



Education & Skills
Funding Agency

Contract Type	Contract for Services
Funding Period	3 December 2018 – 31 March 2020
Between	the Secretary of State for Education (acting through the Education and Skills Funding Agency)
And	CALDERDALE COLLEGE
Funding for	Growth Funding
Contract Number	ESFA-1001

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Education & Skills
Funding Agency

Terms and Conditions

This Contract is made on the date the Contract is signed by the Contractor

CALDERDALE COLLEGE
FRANCIS STREET
HALIFAX
WEST YORKSHIRE
HX1 3UZ

THE SECRETARY OF STATE
FOR EDUCATION ACTING
THROUGH THE EDUCATION
AND SKILLS FUNDING
AGENCY, AN EXECUTIVE
AGENCY OF THE
AND DEPARTMENT
FOR EDUCATION
CHEYLESMORE HOUSE
QUINTON ROAD
COVENTRY
CV1 2WT

Hereinafter called
the Contractor

Hereinafter called
the ESFA

GENERAL TERMS AND CONDITIONS

It is agreed as follows.

1 DEFINITIONS

“Children”	means persons under the age of 18.
“Combined Authority”	means a legal structure comprising two or more local authorities to undertake certain statutory or delegated functions.
“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, knowhow, 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, the Contractor’s response to the Specification, the Funding Rules, and any other documents (or parts thereof) specified in the Contract and any variations to the Contract agreed in writing and signed by both Parties
“Contract Finder”	means the Government’s publishing portal for public sector procurement opportunities
“Contractor Personnel”	means all persons employed or engaged by the Contractor together with the Contractor’s servants, agents, consultants and Sub-Contractors (and all persons employed by any Sub-Contractor together with the Sub-Contractor’s servants, consultants, agents, Contractor’s and sub-contractors) used in

	the performance of its obligations under this Contract;
“Contract Period”	means the period between the Commencement Date and the Expiry Date, unless terminated earlier on the Termination Date;
“Controller”	has the meaning given to it in the GDPR.
“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 Loss Event”	Means any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach.
“DPA 2018”	means the Data Protection Act 2018

“Data Protection Legislation”	means the (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA Act 2018 to the extent that it relates to processing of personal data and privacy; (ii) all applicable law about the processing of personal data and privacy;
“Data Protection Impact Assessment”	means an assessment by the ESFA of the impact of the envisaged processing on the protection of Personal Data.
“Data Protection Officer”	has the meaning given to it in the GDPR.
“Data Subject”	has the meaning given to it in the GDPR.

“Data Subject Request”	means a request made by, or on behalf, of a Data Subject in accordance with rights granted pursuant to the Data protection Legislation to access their Personal Data.
“EIR”	means the Environmental Information Regulations 2004
“Effective Date”	means the date on which this Contract entered into by the Contractor signing and returning the Contract.
“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 March 2020 or such later date as is notified in writing to the Contractor by the ESFA in accordance with Clause 2.2;
“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.
“Funding Rules”	means the document which sets 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 ESFA from time to time which at the date hereof are set out in the

	Adult education budget funding and performance management rules 2018 to 2019: https://www.gov.uk/government/publications/adulteducation-budget-funding-rules-2018-to-2019
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“GDPR”	means General Data Protection Regulation (Regulation (EU) 2016/679);
“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), Her Majesty’s Inspectorate for Education and Training in Wales (Estyn), the Quality Assurance Agency for Higher Education, the Office for Students, and the Care Quality Commission (CQC).
“Law”	Means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-laws, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgement of a relevant court, or directives or requirements by which the Contractor is bound.
“Learner”	means any third party including any student, apprentice, trainee or similar to whom the Contractor is required to deliver any of the Services.
“Learner Files”	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
“LED”	Means the Law enforcement Directive (Directive (EU) 2016/680);
“Local Enterprise Partnership (LEP)”	means a formalised partnership between local authorities to determine local economic priorities and lead economic growth and job creation within its area
“Managing Agent”	means the Contractor
“Minor Breach”	shall have the meaning given to it in Clause 20.2

“Offender Management”	means an officer from the National Offender Management Service who is working directly with an offender serving their sentence in the community.
“OFSTED”	means the Office for Standards in Education.
“Parties”	means the ESFA acting on behalf of the Crown and the Contractor.
“Personal Data”	has the meaning given to it in the GDPR.
“Personal Data Breach”	has the meaning given to it in the GDPR.
“Premises”	means the location where the Services are to be performed, as detailed in the Contract.
“Processor”	has the meaning given in the GDPR.
“Processor Personnel”	Means all directors, officers, employees, agents, consultants and contractors of the Contractor and Subcontractor engaged in the performance of its obligations under this Contract.
“Protective Measures”	means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures.
“Register of Training Organisations”	means the register maintained by the ESFA of organisations qualified to receive funding from the ESFA.
“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 ESFA, including, without limitation OfSTED.
“RIDDER”	means the reporting of Injuries, Diseases, and Dangerous Occurrences Regulations 2013;
“SCR LEP”	means the Sheffield City Regional Local Enterprise Partnership;
“Serious Breach”	shall have the meaning given to it in Clause 20.3
“Services”	means the services to be provided as specified in the Contract.
“Service Commencement Date”	means 3 December 2018 or such later date as is advised by the ESFA to the Contractor, in writing)
“SME”	means an enterprise falling within the category of micro and medium sized enterprises as defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium – sized enterprises
“Specification”	means the document setting out the ESFA’s requirements for the Services to be provided under this Contract.
“Sub-contract”	means the contracts entered into between the Contractor and any Sub-contractors (if relevant as approved by the ESFA at the Effective Date or in accordance with the provisions of this Contract from time to time);
“Sub-contractor”	any person other than the Contractor, who is a party to a Sub-contract;
“Termination Date”	means any date on which this Contract terminates in accordance with Clause 21.

“VCSE”	means a non-governmental organisation that is value driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
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2 COMMENCEMENT AND CONTINUATION

- 2.1 The Contract shall commence on the Effective Date and terminate on the Expiry Date unless terminated earlier in accordance with Clause 21 (Termination).
- 2.2 The Contractor shall deliver the Services in full from the Service Commencement Date.
- 2.3 The ESFA may extend the Contract on more than one occasion as long as the aggregate of all contract extensions does not exceed 27 months. If the ESFA wants to extend the Contract it shall do so by the following procedure;
- 2.3.1 The ESFA shall give the Contractor written notice of its intention to extend the Contract Period and shall state the duration of the extension and the date the extensions will start and end, unless it is terminated earlier in accordance with the provisions of this Contract.
- 2.3.2 The Contractor shall confirm acceptance of the extension.
- 2.3.3 The definition of Expiry Date shall be updated to reflect the end date of the Contract Period as set out in the notice referred to in Clause 2.3.1.

3 CONTRACT MANAGEMENT

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

4 SERVICE DELIVERY

- 4.1 The Services to be delivered under this Contract are the delivery of the Learning Programmes and Deliverables as set out in Appendix 2, (Funding Agreement). The detailed requirements in respect of each Learning Programme are set out in the Funding Rules as amended from time to time by the ESFA and which 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 ESFA, the Specification, the Contractor's response to the Specification, the Funding Rules, and the Supporting Documentation as attached at Appendix 2 (Funding Agreement) which sets out the 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 work in partnership with the SCR LEP to ensure delivery of the Services takes account of the local economic and skills and education priorities.

5 ASSIGNMENT AND SUB-CONTRACTING

5.1 Where the Contractor has not previously sub-contracted any part of Services under this Contract or under any other agreement that that Contractor holds or has held with the ESFA then the Contractor must seek the approval of the ESFA, in writing, before awarding a Sub-contract for the first time. Thereafter the Contractor must follow the sub-contractor reporting processes as set out in Clause 5.5 and the Funding Rules.

5.2 Services under this Contract may only be sub-contracted to one level unless the Contractor obtains the consent of the ESFA in writing.

5.3 The Contractor, as Managing Agent, when sub-contracting any of the Services under this Contract shall enter into a legally binding Sub-contract with each Subcontractor and shall ensure that the Sub-contract includes any terms specified in the Funding Rules. The Contractor shall send copies of each Sub-contract to the ESFA if requested to do so in writing.

5.4 The Contractor shall ensure that all Sub-contractors are selected fairly following a lawful, open and transparent tendering process, and have sufficient capacity.

5.5 The Contractor must provide the ESFA with details of all Sub-contractors at least bi-annually by fully and accurately making a declaration of Sub-contractors in accordance with the deadline set out in the Funding Rules. The Contractor must notify the ESFA of any within year changes to its Sub-Contractors that take place between the submission dates of their declaration of Sub-contractors as set out in the guidance: <https://www.gov.uk/guidance/subcontracting-using-funding-tooffer-education-and-training>.

5.6 The ESFA reserves the right to require the Contractor not to enter into, or to terminate, any Sub-contract to deliver the Services under this Contract.

5.7 The Contractor must comply with the requirements on sub-contracting delivery of the Services set out in the Funding Rules. Sub-contracting any part of the Contract shall not relieve the Contractor of any obligation or duty attributable to it under the Contract. The Contractor is responsible for all the actions of its Subcontractors connected to or arising out of the delivery of the Services which it Sub-contracts.

5.8 In addition to the requirement set out at Clause 5.4, where the value of the Contract, as set out in Appendix 1 and Appendix 2 exceeds £5,000,000 (five million pounds) per annum the Contractor shall:

- 5.8.1 subject to Clause 5.10, advertise on Contracts Finder all Sub-contract opportunities arising from or in connection with the provisions of the Services above a minimum threshold of £25,000 that arise during the Contract Period;
 - 5.8.2 within 90 days of awarding a Sub-contract to a Sub-contractor, update the notice on Contracts Finder with the details of the successful Subcontractor;
 - 5.8.3 monitor the number, type and value of the Sub-contract opportunities placed on Contracts Finder advertised and awarded during the Contract Period;
 - 5.8.4 notwithstanding the requirements in Clause 5.4 provide reports on the information at Clause 5.8.3 to the ESFA in the format and frequency as reasonably specified by the ESFA; and
 - 5.8.5 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.
- 5.9 Each advert referred to in Clause 5.8.1 above shall provide a full and detailed description of the Sub-contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Contractor;
- 5.10 The obligation in Clause 5.8.1 shall apply only in relation to Sub-contract opportunities arising after the contract award date.
- 5.11 Notwithstanding Clause 5.8, the ESFA may by giving its prior written approval, agree that a Sub-contract opportunity is not required to be advertised on Contracts Finder.
- 5.12 The Contractor shall ensure that any Sub-contract entered into for the purpose of delivering the Services under this Contract contains a term providing that the ESFA has the right to enforce the terms of the Sub-contract.
- 5.13 The Contractor shall make payment to any Sub-contractor within 30 days of receiving a valid claim for payment and ensure that any Sub-contract entered into for the purpose of delivering the Services under this Contract contains a term giving effect to this requirement.
- 5.14 The Contractor may not assign any rights, duties or obligations under this Contract without the consent of the ESFA.
- 5.15 The Contractor must notify the ESFA in writing if there is a change in its name at least one month prior to the change taking effect.

- 5.16 The Contractor must notify the ESFA in writing if there is a change in its ownership at least 12 weeks prior to the change taking effect.
- 5.17 The Contractor shall not without the prior written consent of the ESFA 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 ESFA at least 12 weeks' notice of any such plans. The ESFA 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 ESFA has any other material concerns about the proposed assignment, novation, disposal or other dealing.

The Contractor must consider the criteria set out in the Funding higher-risk organisations and sub-contractors document which is published on the ESFA's website <https://www.gov.uk/government/publications/sfa-financial-assurancehigher-risk-providers-and-subcontractors>

6 FREEDOM OF INFORMATION AND CONFIDENTIALITY

6.1 Freedom of Information

- 6.1.1 The Contractor acknowledges and agrees that the ESFA is subject to legal duties under FOIA, which may require the ESFA 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 ESFA 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 ESFA pursuant to a request under FOIA are solely a matter for and at the discretion of the ESFA.
- 6.1.4 Notwithstanding anything in this Contract to the contrary (including without limitation any obligations of confidentiality), the ESFA 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 ESFA shall use

reasonable endeavours (but shall not be obliged) to consult the Contractor and shall not:

- a) confirm or deny that information is held by the ESFA;
- or
- b) disclose information requested

to the extent that in the ESFA's opinion the information is eligible in the circumstances for an exemption and therefore the ESFA may lawfully refrain from doing either of the things described in parts (a) and (b) of this Clause 6.1.4.

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 ESFA for any and all costs (including legal fees) incurred by the ESFA in:

- a) assessing the application of any exemption under FOIA; and/or
- b) responding to any FOIA notice; and/or
- c) lodging any appeal against a decision of the Information Commissioner in relation to disclosure

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

6.1.6 The ESFA shall on no account 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 ESFA as reasonably necessary to enable the ESFA 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 ESFA 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 ESFA, 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 ESFA 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 Sub-contractors.

6.4 The provisions of Clauses 6.2 and 6.3 shall not apply to any information:

6.4.1 which is or becomes public knowledge (other than by breach of Clauses 6.2 and 6.3);

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;

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 the FOIA or the EIR.

