data or material and any material relating to or comprising software which may be part of the provision of the Services;

Foreground Intellectual Property
Is any Intellectual Property that arises or is obtained or developed by, or on behalf of, the Contractor in respect of the Work in the course of or in connection with the provision of the Services excluding Learner Files;

Intellectual Property
Is any patent, registered design, copyright, database right, design right, topography right, trade mark, trade name, application to register any of the aforementioned rights, trade secret, inventions, right in unpatented know-

how, right of confidence and any other intellectual or industrial property right of any nature whatsoever in any part of the world including, without limitation:

(a) any renewals, revisions and extensions created or provided by the laws of any country;

(b) all rights of action and remedies (including but not limited to an injunction, damages and/or an account of profits) in relation to past infringements; and

(c) the right to apply for registration of any such rights in any country of the world;

Work
Means all materials created by the Contractor as a result of the provision of the Services including Confidential Information.

36.2 In consideration of the GLA making the payments to the Contractor in connection with the Services the Contractor hereby grants (and, where relevant, shall procure from any necessary third parties the grant) to the GLA a non-exclusive, irrevocable, worldwide, royalty-free licence (with the right to license others) of any of the Contractor's Foreground Intellectual Property that the GLA may reasonably require to be able fully to exploit, develop and commercialise the results of the Services, including, without limitation, the Work.

36.3 The provisions of this clause shall apply during the continuance of this Contract and after its termination howsoever arising.

37 Disposal of Assets and Change of Use

37.1 In respect of Assets whose value exceeds £1,000 including VAT the following provisions shall apply.

37.2 For the purposes of this section:

37.2.1 'Asset' shall mean any property, real or personal, tangible or intangible;

37.2.2 an Asset shall be considered to have been financed by the GLA if it has been acquired wholly or partly with Funds provided by the GLA;

37.2.3 the use of any Asset shall be considered to have changed if the Contractor uses it for any purpose other than for the provision or connected with the provision of Services under the Contract; and

37.2.4 'the appropriate proportion thereof' shall be the proportion represented by the amount of Funding provided by the GLA to acquire, develop or improve an asset in relation to the entire price paid for its acquisition, or its market value when its development or improvement have been completed.

37.3 The Contractor shall ensure that any Asset financed by the GLA is adequately insured.

37.4 The Contractor shall inform the GLA if it proposes to dispose of, or change the use of, any Asset that has been financed by the GLA.

37.5 The Contractor shall not dispose of any Asset financed by monies provided by the GLA unless it has first obtained the written consent of the GLA to such a disposal.

37.6 Where the Contractor disposes of the Asset it shall pay to the GLA whichever is the greater either the amount of Funding provided by the GLA in respect of the Asset or the net proceeds of any disposal of an Asset, or the appropriate proportion thereof, to the GLA unless otherwise agreed with the GLA.

37.7 If the Contractor changes the use of any such Asset it will be treated as a disposal and the Contractor shall make a payment to the GLA in accordance with clause 37.6 above.

37.8 In the event of the Contractor being taken over, merging or going into liquidation, all Assets financed by the GLA, or the equivalent portion of their market value, will become the property of the GLA.

37.9 The provisions of this clause shall apply during the continuance of this Contract and after its termination howsoever arising. The GLA shall reserve the right to decide when its interest in Assets financed by the GLA under the terms of the Contract shall cease.

38 Headings

38.1 The headings to conditions shall not affect their interpretation.

39 Entire Contract / Amendments

39.1 The Contract shall comprise the following documents, which in case of any discrepancy between them shall apply in the following order of precedence:

39.1.1 Terms and Conditions

39.1.2 Schedule 1 – Summary of Programme Funding

39.1.3 Schedule 2 – Funding Volumes and Values Template (Lot 1) and (Lot 2)

39.1.4 Schedule 3 – Contractor's Invitation to Tender Response

39.1.5 Schedule 4 – Transfer of Undertakings (Protection of Employment) Regulations 2006 and Pensions Aspects

39.1.6 Schedule 5 – Processor Clauses

39.1.7 Schedule 6 – Processor Statement

39.2 This Contract constitutes the entire Contract between the parties and shall not be varied except by an instrument in writing signed by the parties.

IN WITNESS of which this agreement has been duly executed by the parties.

SIGNED for and on behalf of
the Greater London Authority

[INFORMATION REDACTED]

SIGNED for and on behalf of
Morley College Ltd

Schedule 1

Summary of Programme Funding

The Secretary of State for Education acting through the Greater London Authority (GLA) can award contracts to deliver AEB services following a successful tender to the GLA's AEB procured provision Invitation to Tender (referred to as “AEB Procured” provision). Section 101 of the Apprenticeships, Skills, Children and Learning Act 2009 allows for funding to be subject to conditions in this way

The AEB aims to engage adults and provide the skills and learning they need to equip them for work, an apprenticeship or other learning. It enables more flexible tailored programmes of learning to be made available, which may or may not require a qualification, to help eligible learners engage in learning, build confidence, and/or enhance their wellbeing.

The GLA is a Co-Financing Organisation (CFO). CFO status allows the GLA to develop and implement employability and skills activities on behalf of the London Economic Action Partnership (LEAP) that are co-funded by European Social Fund (ESF) and that meet local needs and Mayoral priorities.

