

MD3099 Appendix A

GLA Final Adult Education Budget (AEB) Grant Allocations 2023-24

Table 1 – Final AEB Grant Allocations 2023-24

Provider Name	Indicative Adult Education Budget (AEB) Allocation 2023-24	Funding Adjustments Through Business Case Process	Final AEB Allocation 2023-24	Indicative Free Courses for Jobs (FCFJ) Allocation 2023-24	Funding Adjustments Through Business Case Process	Final FCFJ Allocation 2023-24	Final Allocation for 2023-24 AEB + FCFJ
ACTIVATE LEARNING	£118,125		£118,125	£0		£0	£118,125
BARKING & DAGENHAM LONDON BOROUGH COUNCIL	£1,839,427		£1,839,427	£0		£0	£1,839,427
BARKING AND DAGENHAM COLLEGE	£6,332,767		£6,332,767	£185,730		£185,730	£6,518,497
BARNET & SOUTHGATE COLLEGE	£14,345,530		£14,345,530	£956,259		£956,259	£15,301,789
BEXLEY LONDON BOROUGH COUNCIL	£2,185,205		£2,185,205	£0		£0	£2,185,205
BRENT LONDON BOROUGH COUNCIL	£3,354,159		£3,354,159	£50,000		£50,000	£3,404,159
BROMLEY COLLEGE OF FURTHER AND HIGHER EDUCATION	£6,916,104		£6,916,104	£245,365		£245,365	£7,161,468
BROMLEY LONDON BOROUGH COUNCIL	£1,785,121		£1,785,121	£0		£0	£1,785,121
BROOKLANDS COLLEGE	£121,312		£121,312	£0		£0	£121,312
BUCKINGHAMSHIRE COLLEGE GROUP	£428,275		£428,275	£50,000		£50,000	£478,275
CAMDEN LONDON BOROUGH COUNCIL	£1,396,399		£1,396,399	£50,000		£50,000	£1,446,399
CAPEL MANOR COLLEGE	£2,150,441		£2,150,441	£100,824		£100,824	£2,251,265
COMMON COUNCIL OF THE CITY OF LONDON	£605,211		£605,211	£0		£0	£605,211
CROYDON COLLEGE	£4,614,937	£461,494	£5,076,431	£209,600	£85,684	£295,284	£5,371,714
CROYDON LONDON BOROUGH COUNCIL	£4,429,294		£4,429,294	£97,500		£97,500	£4,526,794
EALING LONDON BOROUGH COUNCIL	£705,556	£100,000	£805,556	£0		£0	£805,556
EALING, HAMMERSMITH & WEST LONDON COLLEGE	£8,736,162		£8,736,162	£550,037		£550,037	£9,286,198
EAST SURREY COLLEGE	£966,794		£966,794	£139,253		£139,253	£1,106,047

HACKNEY LONDON BOROUGH COUNCIL	£2,376,221		£2,376,221	£0		£0	£2,376,221
HAMMERSMITH AND FULHAM LONDON BOROUGH COUNCIL	£3,072,543		£3,072,543	£50,000		£50,000	£3,122,543
HARINGEY LONDON BOROUGH COUNCIL	£1,951,257		£1,951,257	£0		£0	£1,951,257
HARLOW COLLEGE	£224,485		£224,485	£0		£0	£224,485
HARROW LONDON BOROUGH COUNCIL	£955,537		£955,537	£50,000		£50,000	£1,005,537
HAVERING LONDON BOROUGH COUNCIL	£1,143,071		£1,143,071	£0		£0	£1,143,071
HCUC	£7,184,138		£7,184,138	£275,518		£275,518	£7,459,655
HERTFORD REGIONAL COLLEGE	£730,215		£730,215	£50,393		£50,393	£780,608
HILLINGDON LONDON BOROUGH COUNCIL	£1,734,991	£200,000	£1,934,991	£0		£0	£1,934,991
HOUNSLOW LONDON BOROUGH COUNCIL	£2,578,271		£2,578,271	£65,000		£65,000	£2,643,271
ISLINGTON LONDON BOROUGH COUNCIL	£1,128,525		£1,128,525	£50,000		£50,000	£1,178,525
KENT COUNTY COUNCIL	£232,685		£232,685	£0		£0	£232,685
LAMBETH COLLEGE	£10,000,227		£10,000,227	£555,248		£555,248	£10,555,475
LAMBETH LONDON BOROUGH COUNCIL	£2,554,398		£2,554,398	£0		£0	£2,554,398
LEWISHAM LONDON BOROUGH COUNCIL	£3,657,364		£3,657,364	£0		£0	£3,657,364
MARY WARD SETTLEMENT	£2,363,695		£2,363,695	£0		£0	£2,363,695
MERTON BOROUGH COUNCIL	£1,517,018		£1,517,018	£50,000		£50,000	£1,567,018
MORLEY COLLEGE LIMITED	£10,127,381	£500,000	£10,627,381	£152,744		£152,744	£10,780,125
NCG	£11,679,358		£11,679,358	£518,770		£518,770	£12,198,128
NEW CITY COLLEGE	£17,894,479		£17,894,479	£1,166,512		£1,166,512	£19,060,991
NEWHAM COLLEGE OF FURTHER EDUCATION	£13,331,148		£13,331,148	£771,910		£771,910	£14,103,058
NEWHAM LONDON BOROUGH COUNCIL	£4,081,089		£4,081,089	£97,500		£97,500	£4,178,589
NEWHAM SIXTH FORM COLLEGE	£143,786		£143,786	£0		£0	£143,786
NORTH EAST SURREY COLLEGE OF TECHNOLOGY (NESCOT)	£1,707,157		£1,707,157	£371,725		£371,725	£2,078,882
NORTH HERTFORDSHIRE COLLEGE	£226,605		£226,605	£50,000	£50,000	£100,000	£326,605
NORTH KENT COLLEGE	£205,454		£205,454	£0		£0	£205,454
OAKLANDS COLLEGE	£155,250		£155,250	£15,000		£15,000	£170,250
ORCHARD HILL COLLEGE	£983,889		£983,889	£0		£0	£983,889