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

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

6.5.4 to the European Union in conjunction with the European Social Fund requirements;

- 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 ESFA 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 ESFA in any investigation that the ESFA 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 ESFA's request if the ESFA reasonably believes the Contractor has failed to comply with Clause 6.7.
- 6.9 The ESFA 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 Period 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 reenactment 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 Sub-contractors 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 must, in delivering the Services under this Contract, demonstrate that it has had regard to the duties placed on the ESFA and the Contractor by the Equality Act 2010. The Contractor must take all reasonable steps to ensure the observance of these provisions by all

servants, employees or agents of the Contractor and all Sub-contractors engaged in the delivery the Services.

7.3 The Contractor shall ensure that equality of opportunity is built into all aspects of 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 must be proportionate, relevant and aligned to the Services the Contractor is funded to deliver.

7.4 The ESFA 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 ESFA, 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 Provision is 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 Provision is 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 Services, 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 Services 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 and 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), or an interim prohibition order made under regulation 14 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 sub-contracts 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 each Sub-contractor.
- 8.13 The Contractor shall inform the ESFA 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 ESFA's representative by telephone or email immediately upon the Contractor becoming aware of the death.
- 8.14 The Contractor shall report RIDDOR reportable incidents, 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 ESFA and Department for Work and Pensions for the purposes of the Industrial Injuries Disablement Benefit (IIDB) in respect of those Learners to which it applies.
- 8.17 The Contractor and its Sub-contractors 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 Sub-contractors refer;

8.18.1 A safeguarding concern related to sexual violence to the Local Authority children's social care/adult care and/or the police; or

8.18.2 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 ESFA via email to Enquiries.EFA@education.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 its 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 ESFA that a referral has been made.

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 Body under the Safeguarding Vulnerable Groups Act 2006, the Contractor shall ensure that it informs the ESFA that a referral has been made / information has been provided

9 LIABILITY

9.1 Neither Party limits its liability for death or personal injury cause by the negligence of itself of any of its servants, employees to agents acting in the course of their employment or in respect of misrepresentations made fraudulently in respect of any breach of an implied terms in respect of title to goods.

9.2 Subject to Clause 9.4 the Contractor shall indemnify and keep indemnified the ESFA, 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 ESFA, their servants, employees, or agents in respect of any loss or damage or personal injury (including death) which arises out of or in the course of or caused by the negligent act or omission or willful 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 willful default of the ESFA or their servants or agents.

9.3 The Contractor warrants to the ESFA 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 ESFA 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.

9.4 The Contractor's liability under Clause 9.2 shall be limited as follows;

9.4.1 In accordance with Clause 9.1 it shall be unlimited;

9.4.2 Otherwise it shall not exceed twice the value of the Contract or £1,000,000 (one million pounds), whichever is the greater.

9.5 Notwithstanding anything to the contrary contained in the Contract, the ESFA's liability whether arising from breach of contract tort including negligence breach of statutory duty or otherwise shall be limited as follows:

9.5.1 In accordance with Clause 9.1 it shall be unlimited;

9.5.2 In respect of all other liability falling outside of Clause 9.1 arising out of or in connection with its obligations (other than its obligation to pay for the Services) under this Contract and all actions claims demands proceedings costs and expense arising in respect of it to to a maximum aggregate value of £100,000 (one hundred thousand pound) This maximum liability limit all claims made within the contract term being the Contract Period and any extension of it in accordance with Clause 2.3, and any and all claims made within that period.

9.6 The ESFA shall not be liable to the Contractor for any Indirect Losses.

9.7 The ESFA 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 The Contractor shall maintain at its own cost 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 ESFA under this Contract. The

ESFA 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 sub-contractors. The Contractor should provide copies of any insurance certificates to the ESFA including professional indemnity, employers' liability and public liability insurance following a written request from the ESFA.

11 ACCESS AND MONITORING

11.1 When appropriate the ESFA shall give the Contractor reasonable advance notice in writing of proposed visits to the Contractor or its sub-contractors, 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.

11.2 For monitoring and evaluation purposes, the ESFA 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 provision and to inspect relevant documents and interview Learners and the Contractor's staff during these visits in order to:

11.2.1 examine, audit or take copies of any original or copy documentation, accounts, books and records of the Contractor and its sub-contractors that relate to the Contract;

11.2.2 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 sub-contractors) and conduct relevant interviews, including interviews with Learners, during these visits at any reasonable time;

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

11.3 The Contractor shall, if required by any of the representatives stated at Clause

11.2 provide appropriate oral or written explanations.

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

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

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

11.4.3 obtain a report by an independent accountant of the ESFA's choice on;

11.4.3.1. the financial systems and controls operated by the Contractor or its sub-contractors;

11.4.3.2 the accuracy and regularity of funding claims in respect of payments claimed or received under the Contract;

11.4.3.3 the evidence held by the Contractor or its sub-contractors to support delivery of the Services in accordance with the terms of the Contract

The Contractor must agree the instructions for the work with the ESFA this may include the ESFA discussing the terms of reference directly with the independent accountant where necessary. The report and the work required in order to produce the report shall be carried out to the satisfaction of the ESFA, and the ESFA must be able to place reliance on it. The Contractor shall provide a copy of any draft report at all stages of reporting and the final report to the ESFA as soon as they are available. The ESFA reserves the right to require the Contractor to publish the final report.

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

11.4.5 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 ESFA;

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

11.5 Where the ESFA has undertaken an investigation or received a report from an independent accountant or otherwise, in relation to the Contractor, it may as a consequence of that investigation or report, impose additional conditions of funding upon the Contractor.

11.6 The Contractor must comply with any additional conditions of funding imposed under Clause 11.5.

11.7 If the ESFA assesses that the Contractor has failed to comply with any additional conditions of a funding imposed under Clause 11.5 within such time as the ESFA deems reasonable, the ESFA may take actions as it deems appropriate which may include but is not limited to action under Clauses 20.5 – 20.7 (Minor Breach) or Clauses 20.8 – 20.12 (Serious Breach).

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

11.9 In addition to the other requirements to provide information set out in this Contract the ESFA reserves the right to request information from the Contractor

in order to exercise its responsibilities and/or to fulfill requirements to provide information to the Secretary of State, to account to Parliament and to meet European funding requirements. On occasion, the ESFA will require urgent information from the Contractor.

11.10 The Contractor shall provide the ESFA or agents acting on its behalf with the information it requires under Clause 11.9 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.

11.11 Failure to comply with any request for information under Clause 11.9, at all or in the required timescales, will constitute a Minor / Serious Breach of this Contract.

12 FUNDING AND PAYMENT

12.1 In consideration of the Services to be provided by the Contractor, the ESFA agrees to pay the Contractor the amounts set out in Appendix 2 of this Contract. on condition that the Contractor delivers the Services in accordance with the terms and conditions of the Contract and provided that the Contractor is not assessed as being at serious risk of failure to deliver the Services under this Contract by the ESFA following any review of the quality of the Services.

12.2 The Maximum Value of each Learning Programme and Deliverable as shown in Appendix 2 of this Contract may not be exceeded for any reason. The ESFA will not be liable to make any payment in excess of the Maximum Value of each Learning Programme and Deliverable unless this has been agreed and evidenced by a variation in writing. Funding is limited to the financial year totals as shown in the specification and Appendix 2, there will be no carry over to future years. Funding for 2019/2020 is subject to funding available and will be confirmed each year. There is the possibility of extending the Contract to the financial year 2020/21 subject to funding being available.

12.3 Where the ESFA 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 overall maximum value for that Learning Programme and/or Deliverable.

- 12.4 The Contractor shall comply with the Funding Rules published by the ESFA as amended from time to time.
- 12.5 The ESFA reserves the right to give three months' notice to reduce the overall maximum value for any Learning Programme and/or Deliverable.
- 12.6 Payment by the ESFA shall be without prejudice to any claims or rights, which the ESFA may have against the Contractor and shall not constitute any admission by the ESFA as to the performance by the Contractor of its obligations hereunder. Prior to any such payment, the ESFA 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 ESFA.
- 12.7 Where 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 ESFA and identifies errors in that evidence which it deems are material, the ESFA 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 an amount based on the error rate identified and the total value of the Contract. Such amounts 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. Failure to settle such amounts by the Contractor will constitute a Serious Breach under Clause 20 of the Contract. The decision of the ESFA as to the amount of recovery under this Clause 12 is final.
- 12.8 The Contractor must submit invoices to the ESFA's Contract Manager monthly in arrears to claim payment for expenditure incurred. All invoices must quote the Contract Reference Number and include a detailed breakdown of the deliverable(s) being claimed.
- 12.9 All payments by the ESFA will be made via BACS and will be made within 30 days of receipt of a valid invoice. To ensure payment, the ESFA must receive invoices no later than 10 working days after the period end, the period end being the last day of the calendar month. The ESFA will not be responsible for any delay in payment caused by incomplete or illegible invoices.
- 12.10 The Contractor must ensure that the documentary evidence listed in Appendix 2 and the Specification is available for inspection and audit at its own premises at the time of making claims to the ESFA.

13 REVIEW OF CONTRACTUAL PERFORMANCE AND RECONCILIATION OF CONTRACTS

13.1 Contractual performance and reconciliation will be carried out in accordance with the Funding Rules or as detailed in writing in advance of any action undertaken.

13.2 Where the Contractor's actual delivery will result or has already resulted in an overpayment to the Contractor by the ESFA, the ESFA 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.

13.3 Where the Contractor's actual delivery has resulted in an underpayment to the Contractor by the ESFA, the ESFA will adjust the amount due to the Contractor accordingly. This adjustment shall not exceed the overall maximum value set out in Appendix 1 of this Contract.

13.4 Should there be an under or over payment to the Contractor, the ESFA may at their absolute discretion require a Contract variation.

13.5 A Contract review will take place at the end of the period of this Contract in respect of the Services specified in Appendix 2 of this Contract. The ESFA will notify the Contractor of the actual amount of money, which has been earned against the Services delivered, and compare this to the total profile payments made and to the overall maximum value specified in Appendix 1. At this stage final cash reconciliation will take place. Any overpayment made to the Contractor by the ESFA will be repayable within 30 days of receiving an invoice. The ESFA reserves the right to reduce future payments to recover any overpayments. The ESFA will pay any outstanding monies owed, up to the overall maximum value specified in Appendix 1 of this Contract, within 30 days of final reconciliation being completed.

13.6 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 PROHIBITED ACTIVITIES

14.1 The Contractor shall not offer or give, or agree to give, to any member, employee or representative of the ESFA 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 ESFA 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 ESFA or Her Majesty's Government shall entitle the ESFA 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.

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

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

15 DATA PROTECTION

15.1 The Parties acknowledge that for the purposes of Data Protection Legislation, the ESFA is the Controller and the Contractor is the Processor and the Parties are referred to as such within this Clause 15. The only processing that the Processor is authorised to do is listed in Schedule 2.

15.2 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data protection Legislation.

15.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include;

15.3.1 a systematic description of the envisaged processing operations and the purpose of the processing;

15.3.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;

15.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and

15.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

15.4 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Contract;

15.4.1 process that Personal Data only in accordance with Schedule 2 unless the Processor is required to do otherwise by Law. If it is

so required the Processor shall promptly notify the Controller before processing the Personal Data, unless prohibited by Law;

15.4.2 ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject will not amount to approval by the Controller of the adequacy of the protective Measures), having taken into account the:

15.4.2.1 nature of the data to be protected;

15.4.2.2 harm that might result from a Data Loss Event;

15.4.2.3 state of technological development;

and 15.4.2.4 cost of implementing any

measures; ensure that:

- (i) the Processor Personnel do not process Personal Data except in accordance with this Contract (and in particular Schedule 2);
- (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this clause;
 - (B) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Contract; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

- (iii) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
- (iv) the Data Subject has enforceable rights and effective legal remedies;
- (v) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
- (vi) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data; at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.

15.5 Subject to clause 15.6, the Processor shall notify the Controller immediately if it:

- 15.5.1 receives a Data Subject Request (or purported Data Subject Request) in relation to processing their data under this Contract only;
- 15.5.2 receives a request to rectify, block or erase any Personal Data. Notification in such cases should be given via the ILR;
- 15.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- 15.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
- 15.5.5 receives a request from any this party for disclosure of Personal Data where compliance with such a request is required or purported to be required by Law; or
- 15.5.6 becomes aware of a Data Loss Event

- 15.6 The Processor's obligation to notify under Clause 15.5 shall include the provision of further information to the Controller in phases, as details become available.
- 15.7 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under the Data Protection Legislation and any complaint, communication or request made under Clause 15.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing;
- 15.7.1 the Controller with full details and copies of the complaint, communication or request;
 - 15.7.2 such assistance as is reasonable required by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data protection Legislation;
 - 15.7.3 the Controller, at its request, with any Persona Data it holds in relation to a Data Subject;
 - 15.7.4 assistance as required by the Controller following any Data Loss Event;
 - 15.7.5 assistance as requested by the Controller with respect to any request from the Information Commissioner's Office or any consultation by the Controller with the Information Commissioner's Office.
- 15.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Clause 15. This requirement does not apply where the Processor employs fewer than 250 staff, unless;
- 15.8.1 the Controller determines that the processing is not occasional;
 - 15.8.2 the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of GDPR; or
 - 15.8.3 the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 15.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.