The AEB Procured provision is being used by the GLA as match funding to deliver a programme of ESF projects (the “AEB-ESF” programme). To draw down this ESF funding to support Londoners, the AEB-ESF provision and AEB Procured provision must be considered as a single co-funded programme of activity. This means that the GLA's and the ESF Managing Authority's ESF compliance and evidence requirements apply to the AEB Procured provision as well as the AEB-ESF provision, and both will be subject to the same external audit requirements.

For further details please see the GLA AEB Funding and Performance Management Rules for Procured Providers and the Specification for AEB Procured Programme.

Schedule 2

Table 1 – Funding Volumes - Lot 2 (Adult Education and Training Provision to In-Work Londoners)

[INFORMATION REDACTED]

Table 2 – Morley College Ltd – Lot 2 Funding Profile

Funding and Contract year	Funding Year periods	Months and Financial Year	Funding Cap for Period	
2019 to 2020 Funding year (Contract year 1)	Periods 1 to 8	August 2019 to March 2020, 2019 to 2020 financial year	**Qualifications and Learning Support:** **Learner Support (Ringfenced):**	£159,116.95 £17,285.71
	Periods 9 to 12	April 2020 to July 2020, 2020 to 2021 financial year	**Qualifications and Learning Support:** **Learner Support (Ringfenced):**	£78,193.94 £5,761.90
2019 to 2020 **Funding Year Total**	12 months	August 2019 to July 2020	**Qualifications and Learning Support:** **Learner Support (Ringfenced):** **Total 2019-20 Funding:**	£237,310.89 £23,047.61 £260,358.50

2020 to 2021 Funding year (Contract year 2)	Periods 1 to 8	August 2020 to March 2021, 2020 to 2021 financial year	**Qualifications and Learning Support:** **Learner Support (Ringfenced):**	£159,116.95 £17,285.71
	Periods 9 to 12	April 2021 to July 2021, 2021 to 2022 financial year	**Qualifications and Learning Support:** **Learner Support (Ringfenced):**	£78,193.94 £5,761.90
2020 to 2021 **Funding Year Total**	12 months	August 2020 to July 2021	**Qualifications and Learning Support:** **Learner Support (Ringfenced):** **Total 2020-21 Funding:**	£237,310.89 £23,047.61 £260,358.50
2021 to 2022 Funding year (Contract year 3)	Periods 1 to 8	August 2021 to March 2022, 2021 to 2022 financial year	**Qualifications and Learning Support:** **Learner Support (Ringfenced):**	£159,116.95 £17,285.71

	Periods 9 to 12	April 2022 to July 2022, 2022 to 2023 financial year	**Qualifications and Learning Support:** £78,193.94 **Learner Support (Ringfenced):** £5,761.90
2021 to 2022 **Funding Year Total**	12 months	August 2021 to July 2022	**Qualifications and Learning Support:** £237,310.89 **Learner Support (Ringfenced):** £23,047.61 **Total 2021-22 Funding:** £260,358.50
2022 to 2023 Funding year (Contract year 4)	Periods 1 to 8	August 2022 to March 2023, 2022 to 2023 financial year	**Qualifications and Learning Support:** £159,116.95 **Learner Support (Ringfenced):** £17,285.71
	Periods 9 to 12	April 2023 to July 2023, 2023 to 2024 financial year	**Qualifications and Learning Support:** £78,193.94 **Learner Support (Ringfenced):** £5,761.90

2022 to 2023 **Funding Year Total**	12 months	August 2022 to July 2023	**Qualifications and Learning Support:** **Learner Support (Ringfenced):** **Total 2022-23 Funding:**	£237,310.89 £23,047.61 £260,358.50
Lot 2 Budget Total	4 years	August 2019 – July 2023	**Qualifications and Learning Support:** **Learner Support (Ringfenced):** **Lot 2 Budget Total**	£949,243.56 £92,190.44 £1,041,434.00

Schedule 3

Contractor's Invitation to Tender Response

[INFORMATION REDACTED]

Schedule 4

1 **Transfer of Undertakings (Protection of Employment) Regulations 2006 and Pensions Aspects**

1.1 *Definitions*

1.1.1 **Admission Agreement** means an agreement between the GLA and the Contractor and a Public-Sector Pension Scheme, so that each Transferring Employee may continue to participate in that employee's respective Public-Sector Pension Scheme, after the Employee Transfer Date;

1.1.2 **Employee Transfer Date** means in respect of any particular Transferring Employee the date on which the part of the services to which they are assigned transfers from the Previous Contractor to the Contractor;

1.1.3 **Fair Deal** means the guidance issued by HM Treasury in October 2013 or any subsequent guidance on fair deal for staff pensions for staff transferring from the public sector under the control of Central Government

1.1.4 **Final Pay Details** means the information set out in Appendix D;

1.1.5 **Future Transfer Date** means the date of termination or expiry of this Contract;

1.1.6 **Future Transferring Employees** means those employees of the Contractor who are at the Future Transfer Date employed under a contract of service or apprenticeship or otherwise in the relevant part of the undertaking which transfers on the termination or expiry of this Contract pursuant to TUPE or the Acquired Rights Directive 187/77/EC or otherwise to any Successor Contractor;