REDBRIDGE LONDON BOROUGH COUNCIL	£2,485,999	£130,515	£2,616,514	£65,000		£65,000	£2,681,514
RICHMOND AND HILLCROFT ADULT AND COMMUNITY COLLEGE	£4,919,592		£4,919,592	£169,356		£169,356	£5,088,948
RICHMOND UPON THAMES COLLEGE	£1,294,291		£1,294,291	£62,033		£62,033	£1,356,324
ROYAL BOROUGH OF GREENWICH	£2,004,542		£2,004,542	£50,000		£50,000	£2,054,542
ROYAL BOROUGH OF KENSINGTON AND CHELSEA	£1,650,039		£1,650,039	£0		£0	£1,650,039
ROYAL BOROUGH OF KINGSTON UPON THAMES	£1,119,267		£1,119,267	£0		£0	£1,119,267
SHREWSBURY COLLEGES GROUP	£203,274		£203,274	£0	£90,000	£90,000	£293,274
SOUTH ESSEX COLLEGE OF FURTHER AND HIGHER EDUCATION	£453,311		£453,311	£0		£0	£453,311
SOUTH THAMES COLLEGES GROUP	£11,408,792		£11,408,792	£361,518		£361,518	£11,770,309
SOUTHWARK LONDON BOROUGH COUNCIL	£1,591,144		£1,591,144	£65,000		£65,000	£1,656,144
STANMORE COLLEGE	£1,560,665	£234,100	£1,794,765	£190,711		£190,711	£1,985,476
SURREY ADULT LEARNING (SURREY COUNTY COUNCIL)	£113,515		£113,515	£0		£0	£113,515
SUTTON LONDON BOROUGH COUNCIL	£2,136,052	£250,000	£2,386,052	£0	£100,000	£100,000	£2,486,052
THE BROOKE HOUSE SIXTH FORM COLLEGE	£617,522		£617,522	£59,988		£59,988	£677,510
THE CITY LITERARY INSTITUTE	£7,585,342		£7,585,342	£63,163		£63,163	£7,648,505
THE UNIVERSITY OF WEST LONDON	£303,658		£303,658	£0		£0	£303,658
THE WINDSOR FOREST COLLEGES GROUP	£444,679		£444,679	£0		£0	£444,679
THE WKCIC GROUP	£32,436,515		£32,436,515	£1,718,651		£1,718,651	£34,155,166
TOWER HAMLETS LONDON BOROUGH COUNCIL	£2,630,146		£2,630,146	£0		£0	£2,630,146
UNITED COLLEGES GROUP	£11,079,259	£500,000	£11,579,259	£618,430		£618,430	£12,197,689
UNIVERSITY OF THE ARTS, LONDON	£381,915		£381,915	£0		£0	£381,915
WALTHAM FOREST COLLEGE	£7,560,178	£500,000	£8,060,178	£996,286	£1,000,000	£1,996,286	£10,056,464
WALTHAM FOREST LONDON BOROUGH COUNCIL	£3,396,265		£3,396,265	£65,000		£65,000	£3,461,265
WANDSWORTH LONDON BOROUGH COUNCIL	£1,649,722	£247,458	£1,897,180	£0		£0	£1,897,180
WEST HERTS COLLEGE	£106,321		£106,321	£0		£0	£106,321
WEST THAMES COLLEGE	£3,509,709		£3,509,709	£131,056		£131,056	£3,640,764
WESTMINSTER CITY COUNCIL	£6,897,406	£202,594	£7,100,000	£66,350	£113,650	£180,000	£7,280,000

WORKERS' EDUCATIONAL ASSOCIATION	£1,362,105		£1,362,105	£97,500	£104,607	£202,107	£1,564,212
WORKING MEN'S COLLEGE CORPORATION	£4,823,029	£200,000	£5,023,029	£0	£36,000	£36,000	£5,059,029
TOTAL	£280,695,305	£3,526,161	£284,221,466	£11,704,928	£1,579,941	£13,284,869	£297,506,334

MD3099 Appendix B

Revisions requiring Mayoral Approval to Good Work for All (GWfA) allocations in the 2022-23 academic year

Table 1 – Adjustments to Free Courses for Jobs (FCfJ) GWFA allocations

Provider Name	Current FCFJ Allocation in 2022-23 (£)	Financial Value Requested (£)	Rationale for Business Cases Changes	Officer Recommendation	Amount (£) Recommended in 2022-23	Final FCFJ Allocation in 2022-23
Let Me Play Limited	£489,614	-£465,124	Voluntary request from Provider to reduce allocation.	Endorse in full.	-£465,124	£24,490

MAYOR OF LONDON

Conditions of funding (Grant)

Adult Education Budget

Dated: 1st August 2023

- (1) The Greater London Authority
 - (2) PROVIDER NAME
-

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**Greater London Authority
February 2023**

Published by
Greater London Authority
City Hall
Kamal Chunchie Way
London
E16 1ZE

www.london.gov.uk
enquiries 020 7983 4000
minicom 020 7983 4458
ISBN
Photographs ©
Copies of this report are available
from www.london.gov.uk

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Conditions of Funding (Grant)

1. Introduction

- 1.1 This Agreement is made between GREATER LONDON AUTHORITY and PROVIDER NAME, Provider Address (insert mail-merge field), Company Reg Number or Charity Number (insert mail-merge field), UKPRN UKPRN NUMBER (insert mail-merge field) (“the Body”) regarding the amount of Funding to be paid to the Body for the adult education budget for the Agreement Period as set out in Schedule 1.
- 1.2 The Funding allocation(s) by the GLA is made subject to the conditions set out in this Agreement and any documents referred to herein.

2. Definitions

- “Active Support”** means the process by which the GLA works with Bodies when the GLA has evidence that there is risk of failure, either financial and/or quality as per published GLA policy, Managing Provider Performance.
- “AEB”** means the Adult Education Budget (AEB).
- “Agreement”** means these Conditions of Funding, the attached Appendices to the Conditions of Funding and any documents or parts thereof, policies or guidance specified in this Agreement and any variation to the Agreement accepted by the GLA in OPS as at the date of this Agreement (as the same may be amended, added to, supplemented, substituted or varied in accordance with the terms of this Agreement).
- “Agreement Date”** means that later of the date(s) upon which each of the GLA and Body execute this Agreement in accordance with Clause 45.
- “Agreement Period”** means the period between the Agreement Date and the Expiry Date, unless terminated earlier on the Termination Date.