- 15.10 Each Party shall designate its own data protection officer if required by the Data Protection Legislation.
- 15.11 Before allowing any sub-contractor (“sub-processor”) to process any personal Data related to this Contract the Processor must;
- 15.11.1 notify the Controller in writing of the intended sub-contractor and processing;
- 15.11.2 obtain the written consent of the Controller;
- 15.11.3 enter into a written agreement with the sub-contractor which gives effect to the terms set out in this Clause 15 such that they apply to the sub-contractor; and
- 15.11.4 provide the Controller with such information regarding the subcontractor as the Controller may reasonably require.
- 15.12 The Processor shall remain fully liable for all acts or commissions of any of its sub-contractors.
- 15.13 The Controller may, at any time on not less than 30 Working Days’ revise this Clause 15 by replacing it with any applicable controller or processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).
- 15.14 The Parties agree to take into account any guidance issued by the Information Commissioner’s Office. The Controller may on not less than 30 Working days’ notice amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner’s Office.
- 15.15 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 Controller in relation to Personal Data which the Contractor is required to provide to the Secretary of State for Work and Pensions. This Clause 15 will be enforceable by the Secretary of State for Work and Pensions by the Contractor on their behalf.
- 15.16 Where the Contractor is providing Services to Learners who are subject to the active management of the Offender manager in respect of an order or licence the Secretary of State for Justice (or their successor) is the Controller in relation to Personal Data with the Contractor is required to provide to the Secretary of State for Justice.

16 SUBMISSION OF LEARNER DATA

16.1 The Contractor must supply the ESFA data on each individual learner, in accordance with the data collections framework set out in the 'ILR specification, validation rules and appendices 2018 to 2019' as amended and updated, which is published on the ESFA's website

<https://www.gov.uk/government/publications/ilr-specification-validation-rulesand-appendices-2018-to-2019> in accordance with the 'Provider Support Manual' as amended and updated.

16.2 The Contractor must supply the ESFA with data in accordance with the following:

16.2.1 in line with agreed audit arrangements;

16.2.2 in adherence with the Data Protection Act;

16.2.3 to support payments to be made;

16.2.4 to enable reconciliation to take place; and

16.2.5 to support the contract management and allocation processes.

16.3 Data collected must be transmitted to the ESFA through the ESFA's web portal <https://www.gov.uk/government/publications/sfa-the-hub>. Access to the ESFA's web portal is restricted and the Contractor agrees to comply with the conditions of use regarding the supply of data to the ESFA set out in this Clause 16 and in 'Individualised Learner Record Specification 2018/19 and relevant Provider Support Manual as amended and updated available on the ESFA's web site.

16.4 The Contractor will only submit data to claim payments under this Contract when the evidence defined in the Funding Rules is available to verify the delivery of the service claimed.

16.5 The Contractor will endeavour to collect the full data set for each Learner and work with Learners to minimise the use of 'not knowns' or 'prefer not to say' options.

16.6 Where the ESFA is concerned about the quality of the data, including the completeness or accuracy of the data, provided by the Contractor, the ESFA may require the Contractor to supply data more frequently for such a period as the ESFA shall require.

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

- 16.8 The ESFA reserves the right to suspend payments to the Contractor under the Contract where data quality gives rise to concern about the accuracy of the data provided by the Contractor.
- 16.9 Failure to transmit complete and accurate data to the ESFA in accordance with this Clause 16 will constitute a Serious Breach of Contract in accordance with Clause 20 of the Terms and Conditions of the Contract.
- 16.10 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 requirements notified to the Contractor. Failure to transmit complete and accurate data under this Clause 16 will constitute a Serious Breach of Contract in accordance with Clause 20 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.
- 16.11 The Contractor must update the course information funded by the ESFA at www.coursedirectoryproviderportal.org.uk in accordance with the course directory data requirements which can be found at <https://coursedirectoryproviderportal.org.uk/Help>.
- 16.12 The Contractor shall register with UKRLP and maintain contact details on an on-going basis. (<http://www.ukrlp.co.uk/>).
- 16.13 The Contractor must submit data about any member of its workforce delivering GCSE English and Maths in the format and to the timescales as required by the ESFA.
- 16.14 The Contractor shall complete the Supplementary Data submission to claim activity and costs not reportable through the ILR. The Supplementary Data must be transmitted to the ESFA through the ESFA's web portal: <https://www.gov.uk/government/publications/sfa-the-hub>

17 QUALITY ASSURANCE AND RAISING STANDARDS

- 17.1 The Contractor undertakes to the ESFA that it has the resources and skills necessary to carry out the Contractor's obligations pursuant to this Contract.
- 17.2 The Contractor shall comply with the Funding Rules published by the ESFA as amended from time to time and any other requirements, which may from time to time be issued by the ESFA, OFSTED, the awarding bodies and other regulatory bodies and of which the Contractor is made aware.
- 17.3 The Contractor shall ensure that all activities carried out pursuant to this Contract shall be documented in accordance with the requirements of the ESFA and shall provide such documentation to them as the ESFA shall request from time to time.

17.4 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 ESFA's satisfaction that it has an effective quality assurance system based on the implementation of its own quality improvement process. The ESFA reserves the right to require the Contractor to provide the ESFA or an Inspectorate evidence to support the quality improvement processes.

17.5 The Contractor shall use all reasonable endeavours to:

17.5.1 minimise dropout rates and deliver high completion and achievement rates and appropriate progression;

17.5.2 at least meet the minimum quality standards that apply to the appropriate Services purchased. These minimum quality standards will be set out by the ESFA;

17.5.3 ensure competent and appropriately qualified staff deliver and assess learning. The Contractor shall be responsible for the professional development and training of its staff;

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

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

17.5.6 provide good management and leadership of the learning process;

17.5.7 deliver value for money and financial probity; and

17.5.8 ensure all sub-contractors delivering Services under the Contract on behalf the Contractor comply with the requirements set out in 17.5.1 to 17.5.7 above.

17.6 Failure to meet the requirements set out in clauses 17.5.1 to 17.5.8 may result in the ESFA assessing the Contractor to be in Serious Breach of the Contract under Clause 20 of the Contract.

17.7 Where appropriate, the Contractor shall confirm in writing to the ESFA 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 ESFA immediately in writing if it receives any sanction from an awarding body.

17.8 The ESFA may assess the quality and delivery of the Services and the Contractor's compliance with the requirements in clause 17.5.1 to 17.5.8

during the term of the Contract. The Contractor will be informed of the outcome of that process. Where the ESFA assesses the Contractor to be in Serious Breach of Contract following such assessment the ESFA will issue a notice in accordance with clause 20.9 of the Contract which may:

17.8.1 require the Contractor to meet improvement indicators to improve the quality of its Services. The ESFA 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 ESFA and in agreement with the Contractor;

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

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

17.9 As part of the delivery of the Services, The Contractor must provide high quality and easily accessible information and advice to help Learners to understand the opportunities and support available to them about education, training or connected matters (including employment);

17.9.1 Where one of the main objectives of the Services to be provided under this Contract is to deliver information and advice, the Contractor will have to have or attain the matrix Standard accreditation within six months of the Contract being awarded; and

17.9.2 If the information and advice is embedded as part of the delivery of the Services the Contractor should work towards achieving the matrix Standard accreditation within 12 months of the start of the Contract.

17.9.3 Where the Services are delivered by a Sub-contractor on behalf of the Contractor, the requirements set out in clauses 17.9.1 and 17.9.2 must be applied to the sub-contractor. This does not apply where the Contractor retains responsibility for the delivery of information and advice to the Learners.

17.9.4 Once achieved, matrix Standard accreditation is valid for three years. As part of their accreditation the Contractor is required to successfully demonstrate their continuous improvement activities to their matrix Assessor through the use of the online Self Reflection Tool on an annual basis.

17.10 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-choicesinformation-for-providers> and in any subsequent updates to these web pages.

Financial Health

17.11 The ESFA reserves the right to undertake a desk based assessment of financial health and control. Should the ESFA, at its absolute discretion, consider that the outcome of any financial health and/or control assessment is inadequate, the ESFA may, in its absolute discretion take one or more of the following actions:

17.11.1 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;

17.11.2 require the Contractor to suspend the recruitment of Learners to the Services and/or cap any growth in Learner numbers;

17.11.3 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

17.11.4 terminate in accordance with Clause 21.2.8

17.12 Where the Contractor fails to comply with requirements imposed under Clauses

17.11.1 and/or 17.11.2, the ESFA shall consider Termination under Clause 21.2.9

Ofsted Inspection

17.13 The ESFA may at their discretion agree a programme of support for the Contractor to assist it in taking action to improve the quality of the Services.

17.14 When the Contractor receives notification from Ofsted that the Services are to be inspected, the Contractor shall on request provide the ESFA 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 ESFA of the date of the meeting at which Ofsted give feedback on the inspection and allow the ESFA's nominated representative to attend the meeting. The Contractor must confirm to the ESFA in writing the outcome of the inspection within 5 working days of receiving the feedback from Ofsted.

17.15 Ofsted may, at any time during the Term, undertake an inspection of the Contractor. The ESFA will consider the outcome of any such inspection as follows:

Inadequate in part

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

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

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

17.15.1.3 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; and/or

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

17.15.1.5 terminate in accordance with Clause 21.2.11

Inadequate overall

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

17.15.2.1 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 Learning and/or temporarily cap any growth in those Learning Programmes which are assessed as inadequate.

17.15.2.2 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 Clause 17.15.3 may be taken.

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

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

17.15.3.2 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; and/or

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

17.15.3.4 reduce, suspend or recover payment to the contractor; and/or

17.15.3.5 terminate this Contract in accordance with Clause 21.2.11 (Termination).

17.15.4 The failure of the Contractor, as assessed by the ESFA, to comply with any requirements of Clauses 17.15.3.1 and/or 17.15.3.2 within such time as the ESFA may deem reasonable may lead to the ESFA taking such actions as it deems appropriate which may include, but is not limited to, terminating in accordance with Clause 21.2.10 (Termination).

17.15.5 The ESFA will take action based on Ofsted's provisional and confirmed outcomes as in Clauses 17.15.2 - 17.15.3 above. Where the ESFA is made aware that the Contractor has made a complaint about the graded outcome of the overall assessment by Ofsted, the ESFA will continue to progress action under Clause 17.15.2 -17.15.3 but will be mindful of the implications arising from the outcome of a complaint. The ESFA will review any decisions made at such time as outcomes of any complaint are made known.

Minimum standards

17.16 The ESFA may, at any time during the Term, undertake an assessment of the quality and delivery of the Services. Where the ESFA assesses that the

Services, in whole or in part, fall below the required standards, the ESFA may, in its absolute discretion, take one or more of the following actions:

- 17.16.1 require the Contractor to accept and comply with additional Contract obligations relating to the improvement of the Services. Such conditions to apply until the Contractor can demonstrate the required improvement to the ESFA's absolute satisfaction; and/or
- 17.16.2 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; and/or
- 17.16.3 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; and/or
- 17.16.4 reduce, suspend or recover payment to the contractor in respect of that part of the Provision to which the failure to meet the required standards relate; and/or
- 17.16.5 terminate this Contract in accordance with Clause 21.2.12 (Termination) in full, or that part of the Provision failing to meet the required standards.

17.17 The failure of the Contractor, as assessed by the ESFA, to comply with any requirements of Clauses 17.16.1 - 17.16.2 within such time as the ESFA may deem reasonable may lead to the ESFA taking such actions as it deems appropriate which may include, but is not limited to, terminating in accordance with Clause 21.2.12 (Termination).

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

17.19 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.

18 ADDITIONAL CONTRACTUAL OBLIGATIONS

18.1 The ESFA reserves the right to impose additional contractual obligations where it considers it is necessary to do so to secure the delivery of education and training of a reasonable quality by the Contractor, or to ensure that the resources provided by the ESFA are being used effectively and efficiently or to require the Contractor to address concerns about its financial viability

19 FRAUD AND IRREGULARITY

19.1 The Contractor shall notify the ESFA 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 ESFA or employees of the Department for Education;

19.1.2 computer fraud;

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

19.1.4 fraud involving awarding bodies;

19.1.5 fraud involving sub-contractors;

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 ESFA has reasonable cause to suspect that fraud or irregularity has occurred in relation to the delivery of the Contract and payments made hereunder, the ESFA 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 ESFA 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 ESFA 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 ESFA 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. The ESFA shall provide a named contact or telephone answering machine for receiving such information.

20 BREACH

20.1 For the purpose of this Clause 20, the following definitions shall have the meanings set out below:

20.2 "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;

20.3 "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.

20.4 For the avoidance of doubt:

20.4.1 neither Party shall be liable for any Minor Breach or Serious Breach under this Clause 20, which occurs as a direct result of any act or omission by the other Party, its staff or agents;

20.4.2 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

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

20.6 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.

20.7 If the Party in breach fails to remedy the Minor Breach within the time specified in notice served under Clause 20.6 or such other period as may be agreed between the Parties it shall constitute a Serious Breach by the Party in breach.

Serious Breach

20.8 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:

20.9 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.

20.10 Where the ESFA has served a notice under clause 20.9 the ESFA has the right to require the Contractor to suspend the recruitment of Learners until the ESFA has confirmed that the breach has been remedied.

20.11 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 20.9 or such other period as may be agreed between the Parties the ESFA may cease funding the Contractor in respect of that part of the Service to which the Serious Breach relates.