1.1.7 **Initial Staff Information** means the information set out in Appendix A;

1.1.8 **Original Transfer Date** means [ ];

1.1.9 **Prescribed Particulars** means in respect of each of the Future Transferring Employee the information set out in Appendix B;

1.1.10 **Previous Contractor** means the Contractor engaged in providing services substantially the same as the Services set out in this Contract prior to the coming into force of this Contract;

1.1.11 **Public Sector Employee** means a Transferring Employee who immediately before the Employee Transfer Date was employed by an employer covered by a Public-Sector Pension Scheme;

1.1.12 **Public Sector Pension Scheme** means:

1.1.12.1 The Teachers' Pension Scheme (TPS)

1.1.12.2 The Local Government Pension Scheme (LGPS)

1.1.12.3 The Principal Civil Service Pension Scheme (PCSPS)

as applicable;

1.1.13 **Relevant Legislation** means any statute or regulations or the EC Treaty (or any directives or regulations made there under);

1.1.14 **Relevant Personnel Documentation** means the information set out in Appendix C;

1.1.15 **Relevant Transferring Members** means those Transferring Employees who were members of the LGPS or TPS or who were eligible to join the LGPS or TPS;

1.1.16 **Required Information** means the information set out in the Appendix A-F;

1.1.17 **Successor Contractor** means the person nominated by the GLA to undertake the services substantially the same as the Services after the termination of this Contract;

1.1.18 **Successor Contractor's Scheme** means:

1.1.18.1 the LGPS or TPS or PCSPS; or

1.1.18.2 any other retirement benefit scheme established by the Successor Contractor or to which the Successor Contractor is party

as applicable;

1.1.19 **Transferring Employees** means those employees of the Previous Contractor or the GLA who are employed in the performance of services substantially the same as the Services; and "Transferring Employees" shall be construed accordingly; and

1.1.20 **TUPE** means the Transfer of Undertakings (Protection of Employment) Regulations 2006, as amended from time to time.

1.2 **Transfer of Undertakings (Protection of Employment) on Commencement**

1.2.1 The Contractor shall on the Employee Transfer Date become the employer of the Transferring Employee and, whether or not by virtue of TUPE, or as a term of this Contract, all the respective employer's rights, duties, powers, liabilities and obligations in respect of the contract of employment of the Transferring Employee shall transfer to the Contractor. The Parties shall respectively comply with all the requirements and obligations, which TUPE imposes on a transferor and transferee in respect of such transfer whether or not as a matter of law TUPE applies.

1.2.2 For the avoidance of doubt, the Contractor assumes full responsibility for any claims made by a Transferring Employee in respect of their terms and conditions of employment and will indemnify the GLA and the Previous Contractor in respect of any claim brought by any Transferring Employee which arises from operation of this paragraph 1.2.

1.2.3 Where the Transferring Employee is a Public-Sector Employee the Contractor must comply with the Cabinet Office Statement of Practice.

1.3 **Protection of Pensions – Public Sector Employees**

1.3.1 *The Contractor shall*:

1.3.2 In respect of service from the Employee Transfer Date and at a date not later than one month prior to the Employee Transfer Date:

1.3.2.1 establish, or have become party to an employee's retirement benefit scheme that makes retirement provision which is approved or capable of approval by the Inland Revenue as an exempt approved scheme

under Chapter 1 of Part XIV of the Income and Corporation Taxes Act 1988 and capable of receiving a transfer payment from the Public Sector Pension Scheme and certified by the Government Actuary's Department or other actuary to be agreed between the Parties, to be broadly comparable to the Public Sector Pension Scheme ("the Contractor's Scheme");

1.3.2.2 have entered into an Admission Agreement in respect of, or otherwise be able to provide a Relevant Transferring Member with membership of, a Public-Sector Pension Scheme, where permissible by the rules of that scheme or in accordance with Fair Deal; or

1.3.2.3 establish, or have become party to an employee's retirement benefit scheme that makes retirement provision which is accepted in writing by each individual transferring employee as being adequate for their personal retirement provision;

Admission of the Relevant Transferring Members to the Contractor's Scheme

1.3.2.4 procure that the Relevant Transferring Members shall be automatically admitted to the Contractor's Scheme with effect from the Employee Transfer Date unless any of the Relevant Transferring Members elect within three (3) months of the Employee Transfer Date by notice in writing not to become members of the Contractor's Scheme from such date;

1.3.2.5 invite those Relevant Transferring Members who elect to join the Contractor's Scheme to request that a payment is made from the Public-Sector Pension Scheme to the Contractor's Scheme in respect of the retirement benefits accrued in the Public-Sector Pension Scheme on behalf of those Relevant Transferring Members;

1.3.2.6 procure that the Contractor's Scheme will accept a cash payment equal to the Transfer Value made from the Public-Sector Pension Scheme to the Contractor's Scheme;

1.3.2.7 procure that the Contractor's Scheme will provide [x] years of reckonable service in respect of each year of a Relevant Transferring Member's period of reckonable

service under the Public-Sector Pension Scheme to those that each Relevant Transferring Member respectively had under the Public-Sector Pension Scheme as at the Transfer Date;

Admission of the Relevant Transferring Members into a Public-Sector Pension Scheme

1.3.2.8 where the option set out in paragraph 1.3.2.2, applies ensure that each Transferring Employee may participate, or continue to participate in their respective Public Sector Pension Scheme; and

Continuity of Schemes

1.3.2.9 neither by voluntary act or omission either prevent the Contractor's Scheme from continuing in full force and effect throughout the term of this Contract, or where the Contractor selects the option set out in paragraph 1.3.2.2, at any time end the participation of a Transferring Employee of a Public Sector Pension Scheme.