“Awarding Organisation”	means an organisation that is regulated by Ofqual or is recognised by QAA as an access validating agency.
“Barred List”	means the list of individuals who are barred from engaging in regulated activity with Children, adults or both in England and Wales maintained by the Disclosure and Barring Service.
“Body”	means the Body with whom this Agreement is made with the GLA.
“Body Personnel”	means all persons employed or engaged by the Body together with the Body’s servants, agents, consultants and Subcontractors (and all persons employed by any Subcontractor together with the Subcontractor’s servants, consultants, agents) used in the performance of its obligations under this Agreement.
“Body Related Parties”	means any employee, officer, consultant, agent or any other person whatsoever acting for or on behalf of the Body or otherwise under the Body’s control and direction (including but not limited to Subcontractors).
“Brokerage”	means where a third-party matches, for a fee, the Body with an unused allocation with a provider that can secure enrolments of learners to utilise it.
“Business Continuity Plan”	any plan prepared pursuant to Clause 7.17, as may be amended from time to time;
“Child” or “Children”	shall have the meaning given to it in Section 60 of the Safeguarding Vulnerable Groups Act 2006.
“Confidential Information”	means any information, including Personal Data as defined by the Data Protection Laws, 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").
“Crown Body”	means any department, office or agency of the Crown, including Ofsted, the Care Quality Commission, the Charity Commission, the Office for Students, Ofqual, any and all Local Authority or Combined Authority bodies.

“Data Protection Laws”	means all applicable Law and binding and non-binding guidance and codes of practice by relevant Supervisory Authorities relating to data protection, the processing of personal data and privacy, including (to the extent and so long as it remains in force): (1) the General Data Protection Regulation (EU) 2016/679 (“GDPR”); (2) the Data Protection Act 2018; (3) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the proposed EU Regulation on Privacy and Electronic Communications) and references to “Controller”, “Data Subjects”, “Personal Data”, “Processor”, “Process”, “Processed”, “Processing”, “Special Personal Data”, “Sensitive Personal Data” and “Supervisory Authority” have the meanings set out in, and will be interpreted in accordance with the Data Protection Act 2018 and General Data Protection Regulation (EU) 2016/679.
“Department”	means the Secretary of State for Education acting through the Department for Education and / or Education and Skills Funding Agency (ESFA)
“Disclosure and Barring Service” or “DBS”	means the non-departmental public body established pursuant to the Protection of Freedoms Act 2012.
“Dispute Resolution Procedure”	means the procedure for resolving disputes as set out in Clause 33 (Dispute Resolution).
“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 Agreement or otherwise relating to the Body, which potentially falls within an exemption to FOIA (as set out therein).
“Exit Plan”	means the plan created by the Body in accordance with Clause 42.
“Expiry Date”	means 31st October 2024.
“FE Commissioner”	means the Further Education Commissioner or their office.
“FOIA”	means the Freedom of Information Act 2000 and all regulations made there under 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 18.
“FOIA Notice”	means a decision notice, enforcement notice and/or an information notice.
“Funding Rules”	means the documents produced by GLA which set out the detailed requirements with which the Body must comply in respect of the Provision delivered under this Agreement as may be amended by the GLA from time to time.
“Funds or Funding”	means the monies paid by the GLA to the Body pursuant to this Agreement and the Funding Rules for the delivery of Provision.
“Future Transferring Employees”	means those employees of the Body and/or the Body’s Subcontractors to whom TUPE will apply on the Provision Transfer Date.
“GDPR Principles”	means as set out in Article 5 the GDPR.
“GLA”	means the Greater London Authority.
“GLA Policies”	means the policies, guidance and other instructions issued or published by the GLA that relate to AEB provision and this funding agreement.
“Good Industry Practice”	means the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector.
“Guidance”	means any applicable guidance or directions with which the Body is bound to comply.
“High Needs Learner”	means a Learner aged 16 to 18 with high levels of Special Educational Needs and Disability (SEND), supported with top-up funding from the high needs budget, or any young person aged up to 25 subject to an Education Health and Care Plan, who requires additional support costing over £6,000
“Indirect Losses”	means loss of profits, loss of production, loss of business, loss of business opportunity, or any claim for consequential loss or for indirect loss of any nature.

<p>“ILR” or</p> <p>“Individualised</p> <p>Learner Record”</p>	<p>means the on-going collection of Learner data undertaken by training providers including the Body in the Further Education (FE) and Skills sector as set out at Individualised Learner Record (ILR) - GOV.UK (www.gov.uk)</p>
<p>“ILR Data”</p>	<p>means Individualised Learner Record data.</p>
<p>“Insolvency Event”</p>	<p>means, in respect of the Body:</p> <p>(a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or</p> <p>(b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or</p> <p>(c) a petition is presented for its winding up (which is not dismissed within 14 Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or</p> <p>(d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or</p> <p>(e) an application order is made either for the appointment of an administrator or for an administration order, an education administrator or administrator is appointed, or notice of intention to appoint an administrator is given; or</p> <p>(f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or</p> <p>(g) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986, in so far as the Body is a further education corporation, the above shall apply as amended by the Technical and Further Education Act 2017;</p>

“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, the Care Quality Commission (CQC) and the Local Government Ombudsman.
“Intervention”	means the process through which the GLA or the Department requires the Body to take steps to improve financial or quality performance in circumstances as per the published policies of those organisations.
“Law”	any law, statute, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of Section 4(1) EU Withdrawal Act 2018 as amended by EU (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Body is bound to comply.
“Learner”	means any third party including any student or similar to whom the Body is required to deliver the Provision.
“Learner Files”	means any information relating to a Learner generated by the Body, 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 Body under this Agreement.
“Local Provision Review”	means a review conducted by the Further Education Commissioner to consider overall provision for Learners in a geographical area, which will include consideration of options for delivering quality provision in that area.
“London Learner Survey”	means a London-wide survey of participants commissioned by the GLA that will measure the extent to which participants progress into further learning or employment, as well as measures of health, wellbeing and social integration. More information is available on the GLA website .