20.12 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 20.9 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.

21 TERMINATION

21.1 The Contractor shall notify the ESFA in writing immediately upon the occurrence of any of the following events:

21.1.1 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; or

21.1.2 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 21.1.1 or 21.1.3 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

21.1.3 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.

21.2 The ESFA may terminate the Contract without liability to the Contractor by giving to the Contractor, or where relevant their representatives written notice, having effect immediately or after such periods as the ESFA may determine as follows;

- 21.2.1 Where any of the events in Clause 21.1 occur;
 - 21.2.2 In accordance with Clause 20.12 (Serious Breach);
 - 21.2.3 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;
 - 21.2.4 In the event that the ESFA is of the reasonable opinion that the conduct of the Contractor amounts to a fundamental breach of the Contract which is incapable of remedy;
 - 21.2.5 ceases to be on the Register of Training Organisations and/or the Register of Apprenticeship Training Providers maintained by the ESFA;
 - 21.2.6 The Contractor or any employee shall have committed any offence under the Bribery Act 2010;
 - 21.2.7 On the occurrence of the statutory provisos contained in regulation 73 (1) (a) to (c) of the Public Contracts Regulations 2015;
 - 21.2.8 The outcome of any financial health and/or control assessment undertaken in relation to the Contractor is inadequate;
 - 21.2.9 The Contractor fails to comply with requirements imposed under Clauses 17.11.1 and/or 17.11.2;
 - 21.2.10 The Contractor fails to comply with requirements imposed under Clauses 17.15.3.1, and / or 17.15.3.2;
 - 21.2.11 An Ofsted inspection results in the Services in part or overall thereof being assessed as inadequate;
 - 21.2.12 the ESFA assesses that the Services delivered under this Contract, in whole or part, are below the minimum standards;
 - 21.2.13 where the ESFA is in receipt of a notice from the Contractor, pursuant to Clause 5.17. and at its absolute discretion the ESFA is satisfied that the change of control will prejudice the Contractor's ability to deliver the Services.
- 21.3 In addition to the rights of termination under any this and any other clauses of this Contract, the ESFA 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.

21.4 Termination under Clause 21 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.

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

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

21.7 Notice of termination of the Contract under Clause 17, Clause 20 or this Clause 21 shall result in the Contractor being removed from the Register of Training Organisations and/or the Register of Apprenticeship Training Providers maintained by the ESFA.

21.8 The Contractor must not recruit new Learners after notice of termination of the Contract has been given under Clause 17, Clause 20 or this Clause 21. The ESFA will not be liable to make payments in respect of any Learners recruited in breach of this Clause.

22 TRANSFER OF RESPONSIBILITY AND TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS 2006 PROVISIONS ON EXPIRY OR TERMINATION

22.1 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 provisions of Schedule 1 shall apply.

22.2 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 ESFA either prior to or after the termination or expiry of this Contract, to deal with the effects of such termination or expiry in so far as it is practicable to do so.

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

22.4 The Contractor shall, at no cost to the ESFA, promptly provide such assistance and comply with such timetable as the ESFA 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 sub-contractors are under a similar obligation. The ESFA shall be entitled to require the provision of such assistance both prior to and after the expiry or other termination of this Contract.

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

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

23 FORCE MAJEURE

23.1 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.

24 PUBLIC REPUTATIONS OF THE PARTIES/PRESS RELEASES

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

24.2 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.

25 RETENTION OF DOCUMENTS

25.1 The Contractor must retain the documentation to verify the delivery of the Services as set out in the Funding Rules.

25.2 Without prejudice to any of the other rights under the Contract to recover funds, the ESFA will be entitled to recover from the Contractor any sums as a result of the Contractor's failure to comply with this Clause 25.

25.3 The provisions of this Clause 25 shall apply during the continuance of this Contract and after its termination howsoever arising.

26 STATUS OF CONTRACT

26.1 Nothing in this Contract shall have the effect of making the Contractor, the servant or agent of the ESFA, 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 ESFA against tax, national insurance contributions or similar imposed for which the ESFA may be liable in respect of the Contractor by reason of this Contract.

27 WAIVER

27.1 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.

28 THIRD PARTY RIGHTS

28.1 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.

29 NOTICE

29.1 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

29.2 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.

30 GOVERNING / JURISDICTION

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

31 DISPUTE RESOLUTION

31.1 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 ESFA and the Contractor for discussion and review in order to try to resolve the same.

31.2 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 ESFA'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.

31.3 The Dispute Resolution Panel must meet within 28 days of receiving a request for referral made in accordance with Clause 31.2 above.

32 FEEDBACK AND COMPLAINTS

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

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

32.3 The Contractor shall be responsible for resolving complaints in accordance with its own procedures and any guidance issued by the ESFA.

32.4 Where a complaint 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 ESFA and co-operate with any investigation carried out by the ESFA and act on any recommendations made by the ESFA following the investigation.

33 STATE AID

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

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

33.3 The ESFA 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 ESFA will confirm to the Contractor in writing the exact percentage of the contribution.

33.4 Where ESFA requires the Contractor to obtain a contribution towards the cost of the Services under Clause 33.3 above, the Contractor must provide evidence that the contribution has been received.

33.5 In the event that any funding paid under this Contract is deemed to constitute unlawful state aid the ESFA reserves the right to require immediate repayment of any such funding.

34 INTELLECTUAL PROPERTY RIGHTS

34.1 Definitions

“Background Intellectual Property”

Any Intellectual Property, other than Foreground Intellectual Property, which is used in performing the Services or comprises part of the Work;

“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.

34.2 In consideration of the ESFA 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 ESFA a nonexclusive, irrevocable, worldwide, royalty-free licence (with the right to license others) of any of the Contractor’s Foreground Intellectual Property that the ESFA may reasonably require to be able fully to exploit, develop and commercialise the results of the Services, including, without limitation, the Work.

34.3 The provisions of this Clause 34 shall apply during the continuance of this Contract and after its termination howsoever arising.

35 DISPOSAL OF ASSETS AND CHANGE OF USE

35.1 In respect of Assets whose value exceeds £2,500 including VAT the following provisions shall apply.

35.2 For the purposes of this section:

- a) ‘Asset’ shall mean any property, real or personal, tangible or intangible;
- b) an Asset shall be considered to have been financed by the ESFA if it has been acquired wholly or partly with funds provided by the ESFA;
- c) 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;
- d) ‘the appropriate proportion thereof’ shall be the proportion represented by the amount of funding provided by the ESFA 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.

- 35.3 The Contractor shall ensure that any Asset financed by the ESFA is adequately insured.
- 35.4 The Contractor shall inform the ESFA if it proposes to dispose of, or change the use of, any Asset that has been financed by the ESFA.
- 35.5 The Contractor shall not dispose of any Asset financed by monies provided by the ESFA unless it has first obtained the written consent of the ESFA to such a disposal.
- 35.6 Where the Contractor disposes of the Asset it shall pay to the ESFA whichever is the greater either the amount of funding provided by the ESFA in respect of the Asset or the net proceeds of any disposal of an Asset, or the appropriate proportion thereof, to the ESFA unless otherwise agreed with the ESFA.
- 35.7 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 ESFA in accordance with Clause 35.6 above.
- 35.8 In the event of the Contractor being taken over, merging or going into liquidation, all Assets financed by the ESFA, or the equivalent portion of their market value, will become the property of the ESFA.
- 35.9 The provisions of this Clause 35 shall apply during the continuance of this Contract and after its termination howsoever arising. The ESFA shall reserve the right to decide when its interest in Assets financed by the ESFA under the terms of the Contract shall cease.

36 HEADINGS

36.1 The headings to conditions shall not affect their interpretation.

37 ENTIRE CONTRACT / AMENDMENTS

37.1 The Contract shall comprise the following:

Terms and Conditions

Appendix 1 & Appendix 2

Schedule 1 Staff Transfer

Schedule 2 Processing, Personal Data and Data Subjects

The Specification (which includes the evidence requirements)

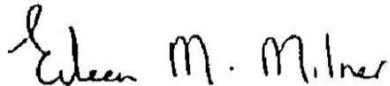
The Contractor's response to the Specification

The Funding Rules

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

This Contract is made on the date the Contract is signed by the Contractor.

SIGNED FOR AND ON BEHALF OF
THE SECRETARY OF STATE FOR EDUCATION
acting through the Education and Skills Funding Agency
by Eileen Milner, Chief Executive of the Education and Skills Funding Agency



AUTHORISED TO SIGN FOR AND ON BEHALF OF CALDERDALE COLLEGE
of
Francis Street, Halifax, West Yorkshire, HX1 3UZ

Signature

.....

Name in Capitals

.....

Position in Organisation

.....

Date

.....

APPENDIX 1 - SUMMARY OF EDUCATION AND SKILLS FUNDING AGENCY
FUNDING 2018/20

Organisation Name:	CALDERDALE COLLEGE
UKPRN:	10001093

	Contract Ref	Maximum Contract Values		
		Dec 18 - Mar 19	Apr 19 - Mar 20	2018/20 Total
Growth Funding	GF-1001	£2,155,000	£3,231,150	£5,386,150
Total Funding for this contract				£5,386,150

Education and Skills Funding Agency	Appendix 1 2018/20	Master Contract ref: ESFA-1001
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APPENDIX 2 - FUNDING AGREEMENT

REDACTED UNDER FOIA SECTION 43(2)

SCHEDULE 1
TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT)
REGULATIONS 2006 AND PENSIONS ASPECTS

Staff Transfer

1 DEFINITIONS

In this Schedule, the following definitions shall apply:

“Former Contractor”	a supplier supplying services to the ESFA before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such supplier (or any subcontractor of any such sub-contractor);
“Employment Regulations”	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the European Council Directive 77/187/EEC;
“Employee Liabilities”	all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following: <ol style="list-style-type: none">a. redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;b. unfair, wrongful or constructive dismissal compensation;c. compensation for discrimination on grounds of sex, race,

disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;

- d. compensation for less favourable treatment of part-time workers or fixed term employees;
- e. outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by the ESFA or the Replacement Contractor to a Transferring Contractor Employee which would have been payable by the Supplier or the Subcontractor if such payment should have been made prior to the Service Transfer Date and also including any payments arising in respect of pensions;
- f. claims whether in tort, contract or statute or otherwise;
- g. any investigation by the Equality

and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

“Notified Subcontractor”	a Sub-contractor identified in the Annex to this Schedule to whom Transferring ESFA Employees and/or Transferring Former Contractor Employees will transfer on a Relevant Transfer Date;
“Replacement Contractor”	any third party provider of the Services appointed by or at the direction of the ESFA from time to time;
“Replacement Sub-contractor”	a sub-contractor of the Replacement Contractor to whom Transferring Contractor Employees will transfer on a Service Transfer Date (or any subcontractor of any such sub-contractor);

“Relevant Transfer”	a transfer of employment to which the Employment Regulations applies;
“Relevant Transfer Date”	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;
“Service Transfer”	any transfer of the Services (or any part of the Services), for whatever reason, from the Contractor or any Sub-contractor to a Replacement Contractor or a Replacement Sub-contractor;
“Service Transfer Date”	the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires;
“Staffing Information”	<p>in relation to all persons identified on the Contractor's Provisional Contractor Personnel List or Contractor's Final Contractor Personnel List, as the case may be, such information as the Authority may reasonably request (subject to all applicable provisions of Data Protection Legislation), but including in an anonymised format:</p> <ul style="list-style-type: none"> (a) their ages, dates of commencement of employment or engagement, gender and place of work; (b) details of whether they are employed, self employed contractors or consultants, agency workers or otherwise; (c) the identity of the employer or relevant contracting Party; (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments; (e) their wages, salaries, bonuses and profit sharing arrangements as applicable; (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules

applicable to them;

- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- (j) any other “employee liability information” as such term is defined in regulation 11 of the Employment Regulations;

“Contractor’s
Final Contractor
Personnel List”

a list provided by the Contractor of all Contractor Personnel who will transfer under the Employment Regulations on the Service Transfer Date;

“Contractor’s
Provisional
Contractor
Personnel List”

a list prepared and updated by the Contractor of all Contractor Personnel who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Contractor;

“Transferring ESFA
Employees”

those employees of the ESFA to whom the Employment Regulations will apply on the Relevant Transfer Date;

“Transferring
Former Contractor
Employees”

in relation to a Former Contractor, those employees of the Former Contractor to whom the Employment Regulations will apply on the Relevant Transfer Date; and

“Transferring
Contractor
Employees”

those employees of the Contractor and/or the Contractor’s Sub-contractors to whom the Employment Regulations will apply on the Service Transfer Date.

2 INTERPRETATION

Where a provision in this Schedule imposes an obligation on the Contractor to provide an indemnity, undertaking or warranty, the Contractor shall procure that each of its Subcontractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the ESFA, Former Contractor, Replacement Contractor or Replacement Sub-contractor, as the case may be.