1.3.3 Within a reasonable time prior to the Employee Transfer Date the Contractor shall notify each of the Transferring Employees in writing of the terms and conditions upon which they will be employed by the Contractor on and after the Employee Transfer Date and the details of the Contractor's Scheme, or Public-Sector Pension Scheme and the proposed organisation of the undertaking after the Employee Transfer Date.

1.3.4 the Contractor shall procure that an amendment shall only be made to the Contractor's Scheme which could reduce the value of the benefits of any Relevant Transferring Member which have accrued to the date upon which the power to amend is exercised, if any such amendment is required by legislation or is made with the written consent of the Relevant Transferring Member. The value of the benefits shall make explicit allowance for expected future salary growth as determined by the actuary of the Contractor's Scheme as if the Relevant Transferring Member had continued in employment with the Contractor.

1.3.5 At the expiry or termination of this Contract, the Contractor shall procure that the Contractor's Scheme shall offer members of the Contractor's Scheme who were Relevant Transferring Members and whose employment transfers to the Successor Contractor, the option to transfer their accrued pension rights to the Successor Contractor's Scheme on an actuarial basis certified by the actuary as no less favourable than the Transfer Value. The value of

such accrued pension rights shall not be reduced because of inadequate funds being available in the Contractor's Scheme.

1.3.6 the Contractor shall ensure that on a full or partial wind-up of the Contractor's Scheme, the benefits of any Relevant Transferring Member who is currently employed by the Contractor and accruing benefits immediately before such winding up have been increased to those which could be provided by a past service reserve. The past service reserve is to be calculated with regard to projected final pensionable pay at the assumed date of retirement, or earlier death, or leaving service and not the final pensionable pay at the date of wind- up or earlier date of leaving the Contractor's Scheme and each reserve is to be calculated on a basis determined by the actuary of the Contractor's Scheme.

1.3.7 Where any Relevant Transferring Member transfers to a subcontractor engaged in the provision of the Services, the Contractor shall ensure that in any such transfer, the subcontractor shall establish, or have become party to an employee's retirement benefits scheme on the terms set out in paragraph 1.3.2 ("the subcontractor's scheme"). The Contractor shall procure that the Relevant Transferring Member is invited to join the subcontractor's scheme on the terms set out in paragraphs 1.3.2.4–1.3.2.9 the Contractor shall ensure that the subcontractor's scheme shall include the conditions set out in paragraphs 1.3.3, 1.3.4, 1.3.5 and 1.3.6.

1.4 **Expiry of Contract**

1.4.1 The GLA and the Contractor shall act on the basis that TUPE applies on expiry or termination of the Contract where the GLA is proposing re-contract for services which are substantially the same as the Services.

1.4.2 During the period of 18 months preceding the expiry of the Contract or within 21 days after the GLA or the Contractor has given notice to terminate the Contract, the Contractor shall disclose to the GLA and shall permit the GLA to disclose to any tenderer for services which are substantially the same as the Services, the Initial Staff Information provided that prior to so doing any such tenderer shall have executed in writing a confidentiality undertaking in favour of the Contractor.

1.4.3 During the period of three months preceding the expiry of this Contract or within 21 days after the GLA or the Contractor has given notice to terminate the Contract, the Contractor shall, subject to the provisions of the Data Protection Act 1998, provide and thereafter keep updated at monthly intervals, to the GLA and to the Successor Contractor information equivalent to the Relevant Personnel Documentation and the Prescribed Particulars in respect of each employee whom the Contractor reasonably believes will be a

Future Transferring Employee provided that prior to so doing the Successor Contractor nominated by the GLA shall have executed in writing a confidentiality undertaking in favour of the Contractor.

1.4.4 The Contractor shall make reasonable endeavours to assist the Successor Contractor to communicate with, meet and inform and consult with the employees whom the Contractor reasonably believes will be a Future Transferring Employee and their trade union or other employee representatives for the purposes of complying with TUPE.

1.4.5 The Contractor shall immediately prior to the Future Transfer Date provide to the GLA or the Successor Contractor a complete and accurate list of the Prescribed Particulars and Identification Details of all employees whom it reasonably believes will be Future Transferring Employees.

1.4.6 Within a period of 21 days following the expiry or termination of this Contract the Contractor shall provide to the GLA or the Successor Contractor in writing Final Pay Details of the Future Transferring Employees.

1.4.7 The Contractor warrants that it shall supply complete and accurate information pursuant to paragraphs 1.4.2, 1.4.3, 1.4.5 and 1.4.6 in all material respects and the Contractor shall indemnify and keep the GLA indemnified fully now and in the future in respect of all or any costs whether arising in contract or under any Relevant Legislation suffered or incurred by the GLA or the Successor Contractor nominated by the GLA by reason of any proceeding, claim or demand arising from or in connection with the provision of information and/or the failure to provide complete and accurate information under paragraphs 1.4.2, 1.4.3, 1.4.5, and 1.4.6, and/or the provision of assistance and/or failure to provide assistance under paragraph 1.4.4 of this Contract.