“Minor Breach”	means a delay or non-performance by either Party of its obligations, in part or in full, under the Agreement which does not materially, adversely or substantially affect the performance or delivery of the Provision, in part or in full, or the provision of a safe, healthy and supportive learning environment.
“Monitoring Visits” and “New Provider Monitoring Visits”	“Monitoring Visits” and “New Provider Monitoring Visits” means a type of visit carried out by Ofsted, which explores one or more specific themes, with the purpose of assessing progress against these themes, promoting improvement and assessing risk. Such inspections may apply to new further education colleges starting to deliver Provision directly funded by the Department, or where the college is a newly merged college, or other reasons as set out in their published Further education and skills handbook - gov.uk (www.gov.uk)
“Notice to Improve”	means a notice issued to the Body in those instances where the Department has placed the Body in Intervention for financial reasons. Such a notice may include additional conditions of funding as well as the time period for improvement and compliance by the Body.
“Occasion of Tax Non-Compliance”	<p>means:</p> <p>(a) any tax return of the Body submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:</p> <ul style="list-style-type: none"> (i) a Relevant Tax Authority successfully challenging the Body under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; (ii) the failure of an avoidance scheme which the Body was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or <p>(b) any tax return of the Body submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Effective Date or to a civil penalty for fraud or evasion;</p>

“Offender Manager”	means an officer from Her Majesty’s Prison and Probation Service who is working directly with an offender serving their sentence in the community.
“Office for Students (OfS)”	means the non-departmental public body of the Department that acts as the regulator and competition authority for the Higher Education sector in England;
“Ofsted”	means the Office for Standards in Education, Children's Services and Skills.
“OPS”	means the "GLA Open Project System", being the GLA’s online management information system (MIS), or any successor system and/or any other system which performs any of the same functions and which GLA notifies to the Body from time to time.
“Parties”	means the GLA and the Body.
“Premises”	means the location(s) where the Provision is to be performed.
“Prohibited Acts”	means the acts specified in Clause 36 (Prohibited Acts).
“Provider Manager”	means the person(s) identified by the GLA to manage the relationship with the Body.
“Provision”	means the education and training to be delivered by the Body under this Agreement.
“Provision Transfer”	means any transfer of the Provision (or any part of the Provision), for whatever reason, from the Body or any Subcontractor to a Successor Body.
“Provision Transfer Date”	means the date of a Provision Transfer or, if more than one, the date of the relevant Provision Transfer as the context requires.
“Regulated Qualification Framework” or “RQF”	means a system for cataloguing all qualifications regulated by Ofqual.
“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 Agreement or any other affairs of the Body or the GLA, including, without limitation Ofsted, the European Commission and the European Court of Auditors.

“Serious Breach”

means any breach defined as a Serious Breach in the Agreement or any breach or breaches which adversely, materially or substantially affect the performance or delivery of the Provision or compliance with the terms and conditions of the Agreement or the provision of a safe, healthy and supportive learning environment or a breach of security that adversely affects the Personal Data or privacy of an individual. Failure to comply with Law, or actions or omissions by the Body that endanger the Health or Safety of Learners, Body Personnel, and all other persons including members of the public would constitute a Serious Breach.

“Staffing Information”

means in relation to all persons identified on the Body's Personnel, as the case may be, such information as the GLA may reasonably request (subject to all applicable provisions of the Data Protection Laws), but including in an anonymised format:

- (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
- (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 TUPE.

“Subcontract”

means an agreement entered into between the Body and a Subcontractor for the purposes of engaging the Subcontractor to deliver some or all of the Provision on behalf of the Body.

“Subcontractor”

means a separate legal entity that has an agreement with the Body to deliver any element of the education and training we fund. A separate legal entity includes companies in the Body’s group, other associated companies and sole traders. It also includes individuals who are self-employed or supplied by an employment agency, unless those individuals are working under the Body’s direction and control, in the same way as the Body’s own employees.

“Sub-Processor”

means any third Party appointed to process Personal Data on behalf of that Processor related to this Agreement.

“Subsidy Control”

means the UK Government’s rules on the provision of subsidies

“Successor Body”

means the person nominated by the GLA to deliver the provision substantially the same as the Provision after the termination of this Agreement;

“TUPE”

means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or

replaced or any other Regulation implementing the Acquired Rights Directive 77/187/EC.

“Termination Date” means any date on which this Agreement terminates in accordance with Clause 40.

“Working Day” means a day (other than a Saturday or Sunday) on which banks are open for domestic business in the City of London.

3. The Agreement

3.1 The Provision to be delivered by the Body under this Agreement is set out in Schedule 1. The funds which the GLA agrees to pay to the Body are set out in Schedule 1 of this Agreement.

3.2 The Body will comply (and will ensure that any Subcontractor complies) with the GLA Policies.

3.3 The Agreement Period will commence on the Agreement Date and terminate or expire on the earlier of:

3.3.1 the Expiry Date;

3.3.2 the Termination Date.

3.4 The provision of the Funding amounts to a conditional gift and is therefore not subject to Value Added Tax (VAT). If, at any time, it is held by the UK government to be subject to VAT, then the Body agrees and acknowledges that the Funding shall have included any and all applicable VAT.

4. Delivery of Provision

4.1 The detailed requirements in respect of each learning programme are set out in the Funding Rules as amended and updated from time to time by the GLA and which form part of the terms and conditions of this Agreement.

4.2 The maximum value of the Adult Education Budget, or for learning Provision excluded from this budget, as shown in Schedule 1, may not be exceeded for any reason, except by an agreed variation through OPS to this Agreement. The GLA will not be liable to make any payment in excess of the maximum values set out above or as varied through OPS. Where the Agreement Period is longer than one year, Funding for subsequent years is subject to funds being made available to the GLA.

4.3 The maximum value of each Learning Programme as shown in Schedule 1 of this Agreement may not be exceeded for any reason. The GLA will not be liable to make any payment in excess of the maximum value of each Learning

Programme unless this has been agreed and evidenced by a variation in writing.

- 4.4 The Provision is to be delivered in accordance with any specific requirements of the GLA.
- 4.5 The GLA will restrict delivery of Provision under this Agreement against the Funding available up to the 31 July 2024 as detailed in Schedule 1. Schedule 1 confirms the maximum value available up to 31 March 2024. Where the delivery within this financial year fails to meet the minimum levels of performance or where the delivery in this period would result in the overall maximum value being exceeded, the GLA reserves the right at its absolute discretion to vary the Agreement accordingly.
- 4.6 The GLA reserves the right to give the Body three months' notice to reduce the overall maximum value for any learning programme without the need to give a reason.
- 4.7 The Body must ensure appropriate members of staff register as users on OPS. It is the Body's responsibility to maintain appropriate user roles on an on-going basis.
- 4.8 The GLA and the Body will each nominate a contact for the purpose of dealing with queries and issues under this Agreement and advise the other of the contact details.