PART A:

NO TRANSFER OF EMPLOYEES AT COMMENCEMENT OF SERVICES

1 PROCEDURE IN THE EVENT OF TRANSFER

- 1.1 The ESFA and the Contractor agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the ESFA and/or any Former Contractor.
- 1.2 If any employee of the ESFA and/or a Former Contractor claims, or it is determined in relation to any employee of the ESFA and/or a Former Contractor, that his/her contract of employment has been transferred from the ESFA and/or the Former Contractor to the Contractor and/or any Subcontractor pursuant to the Employment Regulations then:
 - (a) the Contractor shall, and shall procure that the relevant Sub-contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the ESFA and, where required by the ESFA, give notice to the Former Contractor; and
 - (b) the ESFA and/or the Former Contractor may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification by the Contractor or the Sub-contractor (as appropriate) or take such other reasonable steps as the ESFA or Former Contractor (as the case may be) considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.

- 1.3 If an offer referred to in Paragraph 1.2(b) is accepted (or if the situation has otherwise been resolved by the ESFA and/or the Former Contractor), the Contractor shall, or shall procure that the Sub-contractor shall, immediately release the person from his/her employment or alleged employment.
- 1.4 If by the end of the 15 Working Day period specified in Paragraph 1.2(b):
- (a) no such offer of employment has been made;
 - (b) such offer has been made but not accepted; or (c) the situation has not otherwise been resolved,

the Contractor and/or the Sub-contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.

2 INDEMNITIES

- 2.1 Subject to the Contractor and/or the relevant Sub-contractor acting in accordance with the provisions of Paragraphs 1.2 to 1.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 2.4, the ESFA shall:
- (a) indemnify the Contractor and/or the relevant Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any employees of the ESFA referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Contractor takes, or shall procure that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities; and
 - (b) procure that the Former Contractor indemnifies the Contractor and/or any Notified Sub-contractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Contractor referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Contractor takes, or shall procure that the relevant Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.2 If any such person as is described in Paragraph 1.2 is neither re employed by the ESFA and/or the Former Contractor as appropriate nor dismissed by the Contractor and/or any Sub-contractor within the 15 Working Day period referred to in Paragraph 1.4 such person shall be treated as having transferred to the Contractor and/or the Sub-contractor (as appropriate) and the Contractor shall, or shall procure that the Sub-contractor shall, comply with such obligations as may be imposed upon it under Law.

2.3 Where any person remains employed by the Contractor and/or any Sub-

contractor pursuant to Paragraph 2.2, all Employee Liabilities in relation to such employee shall remain with the Contractor and/or the Sub-contractor and the Contractor shall indemnify the ESFA and any Former Contractor, and shall procure that the Sub-contractor shall indemnify the ESFA and any Former Contractor, against any Employee Liabilities that either of them may incur in respect of any such employees of the Contractor and/or employees of the Subcontractor.

2.4 The indemnities in Paragraph 2.1:

(a) shall not apply to:

(i) any claim for:

(A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or

(B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Contractor and/or any Sub-contractor; or

(ii) any claim that the termination of employment was unfair because the Contractor and/or any Sub-contractor neglected to follow a fair dismissal procedure; and

(b) shall apply only where the notification referred to in Paragraph 1.2(a) is made by the Contractor and/or any Sub-contractor to the ESFA and, if applicable, Former Contractor within 6 months of the Effective Date.

3 PROCUREMENT OBLIGATIONS

3.1 Where in this Part A the ESFA accepts an obligation to procure that a Former Contractor does or does not do something, such obligation shall be limited so that it extends only to the extent that the ESFA's contract with the Former Contractor contains a contractual right in that regard which the ESFA may enforce, or otherwise so that it requires only that the ESFA must use reasonable endeavours to procure that the Former Contractor does or does not act accordingly.

PART B: Employment Exit Provisions

1 PRE-SERVICE TRANSFER OBLIGATIONS

- 1.1 The Contractor agrees that within 20 Working Days of the earliest of:
- (a) receipt of a notification from the ESFA of a Service Transfer or intended Service Transfer;
 - (b) receipt of the giving of notice of early termination of this Contract;
 - (c) the date which is 12 months before the end of the Contract Period; and
 - (d) receipt of a written request of the ESFA at any time (provided that the ESFA shall only be entitled to make one such request in any 6 month period),

it shall provide in a suitably anonymised format so as to comply with Data Protection Legislation, the Contractor's Provisional Contractor Personnel List, together with the Staffing Information in relation to the Contractor's Provisional Contractor Personnel List and it shall provide an updated Contractor's Provisional Contractor Personnel List at such intervals as are reasonably requested by the ESFA.

- 1.2 At least 20 Working Days prior to the Service Transfer Date, the Contractor shall provide to the ESFA or at the direction of the ESFA to any Replacement Contractor and/or any Replacement Sub-contractor:
- (a) the Contractor's Final Contractor Personnel List, which shall identify which of the Contractor Personnel are Transferring Contractor Employees; and
 - (b) the Staffing Information in relation to the Contractor's Final Contractor Personnel List (insofar as such information has not previously been provided).
- 1.3 The ESFA shall be permitted to use and disclose information provided by the Contractor under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Contractor and/or Replacement Sub-contractor.
- 1.4 The Contractor warrants, for the benefit of the ESFA, any Replacement Contractor, and any Replacement Sub-contractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in Paragraph 1.1(a), 1.1(b) and 1.1(c), the Contractor agrees, that it shall not, and agrees

to procure that each Sub-contractor shall not, assign any person to the provision of the Services who is not listed on the Contractor's Provisional Contractor Personnel List and shall not without the approval of the ESFA (not to be unreasonably withheld or delayed):

- (a) replace or re-deploy any Contractor Personnel listed on the Contractor Provisional Contractor Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;
- (b) make, promise, propose, permit or implement any material changes to the terms and conditions of employment of the Contractor Personnel (including any payments connected with the termination of employment);
- (c) increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Contractor Personnel save for fulfilling assignments and projects previously scheduled and agreed;
- (d) introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Contractor's Provisional Contractor Personnel List;
- (e) increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
- (f) terminate or give notice to terminate the employment or contracts of any persons on the Contractor's Provisional Contractor Personnel List save by due disciplinary process,

and shall promptly notify, and procure that each Sub-contractor shall promptly notify, the ESFA or, at the direction of the ESFA, any Replacement Contractor and any Replacement Sub-contractor of any notice to terminate employment given by the Contractor or relevant Sub-contractor or received from any persons listed on the Contractor's Provisional Contractor Personnel List regardless of when such notice takes effect.

1.6 During the Term, the Contractor shall provide, and shall procure that each Sub-contractor shall provide, to the ESFA any information the ESFA may reasonably require relating to the manner in which the Services are organised, which shall include:

- (a) the numbers of employees engaged in providing the Services;

- (b) the percentage of time spent by each employee engaged in providing the Services; and
- (c) a description of the nature of the work undertaken by each employee by location.

1.7 The Contractor shall provide, and shall procure that each Sub-contractor shall provide, all reasonable cooperation and assistance to the ESFA, any Replacement Contractor and/or any Replacement Sub-contractor to ensure the smooth transfer of the Transferring Contractor Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Contractor Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Contractor shall provide, and shall procure that each Sub-contractor shall provide, to the ESFA or, at the direction of the ESFA, to any Replacement Contractor and/or any Replacement Sub-contractor (as appropriate), in respect of each person on the Contractor's Final Contractor Personnel List who is a Transferring Contractor Employee:

- (a) the most recent month's copy pay slip data;
- (b) details of cumulative pay for tax and pension purposes;
- (c) details of cumulative tax paid;
- (d) tax code;
- (e) details of any voluntary deductions from pay; and
- (f) bank/building society account details for payroll purposes.

2 EMPLOYMENT REGULATIONS EXIT PROVISIONS

2.1 The ESFA and the Contractor acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Contractor and/or a Replacement Sub-contractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations will apply. The ESFA and the Contractor further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Contractor and the Transferring Contractor Employees (except in

relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Contractor and/or a Replacement Sub-contractor (as the case may be) and each such Transferring Contractor Employee.

- 2.2 The Contractor shall, and shall procure that each Sub-contractor shall, comply with all its obligations in respect of the Transferring Contractor Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-contractor shall perform and discharge, all its obligations in respect of all the Transferring Contractor Employees arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Contractor and/or the Subcontractor (as appropriate); and (ii) the Replacement Contractor and/or Replacement Sub-contractor.
- 2.3 Subject to Paragraph 2.4, the Contractor shall indemnify the ESFA and/or the Replacement Contractor and/or any Replacement Sub-contractor against any Employee Liabilities arising from or as a result of:
- (a) any act or omission of the Contractor or any Sub-contractor in respect of any Transferring Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Contractor Employee whether occurring before, on or after the Service Transfer Date;
 - (b) the breach or non-observance by the Contractor or any Sub-contractor occurring on or before the Service Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Contractor Employees; and/or
 - (ii) any other custom or practice with a trade union or staff association in respect of any Transferring Contractor Employees which the Contractor or any Sub-contractor is contractually bound to honour;
 - (c) any claim by any trade union or other body or person representing any Transferring Contractor Employees arising from or connected with any failure by the Contractor or a Sub-contractor to comply with

any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;

- (d) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Transferring Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and
 - (ii) in relation to any employee who is not identified in the Contractor's Final Contractor Personnel list, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Contractor to the ESFA and/or Replacement Contractor and/or any Replacement Sub-contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;
- (e) a failure of the Contractor or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Contractor Employees in respect of the period up to (and including) the Service Transfer Date);
- (f) any claim made by or in respect of any person employed or formerly employed by the Contractor or any Sub-contractor other than a Transferring Contractor Employee identified in the Contractor's Final Contractor Personnel list for whom it is alleged the ESFA and/or the Replacement Contractor and/or any Replacement Sub-contractor may be liable by virtue of this Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and
- (g) any claim made by or in respect of a Transferring Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Contractor Employee relating to any act or omission of the Contractor or any Sub-contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the ESFA and/or Replacement Contractor to comply with regulation 13(4) of the Employment Regulations.

2.4 The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Contractor and/or any Replacement Sub-contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:

- (a) arising out of the resignation of any Transferring Contractor Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Contractor and/or any Replacement Sub-contractor to occur in the period on or after the Service Transfer Date); or
 - (b) arising from the Replacement Contractor's failure, and/or Replacement Sub-contractor's failure, to comply with its obligations under the Employment Regulations.
- 2.5 If any person who is not identified in the Contractor's Final Contractor Personnel list claims, or it is determined in relation to any person who is not identified in the Contractor's Final Contractor Personnel list a Transferring Contractor Employee, that his/her contract of employment has been transferred from the Contractor or any Sub-contractor to the Replacement Contractor and/or Replacement Sub-contractor pursuant to the Employment Regulations, then:
- (a) the ESFA shall procure that the Replacement Contractor shall, or any Replacement Sub-contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Contractor; and
 - (b) the Contractor may offer (or may procure that a Sub-contractor may offer) employment to such person within 15 Working Days of the notification by the Replacement Contractor and/or any and/or Replacement Sub-contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.
- 2.6 If such offer is accepted, or if the situation has otherwise been resolved by the Contractor or a Sub-contractor, the ESFA shall procure that the Replacement Contractor shall, or procure that the Replacement Sub-contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.
- 2.7 If after the 15 Working Day period specified in Paragraph 2.5(b) has elapsed:
- (a) no such offer of employment has been made;
 - (b) such offer has been made but not accepted; or (c)
the situation has not otherwise been resolved

the ESFA shall advise the Replacement Contractor and/or Replacement Subcontractor, as appropriate that it may within 5 Working Days give notice to terminate the employment or alleged employment of such person.

2.8 Subject to the Replacement Contractor and/or Replacement Sub-contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Contractor shall indemnify the Replacement Contractor and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.7 provided that the Replacement Contractor takes, or shall procure that the Replacement Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.9 The indemnity in Paragraph 2.8:

(a) shall not apply to:

(i) any claim for:

(A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or

(B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Replacement Contractor and/or Replacement Sub-contractor; or

(ii) any claim that the termination of employment was unfair because the Replacement Contractor and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure; and

(b) shall apply only where the notification referred to in Paragraph 2.5(a) is made by the Replacement Contractor and/or Replacement Subcontractor to the Contractor within 6 months of the Service Transfer Date.

2.10 If any such person as is described in Paragraph 2.5 is neither re-employed by the Contractor or any Sub-contractor nor dismissed by the Replacement Contractor and/or Replacement Sub-contractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Contractor Employee.

2.11 The Contractor shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the

Employment Regulations and shall perform and discharge, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of any person identified in the Contractor's Final Contractor Personnel list before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

- (a) the Contractor and/or any Sub-contractor; and
- (b) the Replacement Contractor and/or the Replacement Sub-contractor.