1.4.8 After receiving notice of the termination of this Contract and for six (6) months preceding expiry of this Contract the Contractor shall promptly notify the GLA or the Successor Contractor:

1.4.8.1 of the period of notice given by the Contractor or received from any employee whom the Contractor reasonably believes will be a Future Transferring Employee regardless of when such notice is to take effect;

1.4.8.2 of the termination, for whatever reason, of the employment of any employee whom the Contractor reasonably believes will be a Future Transferring Employee; and

1.4.8.3 of any other change to any employee whom the Contractor reasonably believes will be a Future Transferring Employee and their terms and conditions of employment, their Prescribed Particulars and their Relevant Personnel Documentation.

1.4.8.4 The Contractor warrants that it shall supply the Required Information completely and accurately in all respects at the time of supply and shall indemnify and keep the GLA and/or any Successor Contractor indemnified in respect of all and any costs suffered or incurred by the GLA or the Successor Contractor by reason of any proceedings, claim or demand arising out of or in connection with:

1.4.8.5 any claim against the GLA or the Successor Contractor by any Future Transferring Employee so far as it relates to any act or omission of the Contractor after the Employee Transfer Date and prior to the Future Transfer Date; and

1.4.8.6 any claim against the GLA or the Successor Contractor by any Future Transferring Employee whose name is not included on the list provided by the Contractor pursuant to paragraph 1.4.5 so far as it relates to the dismissal of such Future Transferring Employee within two Months of the GLA or Successor Contractor becoming aware of the transfer of such Future Transferring Employee.

1.4.9 For the purposes of paragraph 1.4.8, in the event that the GLA or the Successor Contractor incurs costs, liabilities or expenditure in respect of Future Transferring Employees which is greater than would have been the case if the Required Information supplied by the Contractor had been accurate and complete, then such (net) greater costs, liabilities or expenditure shall be deemed to be costs suffered or incurred by the GLA or Successor Contractor and included within the indemnity provided by the Contractor.

1.4.10 The GLA or Successor Contractor shall be entitled to recover from the Contractor in full any legal, accountancy and other costs actually and reasonably incurred by the GLA or Successor Contractor in connection with the costs and liabilities indemnified by the Contractor.

1.4.11 This paragraph 1.4 shall continue in effect for six months following the expiry or termination of this Contract.

Schedule 5

Processor Clauses

For the purposes of this Schedule 5, the following definitions shall apply

"Contract Personal Data"	Personal Data which is to be Processed under this Contract, as more particularly described in the Processing Statement;
"Applicable Laws"	any: (a) law including any statute, statutory instrument, bye-law, order, regulation, directive, treaty, decree, decision (as referred to in Article 288 of the Treaty on the Functioning of the European Union) (including any judgment, order or decision of any court, regulator or tribunal); (b) rule, policy, guidance or recommendation issued by any governmental, statutory or regulatory body; and/or (c) industry code of conduct or guideline in force from time to time which relates to this Contract and/or the activities which are comprised in all or some of the Services or the use or application of the output from the Services
"Data Security Incident"	(a) a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Contract Personal Data transmitted, stored or otherwise Processed; or

	(b) a discovery or reasonable suspicion that there is a vulnerability in any technological measure used to protect any Contract Personal Data that has previously been subject to a breach within the scope of **paragraph (a)**, which may result in exploitation or exposure of that Contract Personal Data; or (c) any defect or vulnerability with the potential to impact the ongoing resilience, security and/or integrity of systems Processing Contract Personal Data
"International Transfer"	a transfer to a country outside the European Economic Area (as it is made up from time to time) of Contract Personal Data which is undergoing Processing or which is intended to be Processed after transfer
"Processing Statement"	a statement which details the Processing of Personal Data and set out in the form at **Schedule 6** to be amended and updated as required
"Sub-Processor"	any third party appointed by the Supplier to Process Contract Personal Data

1 DATA PROTECTION AND INFORMATION SECURITY

1.1 The GLA authorises the Contractor, to Process the Contract Personal Data during the term of this Contract as a Processor solely for the purpose and to the extent described in the Processing Statement at **Schedule 6 and in** accordance with this **Schedule 5**. The parties agree to complete (and amend and update as necessary) the Processing Statement before the Contractor Processes any Contract Personal Data.

1.2 In performing the Services and its other obligations under this Contract the Contractor will:

1.2.1 comply with the Data Protection Laws;

1.2.2 not cause the GLA to breach any obligation under the Data Protection Laws; and

1.2.3 notify the GLA without undue delay if it identifies any areas of actual or potential non-compliance with the Data Protection Laws or this **Schedule 5**, without prejudice to its obligations to comply with, or to any rights or remedies which the GLA may have for breach of, the Data Protection Laws or this **Schedule 5**.

1.3 The Contractor will not engage or use any third party for the Processing of Contract Personal Data or permit any third party to Process Contract Personal Data without the prior written consent of the GLA.