5. **Performance Monitoring**

- 5.1 The Body must put in place the necessary internal control framework, including an internal audit function to ensure that it meets its obligations and those of its Subcontractors under this Agreement.
- 5.2 The Body acknowledges and agrees that, notwithstanding any provision of this Agreement which contemplates that the GLA will or may from time to time:
 - (a) monitor or inspect any performance of the Provision;
 - (b) check compliance by the Body with its obligations;
 - (c) confirm or indicate approval of or non-objection to proposals made by the Body; or
 - (d) request that the Body makes a Change to the Provision; it will always be fully the responsibility of the Body, and not the responsibility of the GLA, to ensure that the Provision is delivered in all respects in accordance with the Body's obligations under this Agreement and no such action by or on behalf of the GLA will in any way limit or affect such obligations.

6. Subcontracted Provision

- 6.1 The Body may not subcontract Provision to any Subcontractor without the prior written approval of the GLA. The Body may not materially amend the level of subcontracting of Provision it carries out in any year without the prior written approval of the GLA.
- 6.2 The Body must comply with the requirements on subcontracting delivery of the Provision set out in the Funding Rules as amended and updated from time to time. Subcontracting any part of the Agreement shall not relieve the Body of any obligation or duty attributable to them under the Agreement. The Body is responsible for all the actions of its Subcontractors connected to or arising out of the delivery of the Provision which it Subcontracts.
- 6.3 The delivery of the Provision under this Agreement may only be subcontracted to one level unless otherwise specified in the Funding Rules when the Body must obtain the consent of the GLA in writing.
- 6.4 Where the Body has subcontracted any duties or obligations arising out of this Agreement, the Body shall ensure that there is in place a legally binding Subcontract and send copies of the Subcontract to the GLA if requested in writing to do so. Where the Body enters into a Subcontract for the purpose of performing the Provision, the Body shall ensure that the Subcontract requires the Subcontractor to comply with the conditions of this Agreement and includes any terms specified in the Funding Rules.
- 6.5 The Body shall ensure that any Subcontract entered into for the purpose of delivering the Provision under this Agreement contains a term providing that the GLA has the right to enforce the terms of the Subcontract.
- 6.6 The Body shall ensure that Subcontractors are selected fairly and in accordance with the Public Contracts Regulations 2015 and that Subcontractors have sufficient capacity, capability, quality and financial standing to deliver the Provision.
- 6.7 The Body shall
- 6.7.1 make payment to any Subcontractor within 30 days of receiving a valid claim for payment and ensure that any Subcontract entered into for the purpose of performing the Body's obligations under this Agreement contains a term giving effect to this requirement; and
 - 6.7.2 ensure that that any invoices for payment submitted by the Subcontractor are considered and verified by the Body in a timely fashion and that undue delay in doing so is not to be sufficient justification for failing to regard an invoice as valid and undisputed.
- 6.8 The Body may not assign any rights, duties or obligations under this Agreement without the consent of the GLA.
- 6.9 The Body must not enter into any agreement for Brokerage.

7. Learner Health, Safety and Welfare

- 7.1 The Body shall ensure that learning takes place in safe, healthy and supportive environments, which meet the needs of Learners. The Body shall provide information to the GLA, as and when specifically requested, to give assurance that adequate arrangements exist for Learner health safety and welfare.
- 7.2 Where part of the learning takes place in an environment outside the direct control of the Body, the Body shall ensure that adequate arrangements are in place to ensure the health and safety of Learners.
- 7.3 The Body shall make arrangements for ensuring that the Provision is provided with a view to safeguarding and promoting the welfare of Learners receiving education or training at the institution or under the auspices of the Body in an environment outside the direct control of the Body. In doing so, the Body shall have regard to any guidance published, from time to time, by the GLA or 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 Agreement, 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 Agreement.
- 7.4 The Body 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 Body in an environment outside the direct control of the Body. This must include the adoption of safer recruitment procedures as set out at Clause 26. In doing so, the Body 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.
- 7.5 In working with other organisations/bodies, the Body 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.
- 7.6 In providing the Provision, the Body 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.
- 7.7 In providing the Provision, the Body 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 Agreement.

- 7.8 In providing the Provision, the Body must comply with the duty on partners of a panel in section 38 of the Counter-Terrorism and Security Act 2015 (the Channel co-operation duty). Failure to do so may constitute a Serious Breach of this Agreement.
- 7.9 The Body will also monitor, and act on, any other harm to Learners to the extent that the Body 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.
- 7.10 The Body will co-operate with the GLA 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.
- 7.11 The Body and/or the Body Related Parties must be able to demonstrate that they have robust record-keeping procedures in respect of health, safety and safeguarding through checks on record keeping undertaken. Failure to do so will constitute a Serious Breach.
- 7.12 Where the Body or one of its Body Related Parties refer:
- 7.12.1 a safeguarding concern related to sexual violence to Local Authority children's social care/adult social care and/or the police; or
 - 7.12.2 an allegation of abuse made against a teacher or other member of staff to the designated officer(s) (at the local authority),
- the Body must, as soon as practicable, inform the GLA via email to aeb@london.gov.uk. Such notification must include the name of the institution, a high-level summary of the nature of the incident (without sharing personal information about victims or alleged perpetrators) and confirmation of whether it is, or is scheduled to be, investigated by the Local Authority and/or the police. Where the Body 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 Body shall ensure it notifies the GLA that a referral has been made provided always that no Personal Data shall be provided in breach of the Data Protection Laws.
- 7.13 The Body shall, in circumstances where it subcontracts the management and/or delivery of the Provision under this Agreement, ensure that all the clauses in respect of learner health safety and welfare are included in its contract with Subcontractors.
- 7.14 The Body shall inform the GLA of the death of any Learner which is as a result of work undertaken whilst in employment and who is undertaking a related

Learning Programme. This shall be done by informing the Provider Manager by telephone or email immediately the Body becomes aware of the event.