2.12 The Contractor shall, and shall procure that each Sub-contractor shall, promptly provide to the ESFA and any Replacement Contractor and/or Replacement Sub-contractor, in writing such information as is necessary to enable the ESFA, the Replacement Contractor and/or Replacement Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The ESFA shall procure that the Replacement Contractor and/or Replacement Subcontractor, shall promptly provide to the Contractor and each Sub-contractor in writing such information as is necessary to enable the Contractor and each Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

2.13 Subject to Paragraph 2.14, the ESFA shall procure that the Replacement Contractor indemnifies the Contractor on its own behalf and on behalf of any Replacement Sub-contractor and its sub-contractors against any Employee Liabilities arising from or as a result of:

- (a) any act or omission of the Replacement Contractor and/or Replacement Sub-contractor in respect of any Transferring Contractor Employee identified in the Contractor's Final Contractor Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Contractor Employee ;
- (b) the breach or non-observance by the Replacement Contractor and/or Replacement Sub-contractor on or after the Service Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Contractor Employees identified in the Contractor's Final Contractor Personnel List; and/or

- (ii) any custom or practice in respect of any Transferring Contractor Employees identified in the Contractor's Final Contractor Personnel List which the Replacement Contractor and/or Replacement Sub-contractor is contractually bound to honour;
- (c) any claim by any trade union or other body or person representing any Transferring Contractor Employees identified in the Contractor's Final Contractor Personnel List arising from or connected with any failure by the Replacement Contractor and/or Replacement Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
- (d) any proposal by the Replacement Contractor and/or Replacement Subcontractor to change the terms and conditions of employment or working conditions of any Transferring Contractor Employees identified in the Contractor's Final Contractor Personnel List on or after their transfer to the Replacement Contractor or Replacement Sub-contractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Contractor's Final Contractor Personnel List who would have been a Transferring Contractor Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;
- (e) any statement communicated to or action undertaken by the Replacement Contractor or Replacement Sub-contractor to, or in respect of, any Transferring Contractor Employee identified in the Contractor's Final Contractor Personnel List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Contractor in writing;
- (f) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Transferring Contractor Employee identified in the Contractor's Final Contractor Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and

- (ii) in relation to any employee who is not a Transferring Contractor Employee identified in the Contractor's Final Contractor Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Contractor or Subcontractor, to the Replacement Contractor or Replacement Subcontractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;
- (g) a failure of the Replacement Contractor or Replacement Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Contractor Employees identified in the Contractor's Final Contractor Personnel List in respect of the period from (and including) the Service Transfer Date; and
- (h) any claim made by or in respect of a Transferring Contractor Employee identified in the Contractor's Final Contractor Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Contractor Employee relating to any act or omission of the Replacement Contractor or Replacement Subcontractor in relation to obligations under regulation 13 of the Employment Regulations.

2.14 The indemnities in Paragraph 2.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Contractor and/or any Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Contractor and/or any Subcontractor (as applicable) to comply with its obligations under the Employment Regulations.

ANNEX: LIST OF NOTIFIED SUB-CONTRACTORS

APPENDIX G TO CLAUSE 1 OF SCHEDULE 1

TRANSFER VALUES

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

Schedule 2

Processing, Personal Data and Data Subjects

Description	Details
Subject matter of the Processing	<p>The subject matter is the personal data of Learners on education or training programmes administered by the ESFA that are subject to this Contract as defined in the ESFA privacy notice and ILR specification and its appendices.</p> <p>https://www.gov.uk/government/publications/esfa-privacynotice</p> <p>https://www.gov.uk/government/collections/individualisedlearner-record-ilr</p>
Duration of the Processing	<p>The duration of the Processing covers the data returns to the ESFA as defined in Appendix A of the ILR specification to enable funding and audit of the learning programmes defined in this Contract.</p> <p>https://www.gov.uk/government/collections/individualisedlearner-record-ilr</p>
Nature and purposes of the Processing	<p>The nature and purposes of the processing is defined in the ESFA privacy notice.</p> <p>https://www.gov.uk/government/publications/esfa-privacynotice</p> <p>The Contractor will be required to submit the data to the ESFA as set out in Clause 16 Submission of Learner Data of this Contract.</p>
Type of personal data	<p>The personal data to be processed is defined in the ILR specification.</p> <p>https://www.gov.uk/government/collections/individualisedlearner-record-ilr</p>

<p>Categories of data subject</p>	<p>The data subjects are Learners on education or training programmes administered by the ESFA that are subject to this Contract.</p>
<p>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</p>	<p>Information on how the data must be supplied to the ESFA is detailed in the ILR specification and its appendices.</p> <p>https://www.gov.uk/government/collections/individualisedlearner-record-ilr</p> <p>For the purposes of the DfE as a data controller of the data, the Contractor is required to retain the data for the funding and audit purposes set out in this Contract for 6 years from the end of the financial year in which the last payment is made under this Contract.</p> <p>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.</p>

Question 1 – Sub-contracting arrangements

Calderdale College (CC) will use its established Public Contracts Regulations 2015 compliant procurement processes to select and appoint subcontractors to the Skills Bank programme, to ensure the breadth of provision, the appropriate specialisms and expertise, a range of delivery methods, quality of provision and employer choice. All tendering opportunities for potential new subcontractors will be published through the In-tend system; an electronic General Data Protection Regulation compliant tendering system. The opportunity to apply will remain open for the duration of the programme, ensuring the service remains flexible and the network of subcontractors and their provision is responsive and provides the widest possible choice for employers across SCR. Applications will be assessed on their ability to meet the requirements of the specification, how the training offer adds value to existing skills provision, value for money and the proposed Skills Deal contribution to SCR LEP growth priorities. To minimise any potential disruption from collapse, all subcontractors must pass CC's Due Diligence process before being an approved subcontractor for the Skills Bank programme. CC has, through open and transparent arrangements secured 23 initial subcontractors, (SCR colleges, HEIs, specialist skills providers) including the SCR provider network lead, to deliver tailored learning solutions to employers and employees through the Skills Bank programme.

Where an employer identifies their own preferred provider, CC will support the provider through the Due Diligence process to maintain high quality standards in expanding the supply chain. CC will work with the Programme Steering Group (PSG) to scan and assess future skills needs across the SCR business community in partnership with local employers, to design and test new forms of Skills Bank provision and where appropriate, actively encourage new provision into the programme. CC has a range of private/commercial, FE and HE subcontractors including the SCR provider network lead, many of whom are sector specialists and collectively provide the capacity to address future skills needs in the SCR.

To ensure quality of provision, a timely and responsive service and positive outcomes for learners and employers, REDACTED UNDER FOIA SECTION 43(2). Monthly performance figures will be monitored at subcontractor level and emerging shortcomings will be investigated and addressed. Subcontractors who under-perform and/or deliver a poor quality service will be given a notice to improve with clear deadlines and failure to do so will result in termination of the Subcontractor Agreement.

The Skills Bank Contract Manager will have day to day responsibility for monitoring and managing subcontractor performance. REDACTED UNDER FOIA SECTION 43(2). Subcontractors that consistently receive negative feedback will be investigated and potentially removed from the network of subcontractors.

PSG members will receive monthly performance dashboards and quarterly performance reports that provide detailed analysis of programme activity, progress and impact and the efficacy of Skills Bank sub-contractors. This programme-level reporting will ensure PSG members have full and regular appraisal of subcontractor performance and the impact of this on Skills Bank delivery.

REDACTED UNDER FOIA SECTION 43(2). This system is successfully used by CC and its subcontractors on the current ESF SSW/R contracts managed by CC and has programme specific validation rules to ensure eligibility eg employer is in the SCR LEP area.

REDACTED UNDER FOIA SECTION 43(2).

The SCR Skills Bank Risk and Mitigation Plan will run in parallel to the Skills Bank Delivery Plan. This will include a review of under/over performance and poor quality delivery in achieving an employer-responsive Skills Bank service; key performance indicators (KPIs) track success and impact of the Skills Bank; and a risk register for the duration of the contract. The risk register will consider all elements of the programme including performance, application turnaround times, appropriateness of intervention to employer needs, referrals to other programmes/funding streams, impact and the maximisation of the Skills Investment Capacity Fund. The risk register will account for any risks arising and foreseen (both supply and demand aspects of Skills Bank delivery) and the steps needed to mitigate against them. CC will issue monthly updates to the risk register and share with the SCR LEP/PSG to track progress against each risk, ensure ownership amongst Skills Bank delivery partners and tangible interventions are in place to maintain effective stewardship across all aspects of SCR Skills Bank activities and infrastructure.

All subcontractors will have a standard Subcontractor Agreement which will be aligned to ESFA subcontracting requirements, reflect the minimum service requirements of the specification, ways of working agreed between CC and the SCR LEP and specify requirements that reflect the Skills Bank Customer Charter including quality requirements, response and delivery timeframes.

Subcontractor standards of service will also be published in a Subcontractor Handbook defining expected practice across all areas of engagement and contract delivery as well as guidance on data collection to meet mandatory requirements. Subcontractor capacity building/network events will be used to ensure standards remain consistently high across subcontractors. REDACTED UNDER FOIA SECTION 43(2). In addition to ILR data, the provider portal will capture all other evidence related to the commencement of learning, referral to onward training and completion or withdrawal (including reason for analysis purposes) using standardised templates where possible. Evidence of employer contribution will also be captured through the provider portal. The audit reviews check evidence requirements and eligibility in line with ESFA Funding and Performance Management Rules.

To ensure consistent quality in the delivery of the service, CC will develop a specific Quality Assurance plan for this programme, utilising its Performance Management Framework, underpinned by robust Quality Assurance processes. All CC systems and controls are regularly audited by the College's auditors ICCA Education Training and Skills. Regular and substantial checks of training provided by subcontractors ensure consistent high quality delivery across the network of subcontractors, including:

- Robust Due Diligence and annual refresh of key policies & regular financial health check to assure subcontractor viability and stability.
- CC will have a star-rated system for subcontractors that will be visible to employers alongside the Product Catalogue to build employer confidence in the Skills Bank service
- Direct observations of initial guidance & induction will check key eligibility and compliance in line with funding rules and CC standards. CC's observation team will observe training using the College's Teaching, Learning and Assessment Strategy mapped to Ofsted CIF
- All participants and employers will be made aware of CC's responsibility in their learning experience and be given direct contact to CC should they need to raise a query or complaint.

- CC will collate employer and learner feedback to ensure funding is used successfully to support businesses to flourish and grow and deliver inclusive growth. This will inform reports to SCR LEP and drive the direction of to the programme to achieve KPIs.
- Case studies will be used to promote and publicise success stories across the supply chain and used to further promote the programme at network events and promotional campaigns.

Question 2. Management and quality assurance

Calderdale College (CC) has considerable experience and knowledge of employers within the SCR through prior delivery of ESF Workplace Learning activity and ESF/Yorkshire Forward Skills Enhancement Fund. CC conceived the first Skills, Investment and Capacity Fund (SICF) model (Skills Enhancement Fund) REDACTED UNDER FOIA SECTION 43(2). CC will use the experience of engaging with over 2,000 employers through the ongoing SSW programmes to inform design, planning, promotion, delivery, monitoring and ongoing evaluation of Skills Bank provision.

CC has relationships with sector/business-facing intermediaries including Engineering Employers Federation, SEMTA, CITB, Chambers of Commerce, Local Authorities, Federation of Small Businesses and HEIs. Initial conversations have taken place between these intermediaries to establish partnership arrangements in order to add value to the Skills Bank service. To complement the employer triage service CC will also work with the SCR Growth/Skills Hub to ensure employers receive a comprehensive, high quality seamlessly coordinated service across business and skills support provision. Service Level Agreements (SLAs) between CC, the Growth/Skills Hub and other business/skills support providers and aforementioned examples of employer intermediaries will ensure effective handling of all referrals within a specific agreed timescale. SLAs will cement and quality assure joint working between partners, facilitate cross-referrals and their success and broaden tactics on effective employer engagement through sharing good practice and identifying underserved sectors. We will also ensure our employer engagement plans are informed by, and aligned to, the work of the Growth/Skills Hub and this will form part of the programme implementation phase. CC will use this partnership base to engage a wide range of employers from all SCR priority sectors, district locations, company size and stages of maturation. This will, together with CC's good established working relationship with the SCR Executive and collective agreement to co-locate with the SCR LEP and Growth/Skills Hub, and CC's subcontractors' (SCs) acute knowledge of local market conditions, enable CC to continue to develop and grow employer knowledge and relationships in SCR.

CC will introduce the Skills Bank Intermediary Advisory Group (SBIAG) in consultation with the LEP, which will be made up of key employers and sector representative bodies who will bring the employer voice directly into the programme. This group will provide direct feedback, inform engagement practices, improve performance, ensure the programme is focussed on delivering tangible business benefits in line with the LEP Priorities and ensure that the programme adapts to socio-economic developments, policy change and emerging opportunities and threats.

To promote the Skills Bank programme and SCR LEP, and to drive engagement, the Marketing and Communication Officer will be co-located with the SCR marketing team for a proportion of their time. Collaboration in marcomms strategy and implementation will ensure that the Skills Bank is firmly aligned to SCR LEP priorities, initiatives and activities detailed in the SCR Strategic Economic Plan. Marcomms will ensure the Skills Bank is easily identifiable and accessible to employers, with consistent communications on the provision of business/skills support solutions across SCR and highlight the pivotal role of skills and the Skills Bank in supporting SCR employers achieve their business growth ambitions through a supported, co-funded (with employer investment) approach linked to the SCR Priorities.

REDACTED UNDER FOIA SECTION 43(2). The Programme Steering Group (PSG), made up of CC, the LEP and the Skills/Growth Hub, will review marcomms activity on a quarterly basis and assess the success of this through specific metrics agreed by the PSG, including: number of new and repeat employers accessing the Skills Bank,

increased traffic to the Employer Portal, clicks/eyeballs/views on LinkedIn and Twitter, website hits and so forth. CC will provide relevant marcomms performance data to the PSG to ensure that that marketing and promotional activity is directed and targeted throughout the lifetime of the project.