1.4 If the Contractor appoints a Sub-Processor, the Contractor will ensure that, prior to the Processing taking place, there is a written contract in place between the Contractor and the Sub-Processor that specifies the Sub-Processor's Processing activities and imposes on the Sub-Processor the same terms as those imposed on the Contractor in this **Schedule 5**. The Contractor will procure that Sub-Processors will perform all obligations set out in this **Schedule 5** and the Contractor will remain responsible for all acts and omissions of Sub-Processors as if they were its own.

1.5 The Contractor will:

1.5.1 Process the Contract Personal Data only on documented instructions (including this Contract) from the GLA (unless the Contractor or the relevant Sub-Processor is required to Process Contract Personal Data to comply with United Kingdom, European Union (as it is made up from time to time) or European Union member state Applicable Laws, in which case the Contractor will notify the GLA of such legal requirement prior to such Processing unless such Applicable Laws prohibit notice to the GLA on public interest grounds);

1.5.2 immediately inform the GLA in writing if, in its reasonable opinion, any instruction received from the GLA or a member of its Group infringes any Data Protection Laws;

1.5.3 without prejudice to paragraph **1.5.1**, ensure that Contract Personal Data will only be used for the purpose and to the extent described in **Schedule 6**;

1.5.4 without prejudice to **paragraph 1.5.3**, not without the prior written consent of the GLA:

1.5.4.1 convert any Contract Personal Data into anonymised, pseudonymised, depersonalised, aggregated or statistical data;

1.5.4.2 use any Contract Personal Data for “big data” analysis or purposes; or

1.5.4.3 match or compare any Contract Personal Data with or against any other Personal Data (whether The Contractor’s or any third party’s).

1.5.5 ensure that any individual authorised to Process Contract Personal Data accesses such Contract Personal Data strictly on a need to know basis as necessary to perform their role in the performance of this Contract, and:

1.5.5.1 is subject to confidentiality obligations equivalent to those set out in **clause 16** or is under an appropriate statutory obligation of confidentiality;

1.5.5.2 complies with this **paragraph 1**; and

1.5.5.3 is appropriately reliable, qualified and trained in relation to their Processing of Contract Personal Data.

1.5.6 keep all Contract Personal Data confidential in accordance with the provisions of **clause 16** provided that in the event and to the extent only of any conflict between this **paragraph 1** and **clause 16**, this **paragraph 1** will prevail]; and

1.5.7 at the option of the GLA, securely delete or return to the GLA in the format required by the GLA) all Contract Personal Data promptly after the end of the provision of Services relating to Processing or at any time upon request, and securely delete any remaining copies and promptly certify (via a director) when this exercise has been completed.

1.6 The Contractor will not make an International Transfer without the GLA’s prior written consent. If the GLA gives its prior written consent to an International Transfer, before making that International Transfer the Contractor will demonstrate or implement, to the GLA’s satisfaction, appropriate safeguards for that International Transfer in accordance with Data Protection Laws and will ensure that enforceable rights and effective

legal remedies for Data Subjects are available. Such appropriate safeguards may include:

1.6.1 there is in force a European Commission decision that the country or territory to which the International Transfer is to be made ensures an adequate level of protection for Processing of Personal Data;

1.6.2 the relevant Data Processor/Processor enters into an agreement with the GLA in the form of the standard contractual clauses approved by the European Commission decision for the transfer of personal data to processors established in third countries from time to time, completed with such information as the GLA may reasonably require; or

1.6.3 the International Transfer is to the United States of America and the relevant Processor has and maintains for the duration of the Processing a current registration under the US-EU Privacy Shield.

If the appropriate safeguards demonstrated or implemented by the Contractor (or the relevant Processor) in accordance with this **paragraph 1.6** are deemed at any time not to provide an adequate level of protection in relation to Contract Personal Data, The Contractor will implement such alternative measures as may be required by the GLA to ensure that the relevant International Transfer and all resulting Processing are compliant with Data Protection Laws. The Contractor or the relevant Sub-Processor will not need to comply with the conditions set out in this **paragraph 1.6** if it is required to make an International Transfer to comply with United Kingdom, European Union (as it is made up from time to time) or European Union member state Applicable Laws, in which case The Contractor will notify the GLA of such legal requirement prior to such International Transfer unless such Applicable Laws prohibit notice to the GLA on public interest grounds.

1.7 The Contractor will:

1.7.1 implement, and assist the GLA [and the other members of its Group] to implement, technical and organisational measures to ensure a level of security appropriate to the risk presented by Processing the Contract Personal Data, in particular from a Data Security Incident;

1.7.2 notify the GLA immediately if at any time the Contractor or a Sub-Processor is, or ought to be, aware of any reason why

it is unable to comply with **paragraph 1.7.1**, without prejudice to its obligation to comply with, or to any rights or remedies which the GLA may have for breach of, **paragraph 1.7.1**;

1.7.3 notify the GLA immediately after becoming aware of a reasonably suspected, "near miss" or actual Data Security Incident, including the nature of the Data Security Incident, the categories and approximate number of Data Subjects and Contract Personal Data records concerned, the likely consequences of the Data Security Incident and any measure proposed to be taken to address the Data Security Incident and to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide all the relevant information at the same time, the information may be provided in phases without undue delay, but the Contractor (and Sub-Processors) may not delay notification under this **paragraph 1.7.3** on the basis that an investigation is incomplete or ongoing;