- 7.15 The Body shall report all reportable incidents in line with The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013, and shall investigate or assess the circumstances of all learner incidents within the scope of The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 and follow HSE guidance 'Investigating Accidents and Incidents: A Workbook for Employers, Unions, Safety Representatives and Safety Professionals' (HSG245) ISBN 0717628272. The Body 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.
- 7.16 The Body shall co-operate with GLA's representatives and Department for Work and Pensions (DWP) for the purposes of the Industrial Injuries Disablement Benefit (IIDB) in respect to those Learners to which it applies.
- 7.17 The Body must have and maintain an up-to-date Business Continuity Plan. The Body must at the request of the GLA provide whatever support and assistance may reasonably be required by the GLA in response to any national, regional or local emergency or incident including at any premises identified by the GLA. The Body will ensure that Learners have access to portfolios, e-portfolios, learning materials and other evidence at all times.
- 7.18 The Body will, in circumstances where it subcontracts the management and/or delivery of the Provision under this Agreement, ensure that all the provisions in respect of learner welfare in this Clause 7 are included in the Subcontract with each Subcontractor.
- 7.19 Where it applies:
 - 7.19.1 the Body must comply with the Modern Slavery Act 2015 and must have in place throughout the Agreement Period policies and procedures to ensure full compliance;
 - 7.19.2 the Body must ensure that all Subcontracts that it enters into include an obligation for the Subcontractor to comply with the Modern Slavery Act 2015 with special emphasis on express anti-slavery and anti-human trafficking provisions; and
 - 7.19.3 the Body shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain.

8. **Disposal of Assets and Change of Use**

- 8.1 In respect of Assets whose value exceeds £2,500 including VAT the following provisions shall apply.
- 8.2 For the purposes of this section:

- 8.2.1 'Asset' shall mean any property, real or personal, tangible or intangible;
 - 8.2.2 an Asset shall be considered to have been financed by the GLA if it has been acquired wholly or partly with funds provided by the GLA;
 - 8.2.3 the use of any Asset shall be considered to have changed if the Body uses it for any purpose other than for the provision or connected with the delivery of the Provision under the Agreement; and
 - 8.2.4 'the appropriate proportion thereof' shall be the proportion represented by the amount of Funding provided by the GLA to acquire, develop or improve an asset in relation to the entire price paid for its acquisition, or its market value when its development or improvement have been completed.
- 8.3 The Body shall ensure that any Asset financed by the GLA is adequately insured.
 - 8.4 The Body shall inform the GLA if it proposes to dispose of, or change the use of, any Asset that has been financed by the GLA.
 - 8.5 The Body shall not dispose of any Asset financed by monies provided by the GLA unless it has first obtained the written consent of the GLA to such a disposal.
 - 8.6 Where the Body disposes of the Asset it shall pay the GLA whichever is the greater, either the amount of Funding provided by the GLA in respect of the Asset or the net proceeds of any disposal of an Asset, or the appropriate proportion thereof, to the GLA unless otherwise agreed with the GLA.
 - 8.7 If the Body changes the use of any such Asset it will be treated as a disposal and the Body shall make a payment to the GLA in accordance with Clause 8.6 above.
 - 8.8 In the event of the Body being taken over, merging or going into liquidation, all Assets financed by the GLA, or the equivalent portion of their market value, will become the property of the GLA.
 - 8.9 The provisions of this clause shall apply during the Term of this Agreement and after its termination howsoever arising. The GLA reserves the right to decide when interest in Assets financed by the GLA under the terms of this Agreement shall cease.
9. **Equal Opportunities**
- 9.1 The Body shall not unlawfully discriminate within the meaning and scope of the provisions of the Equality Act 2010, or any statutory modification or re-enactment thereof or any other statutory provision relating to discrimination in employment or the delivery of the Provision. The Body shall take all reasonable steps to ensure the observance of these provisions by all servants, employees

or agents of the Body and all Subcontractors employed in the execution of the Agreement. The Body will comply with the detailed requirements in relation to equality of opportunity set out in Clauses 9.1 to 9.4.

- 9.2 The Body shall at all times have due regard in and about its Provision to the: elimination of discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010, advancement of equality of opportunity and fostering of good relations between persons who share a relevant protected characteristic (race, disability, sex, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not share it. The Body will take all reasonable steps to ensure the observance of these provisions by all servants, employees or agents of the Body and all Subcontractors employed to deliver the Provision.
- 9.3 The Body shall ensure that equality of opportunity is built into all aspects of the Provision; the business planning process; and the self-assessment process. The Body 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 Body shall use appropriate, specific and measurable objectives. These will be proportionate, relevant and aligned to the Provision the Body is funded to deliver.
- 9.4 The GLA shall 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.

10. **Quality Assurance and Raising Standards**

- 10.1 The Body undertakes to the GLA that it and any Body Related Party has the resources and skills necessary to carry out the Body's obligations pursuant to this Agreement.
- 10.2 The Body must comply with the Funding Rules published by the GLA as amended from time to time and any other requirements, which may from time to time be issued by the GLA, Inspectorates, the Awarding Organisations and other Regulatory Bodies and of which the Body is made aware.
- 10.3 The Body must ensure that all activities carried out pursuant to this Agreement will be documented in accordance with any requirements of the GLA and must provide such documentation as the Body may request from time to time to ensure compliance with this Clause 10.
- 10.4 The Body will continuously seek to improve the Provision and raise standards to benefit the Learner. The Body will have the primary responsibility for improving standards and will need to demonstrate to the GLA's satisfaction that it has an effective quality assurance system based on the implementation of its own quality improvement process. The GLA reserves the right to require

the Body to provide the GLA or Ofsted evidence to support the quality improvement processes.

10.5 The Body must use all reasonable endeavours:

- 10.5.1 to minimise dropout rates, deliver high completion, achievement and success rates and appropriate progression;
- 10.5.2 to at least meet the quality standards as published by the Department and / or the GLA that apply to the learning programmes delivered;
- 10.5.3 to ensure competent and appropriately qualified staff deliver and assess learning. The Body shall be responsible for the continuing professional development and training of its staff and for meeting any minimum requirements which may be required by Ofsted or any other regulatory authority;
- 10.5.4 to offer equality of access to learning opportunities and close equality gaps in learning and outcomes;
- 10.5.5 to provide a safe, healthy and supportive environment, which meets the needs of Learners;
- 10.5.6 to provide good management and leadership of the learning process;
- 10.5.7 to deliver value for money and financial regularity and probity; and
- 10.5.8 to ensure any Subcontractors delivering the Provision comply with the requirements set out in Clauses 10.5.1 to 10.5.8 above.