The dedicated Skills Bank Employer Portal will promote engagement on to the programme, provide open and transparent information on the application process and criteria to ensure that employers have realistic expectations, and will provide a clear overview of the Skills Bank programme including its aims and objectives so that the support is indelibly linked to outcomes and business growth. The Employer Portal will incorporate the Product Catalogue, providing a one-stop information and application point for employers. In addition to serving as a reference document to the comprehensive provision available through the programme, REDACTED UNDER FOIA SECTION 43(2). Where employers indicate that they require assistance in assessing their immediate and/or longer-term skills needs, they will be referred to the Skills Hub for fuller diagnostic assessment.

CC's proposed Skills Bank portfolio of SCs collectively offer the breadth of curriculum coverage, employer choice and range of delivery arrangements to meet the LEP sector priorities and employer demand from the outset. The current SC base is predominantly local to the SCR with operational bases and outreach facilities including flexible delivery on the employer's site to ensure full coverage across all districts.

CC will maintain an open and transparent procurement process to ensure that the programme responds promptly, addressing gaps in provision which materialise during the lifetime of the programme from employer enquiries and feedback, business and sector representatives, the PSG, the SBIAG and LEP initiatives including inward investment developments. Where specialist provision not listed in the catalogue/gaps are identified, or where local providers cannot meet specific skills needs arising, CC will work with the SCR LEP to identify actions, which may include capacity building, dedicated sector specific solutions or multiple or single business solutions to meet that need, through the SICF if appropriate.

CC will develop and use the Provider Portal, REDACTED UNDER FOIA SECTION 43(2). which CC has considerable experience of using, to standardise and provide real-time communications with all SCs in the programme. SC standards of service will also be published in a Subcontractor Handbook defining expected practice across all areas of engagement and contract delivery; standardised documentation and guidance will be an integral part of the Portal. Dedicated Contract/Compliance Officers will provide day to day support for SCs on performance, eligibility and evidence gathering which will be complemented by Quality Officer support and overall SC performance responsibility by the Skills Bank Contract Manager. SC capacity building workshops/network events will be used to share feedback and to ensure standards remain consistently high.

The quality of the service provided to the employer from point of engagement to conclusion of the programme will be assured against LEP service standards including response rates to enquiries.

SC provision will be quality assured using CC's proven Quality Assurance Model which incorporates the ESFA Funding and Performance Management Rules and Ofsted standards alongside the current and emerging Skills Bank specification standards. Regular and substantial 'on-programme' assessment of training including an annual audit cycle to check evidence requirements and undertake direct observations (mapped to Ofsted CIF), employer/learner feedback through a star rating system of SC Underperforming SCs will not be part of the Skills Bank supply chain. Alongside success rates and timeliness CC quality processes incorporate employer and employee satisfaction and feedback to drive quality improvement.

CC will work closely with the SCR LEP to ensure provision meets the key priorities through regular dialogue via the PSG and the provision of MI and qualitative evidence to highlight and demonstrate trends/issues arising from employer purchasing behaviours and expected outcomes from Skills Bank provision. The application process will ensure that the employer's interventions are aligned to raising ambition and positive outcomes in respect to growth, productivity, and/or more broadly part of supply chain development. These outcomes along with factors such as social responsibility, expanding or safeguarding jobs and the level of commitment to apprenticeship programmes will be captured as part of the application process and inform the Skills Bank intervention rate. CC will also work with the SCR LEP to devise follow-up impact analysis metrics eg digitalisation, exporting practices, skills levels, which have been a product of Skills Bank-supported training to ensure maximum economic outcomes for employer and SCR. CC will provide a report for the Skills Bank Investment Board for all approved deals aligned to agreed metrics. CC will work with the SCR LEP to agree a wider impact evaluation framework for the Skills Bank.

CC will establish an account/client management approach to communicate with/support employers from the initial point of enquiry and securing a 'Skills Deal' to ensuring successful conclusion of training undertaken and securing positive outcomes for learners. CC will work with SCR LEP to agree metrics that measure the efficacy of a highly responsive, comprehensive and robust service to employers. This includes determining response times that employers and SCs must adhere to throughout the enquiry, triage and application process as well as mode and frequency of communication tools eg email/SMS reminders, incentives for employers and learners to rate the quality of Skills Bank provision. CC will regularise the uploading of Skills Bank service-level performance data via the Employer Portal, Product Catalogue and Provider Portal. Content will include operational updates, success stories, top SC for Skills Bank as rated by employers and learners. This will aid transparency and accountability and enshrine the reputation of the Skills Bank.

Question 3. Capacity and readiness to deliver

Calderdale College (CC) has a good established working relationship with the SCR Executive and extensive experience of managing large regional funded projects delivered via a subcontracting model and in collaboration with a broad range of strategic partners and referral agencies. CC currently delivers 13 SSW/R contracts in 7 LEP areas and has the necessary and proven resources, staff and expertise in parallel to established processes and procedures for subcontractor (SC) performance management, quality assurance, compliance and marketing. Prior delivery of ESF/Yorkshire Forward Skills Enhancement Fund (in SCR) and the Leeds City Region LEP Skills Service gives CC extensive knowledge, experience and confidence of delivering the Skills Bank programme, with both previously high performing programmes operating a similar delivery model. CC conceived the first Skills, Investment and Capacity Fund (SICF) model (Skills Enhancement Fund) REDACTED UNDER FOIA SECTION 43(2). CC will use the experience of engaging with over 2,000 employers through the ongoing SSW programmes to inform design, planning, promotion, delivery, monitoring and ongoing evaluation of Skills Bank provision.

CC is currently set up with an established External Funding Unit (EFU) of 32 post holders dedicated to delivery of ESIF/publicly funded skills programmes. CC will deploy this team to the Skills Bank to ensure readiness to deliver, particularly the core functions of Marketing, Development, Finance, MI, Quality, claims and evidence processing. CC will ensure delivery starts from 3rd December 2018 by recruiting for three new posts; the South Yorkshire Manager and the Skills Bank Contract Manager; and Marketing and Comms Officer; retaining the existing support team at the EFU, and has secured 23 SCs including college groups (6 FE colleges), HEIs and specialist skills providers including the SCR provider network lead. CC will recruit the three new posts for Skills Bank in line with its standard open procedures. All three posts will be co-located with the SCR LEP and Growth Hub (as agreed with the SCR Executive) to ensure prior planning, effective coordination and joint working protocols are in place from commencement of the contract. CC will retain this physical base for the duration of the contract to cement and enhance partnership working with the SCR LEP and Growth Hub. The Skills Bank organisational structure will be as follows:

Management - the External Funding Unit Management Team (**Director of Commercial Services & Partnerships, Financial Controller, Head of Relationship Management, Quality Manager and Head of Operations**) will oversee the strategic direction of the Skills Bank programme.

South Yorkshire Manager (new post)

- Strategic lead for SCR Skills Bank and intelligence gathering to steer SC activity
- Programme alignment to other skills and employment projects, business-related services and economic development activities
- Relationship management with SCR LEP, Growth/Skills Hub, local authorities, employer-facing intermediaries and development of formal referral protocols
- Lead for SCR LEP engagement on the investment application and appraisal process, ensuring a consistent intervention rate policy, scoring matrix; work with Operations Team on written procedures
- Present projects to the Skills Bank Investment Board with recommendations for funding
- Strategic lead for the development and deployment of the Skills and Innovation Capacity Fund (SICF), written process and procedure, in consultation with the SCR LEP
- Representation at SCR LEP meetings and events

- Lead the development and implementation of key deliverables in consultation with the SCR LEP, including the Employer and Provider Portals, Product Catalogue and Marketing
- Secretariat to Skills Bank Programme Steering Group (PSG) and Skills Bank Intermediary Advisory Group (SBIAG), contributing and reporting to Skills Bank Investment Board
- Explore new responsive models of delivery with the LEP where appropriate including contracting arrangements with contractors and employers
- Lead performance management relationship with the ESFA
- Programme level monitoring and dissemination of performance reports
- Lead on a Data Sharing Agreement to support Skills Bank external evaluation.

Skills Bank Contract Manager (new post)

- Management of the Skills Bank contract, monitoring level of employer applications and SC delivery
- Reporting to the External Funding Unit Management Team
- Main point of contact with the SCs including face to face SC visits incorporating paperwork/e-forms; responsibilities; training on data collection and REDACTED UNDER FOIA SECTION 43(2) evidence submissions
- Triage service monitoring and signposting with Operations Team
- Day to day management and monitoring of the SICF
- PSG and SBIAG reporting support to South Yorkshire Manager
- Ensuring data collection is fully compliant with mandatory evidence requirements
- Carry out regular performance reviews of SCs based on risk, level of delivery, responsiveness, employer feedback and quality of provision
- Attend contract/performance reviews and present CC performance reports, highlighting successes and recommending ways to continuously improve delivery and programme impact (based on employer feedback) and maximise economic outcomes for the SCR
- Monitor all applications to ensure economic/employment outcomes are identified and can be captured for reporting and evaluation purposes.

Marketing and Communications Officer (new post)

CC will employ a dedicated Marketing and Communication Officer who will be co-located with the SCR marketing team for a proportion of their time in order to align the marketing and communications activities of the Skills Bank with those of the SCR LEP. The Officer will work closely with the SCR LEP to develop a marketing and communications strategy and marketing collateral aligned to SCR branding guidelines; leading/managing this along with ongoing development and updating of the website. A marketing strategy/plan will be developed in consultation with the SCR executive and their Marketing team ensuring it is aligned and coordinated with the wider skills business support arrangements in place in SCR. A launch campaign will commence at the start of the contract. This will involve working closely with the SCR Executive to identify the target audience for promoting the Skills Bank.

Quality Team - The Quality team has extensive experience of supporting organisations to meet regulatory requirements of external audit/inspection bodies. The Quality Manager and Skills Bank Contract Manager will also be responsible for procurement, including Due Diligence of new SCs. The **Quality Officer**, supported by the **Quality Manager**, will be responsible for implementing CC's Quality Assurance Strategy and ESFA Funding and Performance Management Rules to the marketing, management and delivery of the Skills Bank, undertaking audits and observations of Skills Bank SCs.

Operations Team - The **Head of Operations** has overall responsibility for all operational aspects of this contract, supported by the **Lead Contract Officer** who will issue all SC agreements using a comprehensive tracking system utilised across previous projects. All SCs will receive an initial 'call off' contract with zero allocation. Contract revisions will reflect agreed training and intervention rates as employer referrals increase. **Contract Officer/Compliance Officer** is responsible for verifying contract evidence and ensuring eligibility to the Skills Bank eg employer de minimis (state aid) levels. They will also carry out internal compliance checks through offering guidance to SCs on funding rules, ensure ILR data is robust, validate learning plans and ensure evidence of completion and referral by learners. A **Systems Advisor** will be responsible for all systems development and implementation using CC's established bespoke MI systems to ensure the accurate/timely collection and submission of ILR data and effective SC delivery. The Systems Advisor, in conjunction with the **MI Manager** and Head of Operations, will work with the SCR Executive to ensure the Employer and Provider Portals are fit for purpose, particularly the ongoing tracking of employer applications with the ability for both the employer and SC to assess where a funding application is in the process at any time. The MI Manager will generate reports to inform, facilitate governance and robustly monitor/manage data, performance and risk. CC will agree the format, detail and frequency of reports with the SCR LEP. CC will share reports with the PSG to facilitate discussion and decision making to maximise the programme and its impact. Such reports will include details on all 'approved deals' for the Skills Bank Investment Board and agree the metrics for all reporting

The **Financial Controller** will be ultimately responsible for the financial aspects of this contract and in particular, the quarterly claim to the ESFA, supported in this by the **Finance Officer** using CC's established finance system. The team will work with the SCR Executive to develop and implement a payment system that builds on CC's existing SC payment procedures and meets financial and audit requirements.

On contract award, CC will share its existing employer/learner data collection systems with the SCR Executive for approval and agree timescales for adjustments ensure it captures all LEP data requirements. CC is in discussions with the software developer for Tracker to ensure readiness for delivery. CC already uses a CRM system, Evolutive, to capture employer engagement data. This CRM links to the Employer Portal and Product Catalogue to capture the full breadth of employer engagement to the Skills Bank. CC will adapt this in consultation with the PSG and in accordance with the contract specification to ensure it meets SCR LEP requirements and is live at contract commencement date.

Question 4. Partnership Working

Calderdale College (CC) recognises that robust partnership work is key to the success of the SCR Skills Bank to ensure employers have a demand-led, comprehensive, high quality service to boost the skills and productivity of their workforce that will drive the growth of their business through an improved employee skills base. CC has significant experience of leading and developing relationships with partners and stakeholders through successful delivery of the Leeds City Region LEP Skills Service (as Managing Agent), delivery of Skills Support for the Workforce in 7 LEP regions and prior delivery in SCR through the Skills Enhancement Fund and Work-based Learning.

To maximise the impact of the Skills Bank programme for SCR and employers, CC will work with a number of organisations who can support employers to realise their ambitions and secure positive progression outcomes for learners including:

- REDACTED UNDER FOIA SECTION 43(2).
- The broader provider network to ensure that employers can progress their employees on to programmes not available through the Skills Bank. This will support individual progressions to further and higher learning, which is attached to business benefit (eg increased productivity, increased turnover) and supports the SCR thematic priority to raise the skills levels of the SCR workforce.
- Commercial and publically funded training bodies to provide positive progressions for learners developing expertise, increasing skills levels, qualifications, and facilitating the implementation of acquired expertise to drive efficiencies in productivity, revisions to the business model eg servitisation, increased competitiveness, trading outside the SCR region including international and business growth.