1.7.4 promptly (and in any event within 72 hours) notify the GLA of any request that it receives for exercise of a Data Subject's rights under the Data Protection Laws or communication or complaint that it receives from a Data Subject or Supervisory Authority or other third party in connection with Contract Personal Data;

1.7.5 provide reasonable assistance to the GLA in responding to requests for exercising Data Subjects' rights under the Data Protection Laws and communications and complaints from Data Subjects and Supervisory Authorities and other third parties in connection with Contract Personal Data, including by appropriate technical and organisational measures, insofar as this is possible;

1.7.6 not, without the GLA's prior written consent, make or permit any announcement in respect of a Data Security Incident or respond to any request for exercise of a Data Subject's rights under the Data Protection Laws or communication or complaint from a Data Subject or Supervisory Authority in connection with Contract Personal Data;

1.7.7 assist the GLA in:

1.7.7.1 documenting any Data Security Incidents and reporting any Data Security Incidents to any Supervisory Authority and/or Data Subjects;

1.7.7.2 taking measures to address Data Security Incidents, including, where appropriate, measures to mitigate their possible adverse effects; and

1.7.7.3 conducting privacy impact assessments of any Processing operations and consulting with Supervisory Authorities, Data Subjects and their representatives accordingly.

1.8 The Contractor will:

1.8.1 make available to the GLA all information necessary to demonstrate compliance with the obligations set out in this **paragraph 1**; and

1.8.2 allow for and contribute to audits, including inspections, conducted by The GLA or another auditor mandated by The GLA.

1.9 The Contractor will prepare and securely maintain a record of all categories of Processing activities carried out on behalf of the GLA in relation to the Contract Personal Data, including as a minimum: (i) its name and contact details and details of its Data Protection officer [or other person with responsibility for data protection compliance]; (ii) the categories of Processing it carries out on behalf of the GLA; (iii) International Transfers; (iv) a general description of the technical and organisational security measures referred to in **paragraph 1.7.1**; and (v) the same information in relation to any Sub-Processor, together with its name and contact details (together the **"Data Record"**). The Contractor will promptly upon request securely supply a copy of the Data Record to the GLA.

1.10 The Contractor will indemnify the GLA against the Recoverable Liabilities, in each case arising out of or in connection with any breach by the Contractor or any Sub-Processor of any of its obligations under this **paragraph 1** (including any failure or delay in performing, or negligent performance or non-performance of, any of those obligations.

1.11 Any breach of this **paragraph 1** by the Contractor or any Sub-Processor will be a material breach of this Contract [which is not capable of being remedied], irrespective of whether any financial loss or reputational damage arises, and irrespective of the level of any financial loss or deprivation of benefit arising, as a consequence of such breach.

Schedule 6

Processing Statement

The Processing Statement shall set out the following information in respect of the Contract Personal Data required by the GLA, and additional data storage requirements to data collected nationally through the ILR, that is administered by the ESFA.

Description	Details
Subject matter of Processing	The subject matter is the personal data of Learners on education or training programmes administered by the GLA that are subject to this Contract as defined in the GLA Privacy Notice and GLA Supplementary Data Collection Template.
Duration of Processing	The duration of the Processing covers data returns to the GLA for the four-year contract period, to enable funding and audit of the learning programmes defined in this Contract and any period thereafter where the GLA require the data in respect of activity that the GLA is required to carry out in respect of Monitoring, Claims, Audit or Evaluation, up to the Retention Date as described below in this table.
Nature and purposes of Processing	The nature and purposes of the processing is defined in the GLA privacy notice. The processing of data in the agreement refers to the submission of supplementary data to the GLA only. The processing does not include the processing of personal data collected from the learners by the body for the purposes of enrolling learners onto programmes or delivering education or training. The processing does not include the processing of personal data collected from the learners by the body and submitted as ILR data to the ESFA, which is covered by the national GDPR Schedule. The Contractor will be required to submit the data to the GLA as set out in Clause 17 “Submission of Learner Data” of this Contract.
Type of Personal Data	The personal data to be processed is defined in the GLA Supplementary Data Collection Template.

Categories of Data Subject	The data subjects are Learners on education or training programmes administered by the GLA that are subject to this Contract.
Retention and destruction of the data once the processing is complete UNLESS requirement under union or member state Law to preserve that type of data	Information on how the GLA Supplementary Data must be supplied to the GLA is detailed in the GLA Supplementary Data Collection Template. Where learner data is used by the GLA as match on the Mayor's 2019-23 ESF programme, GLA Supplementary Data, ILR data submitted to the ESFA, and supporting evidence, must be retained securely for at least 2 years after the final ESF claim has been paid by the EU Commission to the UK Managing Authority, which at present should be assumed to be until at least 31st December 2033. The GLA will advise Contractors within 6 months of the end of the contract period which learners have been included as match funding in the GLA's claims to the ESF Managing Authority. Where learners are not included in the GLA's match funding claim to the ESF Managing Authority, GLA Supplementary Data, and ILR data submitted to the ESFA, must be destroyed after 6 years from the end of the Financial Year in which last payment is made under this Contract. The Contractor (and any other data controller) is responsible for determining any further need to process the data, including its retention, prior to secure destruction.