10.6 Failure to meet the requirements set out in Clauses 10.5.1 to 10.5.8 may result in the GLA assessing the Body to be in Serious Breach of the Agreement under Clause 38 (Minor and Serious Breach) of the Agreement.

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

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

10.9 The Body must take all reasonable steps to meet the relevant requirements for data gathering in respect of the London Learner Survey.

- 10.10 Where appropriate, the Body must confirm in writing to the GLA that their (including Body Related Parties) Centre Approval Status for the relevant Provision 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 Organisation name(s). The Body must notify the GLA immediately in writing via the Provider Manager if it receives any sanction from an Awarding Organisation including but not limited to the suspension and/or removal of Centre Approval Status and/or the removal of the ability to register or certificate learners.
- 10.11 The GLA can request any Awarding Organisation reports, assessments and notices from the Body at any time.
- 10.12 The Body shall have in place its own quality assurance arrangements that demonstrate that it can meet the terms and conditions of this Agreement and evidence these arrangements if required to do so in a form and subject to any other conditions, as from time to time the GLA may specify.
- 10.13 If requested by the GLA, the Body will make available to the GLA a report on its own assessment of the quality of the Provision provided by the Body under this Agreement in a form and subject to any other conditions, as from time to time the GLA may specify.
- 10.14 The GLA may assess the quality and delivery of the Provision and the Body's compliance with the requirements in Clauses 10.5.1 to 10.5.8 during the Agreement Period. The Body will be informed of the outcome of that assessment. The GLA will issue a notice which, where the GLA is not terminating, may:
- 10.14.1 require the Body to meet improvement indicators to improve the quality of its Provision. The GLA will meet with the Body to discuss and reach agreement on implementation of these actions and improvement indicators and to agree arrangements for monitoring and reviewing progress. In such cases reviews will take place at the frequency specified by the GLA and in agreement with the Body;
 - 10.14.2 agree detailed improvement plans and measures that set out clearly the expected timescale for improvement;
 - 10.14.3 agree arrangements for more frequent monitoring of quality improvement plans.

Quality Standards

- 10.15 The GLA may, at any time during the Agreement Period, undertake an assessment of the quality and delivery of the Provision which may include analysis of performance against the quality standards, as published by the Department or the GLA. The GLA will have the right upon reasonable notice and at reasonable times to audit the Body's quality management systems (for example ISO 9000 or equivalent standard) and/or any other quality

management system to which the Provision refers, including examining and inspecting Provision and activities on or off the premises owned or occupied by the Body to establish the adequacy or accuracy of the quality management system documentation. The Body will use all reasonable endeavours to assist the GLA in such exercise.

- 10.16 Where the GLA assesses that the Provision, in whole or in part, falls below the required standards, the GLA may, in its absolute discretion, take one or more of the following actions:
 - 10.16.1 require the Body to accept and comply with additional conditions of Funding relating to the improvement of the Provision;
 - 10.16.2 require the Body to suspend the recruitment of Provision to, and/or to cap any growth in, those Learning Programmes which are identified as below the required standards;
 - 10.16.3 give consideration to the Provision which are below the required standards in its allocations when finalising the amount of Funding in any subsequent Agreements between the Parties;
 - 10.16.4 reduce, suspend or recover payment to the Body in respect of that part of the Provision to which the failure to meet the required standards relate; and/or
 - 10.16.5 terminate this Agreement in accordance with Clause 40.2 (Termination) in full, or that part of the Provision failing to meet the required standards.
- 10.17 The failure of the Body, as assessed by the GLA, to comply with any requirements of Clauses 10.16.1 to 10.16.5 within such time as the GLA may deem reasonable may lead to the GLA taking such actions as it deems appropriate which may include, but is not limited to, terminating in accordance with Clause 40.2 (Termination).
- 10.18 The Body must make the GLA aware of any notification of quality concerns by the Education and Skills Funding Agency within three working days of receiving the notification.
- 10.19 Where the Body subcontracts any part of the Provision, the Body must ensure that the Subcontractor is able to meet the minimum quality standards and any other quality threshold required by the GLA or identified through an inspection by Ofsted. The GLA may request evidence from the Body that the Provision meets the requirements of this Agreement.
- 10.20 The Body shall, for those staff delivering the Provision, be responsible for their professional development and training and meeting any legal requirements to ensure that they are appropriately qualified and trained.

11. **Support and Intervention**

- 11.1 The Body is subject to regular reviews of risk by the GLA. The GLA has published a policy document, 'Managing Provider Performance for grant funded providers', which sets out its policy on Active Support and the circumstances in which improvement action may be taken, including where triggers for Active Support are met. Please check our website for the most up-to-date document. Intervention may be triggered for the following four reasons, as outlined in paragraph 26 of 'Managing Provider Performance for Grant Funded Providers':
 - 11.1.1 ESFA Financial Health assessment determines that the provider's financial health 'Requires Improvement', or risks declining to 'Requires Improvement' or 'Inadequate' in future and/or the provider's financial information shows that the provider may not be able to meet liabilities in future;
 - 11.1.2 Two consecutive 'Requires Improvement' ratings for overall effectiveness by Ofsted or "Adult Learning Programmes" judgement is graded "Requires Improvement";
 - 11.1.3 Poor and/or a measurable decline in educational performance management data such as qualification achievement rates or other outcomes (as outlined in the "Quality Assurance and Raising Standards" section of the providers funding agreement); and/or
 - 11.1.4 Escalation by the GLA Provider Manager due to local intelligence, such as complaints or poor-quality data returns.
- 11.2 The Body shall, on request, provide the GLA and/or Ofsted with a copy of its self-assessment report, quality improvement activity, and any other relevant information in accordance with the required timescale of Ofsted. The Body must notify the GLA of the date of the meeting at which Ofsted gives feedback on the inspection and allow the GLA's nominated representative to attend the meeting. The Body will also inform the GLA of any Further Education Commissioner intervention assessment.
- 11.3 Should the Body meet any of the triggers for intervention, or other action, as set out in the 'Managing Provider Performance' for grant funded providers' document, the GLA may, in its absolute discretion, take one or more of the following actions:
 - 11.3.1 issue a Notice to Improve;
 - 11.3.2 require the Body to share their ESFA Single Improvement Plan or complete the GLA Improvement Action Plan
 - 11.3.3 require the Body to accept and comply with additional conditions of funding, relating to the improvement or resolution of the issues which led to the Body being placed in Intervention. Such conditions will include recommendations of any published reports of the Further Education Commissioner and/or the published recommendations of