CC also has strong partnership relationships with employer intermediaries including the Chambers of Commerce and Federation of Small Businesses, which CC will formalise through Service Level Agreements. The objective of working with sector and employer intermediaries is to raise awareness of Skills Bank amongst employers, maximise employer participation, promote success stories, enhance understanding of local/sector conditions and inform any necessary adaptation of the Skills Bank delivery model.

CC will form a Skills Bank Intermediary Advisory Group (SBIAG) made up of key employer/sector intermediary organisations, reflective of the SCR geography/priority sectors, and provider network representation whose role will be to:

- work with CC and the Growth/Skills Hub to review current employer engagement and delivery within SCR priority sectors and localities and how to improve performance;
- advise on current/future developments within SCR priority sectors and localities to ensure Skills Bank provision is responsive to local needs and adapts to changing economic conditions and future skills needs among employers and individual employees; and
- critically appraise success stories and how to sustain/promote/integrate this across the full spectrum of business/skills support in SCR.
- Identify opportunities to build on the marketing and promotion work of the Skills bank
- Bring forward any proposals/ intel to inform the development and implementation of SCIF

Recommendations from the SBIAG will feed into the SCR Skills Bank Programme Steering Group (PSG) made up of representation from the SCR LEP and Growth/Skills Hub who provide the strategic direction of the Skills Bank. CC will also work with the SCR LEP in approaching Business Improvement District (BID) teams and regeneration

teams across local authorities to ensure provision complements local economic growth strategies and supports the retention of talent across all districts within Sheffield City Region.

CC will also work with the PSG and SBIAG to host an annual Skills Summit. This will be a platform to share progress, success, determine next steps/a 'call to action' and enhance networking/partnership activities across business/skills support providers and other intermediaries in SCR to grow and fulfil demand/adapt provision for SCR employers.

Skills Bank marketing strategies and messages will be informed by stakeholders and partners to ensure they are aligned to other local marketing initiatives to minimise overlap and confusion. Co-hosting of events eg B2B networking events will reinforce partnership relationships, ensure that the Skills Bank is recognised as a critical resource across the network and reinforce the pivotal role skills can have in supporting increased workplace productivity and business growth.

CC recognises that the success of the Skills Bank is its ability to complement and add value to, but not compete, with existing and new local provision. CC will continue to develop the relationship with the Skills Hub to ensure that Skills Bank is aligned to other local services, provision and funding opportunities which SCR employers can access. The Skills Hub and their team of Skills Advisors are pivotal in understanding the nature of skills demand from SCR employers, barriers to employer participation and solutions to overcome them and integrate with wider business support/economic development initiatives across SCR.

Via the Provider Portal, subcontractors will be kept abreast of local skills/business support services, complementary provision and business initiatives, which add value to the programme and support the LEP and employers' ambitions and outcomes. Referrals to other complementary skills/business support services will form a key element of the provider monitoring and quality assurance activities by CC.

CC will be alert to, and adhere to current and future ESFA funding rules and take account of any funding changes and programmes that are introduced during the lifetime of the project including Skills Support for the Workforce (SSW), which will be available in SCR from April 2019. CC will work closely with the successful applicant to ensure that the Skills Bank offer is complementary to that of SSW and that where possible the Skills Bank provides progression routes from SSW and vice versa. Where an employer needs are more suited to other provision including SSW, Apprenticeships, or other core-funded provision, CC will make referrals using agreed referral protocols, keeping the employer informed at all stages. CC will also work with FE providers across the SCR, six of whom are with CC on the Skills Bank supply chain, to ensure Skills Bank provision complements wider workforce development activities arising from devolution of AEB and Apprenticeship Levy, for example.

CC will work with the PSG to produce a delivery plan for Skills Bank, which will be informed by local socio-economic data relevant to the programme and skills solutions. The plan will include an outline of the priorities, related services, provision, funding and initiatives within SCR, which will impact and support programme delivery and facilitate an effective response and adaptation to changing circumstances and emerging opportunities.

Through CC working with the PSG, SBIAG, Skills Bank subcontractor base and stakeholders, such as the SCR Skills and Employment Provider Network and BID teams, CC will lead on directing the programme to ensure it is informed by local priorities and

local characteristics. This includes alignment with SCR SEP Skills and Growth thematic priorities - supporting key SCR sectors of CDI, Advanced Manufacturing, Engineering, Health Technologies, Business Services; complementing and adding value to wider business 'growth deals' operated by the Growth Hub; and supporting SCR strategic objectives of increasing skills levels, qualifications achieved, SMEs/employers engaged, increasing employer investment in skills, positive impact on GDP/GVA.

CC will readily adapt the Skills Bank delivery model to respond to a change in priorities, policy or to avoid duplication and cross over with other funded provision in SCR (eg ESF/SSW, AEB provision). The focus for partnership working by CC is to establish areas of mutual benefit and understand routes to influence stakeholders to secure their buy-in to the Skills Bank through strategic added-value activities. Through partnership work, employer, learner and stakeholder feedback, CC will report to the PSG (including the Growth/Skills Hub) at scheduled intervals and work with them, the SBIAG, key sector intermediaries and other local partners to:

- refine the triage and application process and criteria
- finesse marcomms tactics and activities
- secure more partners that offer greater intel on SCR employers and local economic conditions
- improve progression outcomes for learners from upskilling and increase their scope for job retention, promotion and further advancement of skills
- identify areas of need/gaps in provision/focus of activity which may include capacity building, dedicated sector specific solutions or multiple or single business solutions which could be met, either through the core Skills Bank offer or through the Skills, Innovation and Capacity Fund
- skills support linked to emerging key local developments eg inward investment opportunities.

Question 6. Employer Engagement

Calderdale College (CC) understands the importance of employer engagement and retention to not only safeguard/enhance the SCR LEP's reputation and that of the Skills Bank, but ultimately implement a strategy that will guarantee a positive experience for every employer so that they:

- benefit from bespoke packages of skills provision with positive outcomes;
- adapt working practices to improve productivity; and
- champion the importance of skills and the value of Skills Bank to fellow businesses.

Marketing and Communications (marcomms) activities and specifically the method, frequency and effectiveness of communications with employers is critical to drive engagement and success of the Skills Bank whilst not confusing the skills market for employers. CC has a proven record in developing marcomms strategies that assess target audiences, their characteristics and behavioural habits to establish customer segmentation tactics and relevant channels/platforms to drive lead generation activities. This is currently in use for SSW contracts across six LEP regions (and previously the Leeds City Region LEP Skills Service) where – alongside structured messaging – employers remain engaged throughout the lead-generation process as a result of delivering the right message, at the right time, to the right people. We will ensure the Skills Bank is easily identifiable and accessible to employers, with consistent communications on the provision of business/skills support solutions across SCR and highlight the pivotal role of skills and the Skills Bank in supporting SCR employers achieve their business growth ambitions through a supported, co-funded (with employer investment) approach linked to the SCR Priorities. CC will work closely with the LEP to ensure our Marketing and Communications Plan and collateral are aligned to and informed by the LEP and the Growth/Skills Hub; this will form part of the programme implementation phase.

CC has strong relationships with sector/business-facing intermediaries including the Engineering Employers Federation, SEMTA, CITB, Chambers of Commerce, Local Authorities, Federation of Small Businesses and HEIs. In partnership with these and with the SCR Growth/Skills Hub, CC will ensure employers receive a comprehensive, high quality seamlessly coordinated service across business and skills support provision. Through such partnership work, CC will establish ways to improve the Employer Portal and Product Catalogue as well as enhance employer engagement/interactions/experiences. The Skills Bank Intermediary Advisory Group (SBIAG) - made up of key employer/sector intermediary organisations and reflective of the SCR geography/priority sectors – is crucial to keeping a 'customer-first' mantra for Skills Bank and critically appraise success stories to sustain/promote/integrate this across the full spectrum of business/skills support in SCR. This will help secure intended outcomes of the Skills Bank, as determined by the SCR LEP and factored into its delivery plan and model.

CC expects employers to approach the Skills Bank through its own marcomms activities, direct referrals from the Growth/Skills Hub as well as promotion via employer facing intermediaries and networks across SCR. REDACTED UNDER FOIA SECTION 43(2). and a web-based platform (Employer Portal). REDACTED UNDER FOIA SECTION 43(2).

REDACTED UNDER FOIA SECTION 43(2).

The Employer Portal is the virtual window of the Skills Bank with social media platforms (Twitter, LinkedIn, YouTube) present as embedded links should employers wish to see media-related activity of the Skills Bank. The Employer Portal sets out:

- Overview of the Skills Bank and an initial enquiry form/contact details
- How the Skills Bank functions and its alignment to the Growth/Skills Hub
- Case studies of employers benefiting from the Skills Bank
- Testimonials from employers and stakeholders
- HR and skills-based resources for employers to adopt
- Basic diagnostic/pro-forma for triage
- Link to the Skills Bank Product Catalogue.

CC will undertake a triage of each employer's skills needs, (online or dedicated telephone service) by completing a basic diagnostic and triage that complements that done by the Skills Hub. This will determine two routes for the employer:

- I. If they are sure of training sought and why, then CC will direct the employer to the Product Catalogue. At this point, CC will provide the employer with information on making an application for funding, size of deal, the likely intervention rate to expect (based on transparent criteria agreed with the SCR LEP), the timescales for approval of funding, contact details of the nominated subcontractor (SC) carrying out the training and commencement date of training.
- II. If an employer needs further support in determining skills priorities in accordance to their own growth ambitions, CC will direct the employer to the Skills Hub who will perform a more detailed diagnostic and refer the employer back to the Skills Bank once complete. All referrals to the Skills Hub will be done within agreed referral protocols, the employer will be introduced to the Skills Hub and in order to avoid duplication, the Skills Hub will be provided with information obtained as part of the triage (subject to consent being given by the employer).

To support the enquiry and application process, CC will develop an integrated Product Catalogue with the Employer Portal, providing a 1-stop information and application point for employers. The Product Catalogue will be a virtual platform providing course information including length of course, scheduled dates, 'open book' prices, progression pathways; REDACTED UNDER FOIA SECTION 43(2); success rates of 'Skills Deals' eg number of employers successfully receiving skills support, financial investment made by the SCR LEP and employers. REDACTED UNDER FOIA SECTION 43(2). The Catalogue will be shared with the LEP and tested prior to service start.

For employers to make an application to the Skills Bank, they will register via the Product Catalogue. In establishing a user interface/micro-site, employers will take more ownership in the Skills Deal. This also supports a more transparent process for transactions undertaken through the Product Catalogue. Each registering employer will have a User ID and account access to the Product Catalogue, which is a fully encrypted facility. The Provider Portal and Skills Bank records and documentation for that employer will replicate the User ID to ensure consistency in the recording of MI. Once logged in, an employer will be able to for example - select courses that they want from CC approved subcontractors and mode(s) of delivery; view courses that they have previously searched for/purchased; view feedback/ratings for courses; explore critical skills needs for their sector; join and engage in employer-led forums to share ideas and experiences.

Once an employer submits an application for training, they will receive an immediate acknowledgement that sets out an estimated approval timescale (calculated as based on the size of their application) and the proposed employer contribution rate, linked to SCR LEP business growth priorities and approved via the SCR LEP (based on the approved scheme of delegation). All employers will track progress with their applications via the Product Catalogue using their Unique ID. CC recognises that a fully automated process

will not suit all employers, particularly those where digital skills or access to IT equipment may be an issue therefore more manual based alternatives to the enquiry, triage and application process will be available.

REDACTED UNDER FOIA SECTION 43(2). Upon application approval, CC will inform the employer and their chosen provider of next steps in terms of commencement of training and any necessary information moving forward such as payment terms and conditions, evidence and reimbursement arrangements. Where the employer has been assessed to benefit from other provision such as apprenticeships or other business/skills support (eg SSW), CC will contact relevant organisations and initiate a referral. CC will agree KPIs with the SCR LEP that outline the expected response and contact timescales, which will be quality assured, monitored and fed into reporting arrangements to the Skills Bank Programme Steering Group (PSG) comprising the SCR LEP, Growth/Skills Hub; and Skills Bank Investment Board reports as appropriate.

CC's CRM system, REDACTED UNDER FOIA SECTION 43(2) will also record employer interaction via the Product Catalogue to capture all contact with employers at key stages of the application process. Ongoing monitoring will quickly identify and remedy any bottlenecks within the process. Upon the commencement of a Skills Deal ie an employer working with CC to agree a bespoke skills solution with a credible SC at an appropriate intervention rate, CC will contact the employer to gauge feedback on their experience to date and star rate the SC against a set of criteria agreed with the PSG. This will factor into service-level improvements, a repository of good practice and the proposed external evaluation of the Skills Bank by the SCR LEP. CC will repeat this process upon completion of training and the securing of progression outcomes to assess against the initial/detailed diagnostics undertaken by CC and the Skills Hubs Advisers. CC will collate and analyse this information for reporting to the PSG at agreed intervals.