Appendix A

"**Initial Staff Information**" means:

1 Number of staff to be transferred;

2 Gender;

3 Date of Birth;

4 Whether disabled for the purposes of the Disability Discrimination Act 1995;

5 Job description;

6 Work location;

7 Conditioned hours of work per week;

8 Date of commencement of continuous employment and (if different) the commencement date;

9 Relevant Personnel Documentation;

10 Annual salary and rates of pay band/grade including pending increases;

11 Shifts, unsociable hours or other premium rates of pay;

12 Allowance and bonus details over the last twelve (12) Months including date, type, amount and pending allowances/bonuses;

13 Leave entitlement;

14 Any factors affecting redundancy entitlement;

15 Whether currently on maternity leave or other long term leave of absence;

16 Details of all dismissals or terminations of employment within the preceding six (6) Months of anyone previously employed to or engaged in connection with the provision of the Services;

17 Details of all agreements or arrangements (whether or not legally binding) entered into in relation to the staff with any trade union or organisation or body representing employees or with any employee representatives;

18 Details of all trade disputes and industrial action occurring at any time during the preceding twelve (12) Months to which any member of staff was a party; and

19 Details of any trade union or organisation or body representing employees.

Appendix B

"**Prescribed particulars**" means:

1 Personal Details

1.1 gender;

1.2 date of birth;

1.3 whether known to be disabled for the purposes of the Disability Discrimination Act 1995, and details of any reasonable accommodation in respect thereof;

1.4 Employment Details

1.5 job title;

1.6 staff number, job description and work location;

1.7 conditioned hours of work per week;

1.8 date of commencement of continuous employment and (if different) commencement date;

1.9 Relevant Personnel Documentation;

1.10 notice periods (for employer and employee);

1.11 annual salary and rates of pay band/grade including pending salary increases;

1.12 shifts, unsociable hours or other premium rates of pay;

1.13 overtime entitlement and details of last twelve (12) months overtime; Allowance and bonus details over the last twelve (12) months including date, type, amount and pending allowances/bonuses;

1.14 provisional details about standing loan/advances on salary or debts; Existing and future training or sponsorship commitments;

1.15 leave entitlement and accrued leave entitlement including any leave outstanding or expected to be outstanding at the Future Transfer Date;

1.16 annual leave reckonable service date; Additional employment benefits;

1.17 other payments;

1.18 copies of pay slip data for immediately preceding five (5) Months; Provisional details of Cumulative Pay (for tax and pension purposes) and cumulative tax paid; Tax Code;

1.19 voluntary deductions from pay; National insurance (NI) Number, NI Contributions rate;

1.20 NI benefit start date;

1.21 Records of Employment Service

1.22 last two appraisal report markings and/or performance assessment details and dates thereof;

1.23 sickness and absence records for two (2) years immediately preceding (including maternity leave);

1.24 details of any current warnings for breach of discipline or poor performances including warning reason, warning date, warning status and start and end date or penalty period.

1.25 details of any other outstanding disputes or grievances including all proceedings before any Employment Tribunal;

1.26 Method of payment

1.27 instrument of payment;

1.28 bank/building society account details for payroll purposes;

1.29 Pensions

1.30 for pension purposes, the notional reckonable service date; Pensionable pay history for preceding 3 years;

1.31 percentage of any pay currently contributed under additional voluntary contribution arrangements; and

1.32 percentage of pay currently contributed under any added years arrangements.

Appendix C

"Relevant Personnel Documentation" means:

1 General Practices and Policies

1.1 maternity, paternity and parental leave (including names of those on long-term leave or maternity leave);

1.2 special leave and career breaks; Sick leave and pay;

1.3 disciplinary/grievance policy and procedures; Equal Opportunities policy;

1.4 all documents relevant to terms and conditions of employment, including manuals, codes, handbooks, procedure guides, publications and agreements (including collective agreements);

1.5 any other letters or documents or collective agreements affecting terms and conditions of employment; and

2 Redundancy

2.1 full details of any practice, policy or procedure which the Contractor has in relation to redundancy and copies of relevant documents.

Appendix D

1 Final Pay Details means:

1.1 In respect of each Future Transferring Employee, the following information:

1.1.1.1 final month's copy payslip data;

1.1.1.2 cumulative pay for tax and pension purposes;

1.1.1.3 cumulative tax paid; and

1.1.1.4 tax code.

Appendix E

1 Identification Details means:

1.1 In respect of each Future Transferring Employee, the following information:

1.1.1.1 name;

1.1.1.2 home address;

1.1.1.3 work telephone number;

1.1.1.4 home telephone number (where available); and

1.1.1.5 next of kin.

Appendix F

Transfer Values

Bulk transfer values will be inserted in the Contract prior to signing.

Other formats and languages
For a large print, Braille, disc, sign language video or audio-tape version of this document, please contact us at the address below:

Greater London Authority
City Hall
The Queen's Walk
More London
London SE1 2AA

Telephone **020 7983 4000**
www.london.gov.uk

You will need to supply your name, your postal address and state the format and title of the publication you require.

If you would like a summary of this document in your language, please phone the number or contact us at the address above.