Ofsted. These conditions will apply until the Body can demonstrate the required improvement / resolution to the GLA's satisfaction;

- 11.3.4 require the Body to suspend the recruitment of Learners to, and/or to cap any growth in Learner numbers and/or any Provision which is assessed by Ofsted as overall inadequate;
 - 11.3.5 in accordance with the 'Managing Provider Performance for grant funded providers' document, the GLA will write to the Body to confirm the position and thereafter consult with the Body's governors, principal, and, where required, local stakeholders.
 - 11.3.6 The Body will be subject to a Further Education Commissioner intervention assessment. The Body must comply with the requirements/requests of the Further Education Commissioner to enable them to undertake their role;
 - 11.3.7 give consideration to what changes, if any, are required in its allocations when finalising the amount of Funding in any subsequent grant(s) between the Parties;
 - 11.3.8 give consideration to the Provision which is assessed as inadequate in its allocations when finalising the amount of Funding in any subsequent agreements between the Parties;
 - 11.3.9 reduce, suspend and/or recover payment to the Body;
 - 11.3.10 terminate in accordance with Clause 40 (Termination).
- 11.4 The failure of the Body to comply with any action required of it by the GLA under Clause 11.3 within such time as the GLA has stipulated will be a breach of agreement and the GLA may take such further action as it deems appropriate which may include, but is not limited to, terminating this Agreement in accordance with Clause 40 (Termination).

12. **Ofsted Inspection**

- 12.1 When the Body receives notification from Ofsted that the Provision is to be inspected, the Body shall, on request, provide the GLA with a copy of its quality improvement activity, and any other relevant information in accordance with the required timescale of Ofsted. The Body must notify the GLA of the date of the meeting at which Ofsted gives feedback on the inspection and allow the GLA's nominated representative to attend the meeting. The Body must confirm to the GLA in writing the outcome of the inspection within 5 working days of receiving the feedback from Ofsted.
- 12.2 Ofsted may, at any time during the Agreement Period, undertake an inspection of the Body. The GLA will consider the outcome of any such inspection as follows:

Inadequate in part

- 12.2.1 Where Ofsted has assessed the Provision to be inadequate in any graded sub-judgement, the GLA may, in its absolute discretion take one or more of the following actions:
- 12.2.1.1 require the Body to accept and comply with additional conditions of Funding relating to the improvement of the Provision assessed as inadequate. Such conditions will include complying with the published recommendations of Ofsted and the recommendations of any published report of the Further Education Commissioner. These conditions will apply until the Body can demonstrate the required improvement to the GLA's satisfaction;
 - 12.2.1.2 require the Body to suspend the recruitment of Learners to, and/or to cap any growth in, the Provision which is assessed as inadequate;
 - 12.2.1.3 give consideration to the Provision which are assessed as inadequate in its allocations when finalising the amount of Funding in any subsequent Agreements between the Parties; and/or
 - 12.2.1.4 reduce, suspend or recover payment to the Body in respect of that part of the Provision assessed as inadequate; and/or
 - 12.2.1.5 Terminate the agreement in accordance with Clause 40 (Termination).

Inadequate overall

- 12.2.2 Where the GLA is made aware that Ofsted has provisionally assessed the Provision to be inadequate overall, the GLA may, in its absolute discretion take one or more of the following actions:
- 12.2.2.1 require the Body to accept and comply with temporary additional conditions of Funding relating to the improvement of the overall Provision, including but not limited to, requiring the Body to temporarily suspend the recruitment of Learners and/or temporarily cap any growth in those Learning Programmes which are assessed as inadequate. These conditions will apply until the Body can demonstrate the required improvement to the GLA's absolute satisfaction; and/or
 - 12.2.2.2 commence discussions with the Body and the Local Authority within whose area the Body is located, either with Ofsted or not, as part of considering what actions as specified in Clause 12.2.1 may be taken.

- 12.2.3 Where Ofsted has confirmed its assessment that the Provision is inadequate overall, the GLA may, in its absolute discretion take one or more of the following actions:
- 12.2.3.1 require the Body to accept and comply with additional conditions of Funding relating to the improvement of the overall Provision. Such conditions will include complying with the published recommendations of Ofsted and the recommendations of any published report of the Further Education Commissioner. These conditions will apply until the Body can demonstrate the required improvement to the GLA's satisfaction;
 - 12.2.3.2 require the Body to suspend the recruitment of Students to, and/or to cap any growth in, those Learning Programmes which are assessed as inadequate;
 - 12.2.3.3 give consideration to the assessment of inadequate in its allocations when finalising the amount of Funding in any subsequent Agreements between the Parties;
 - 12.2.3.4 reduce, suspend or recover payment to the Body;
 - 12.2.3.5 take account of the finding by Ofsted of "inadequate" when considering the amount of Funding to be made available to the Body in any subsequent Contracts between the Parties and/or
 - 12.2.3.6 terminate this Agreement in accordance with Clause 40.2 (Termination).
- 12.2.4 The failure of the Body, as assessed by the GLA, to comply with any requirements of Clauses 12.2.3.1 to 12.2.3.6 within such time as the GLA may deem reasonable may lead to the GLA taking such actions as it deems appropriate which may include, but is not limited to, terminating in accordance with Clause 40 (Termination).
- 12.2.5 GLA will take action based on Ofsted's provisional and confirmed outcomes as in Clauses 12.2.3.1 to 12.2.3.6 above. Where GLA is made aware that the Body has made a complaint about the graded outcome of the overall assessment by Ofsted, GLA will continue to progress action under Clauses 12.2.3.1 to 12.2.3.6 but will be mindful of the implications arising from the outcome of a complaint. The GLA will review any decisions made at such time as outcomes of any complaint are made known.
- 12.2.6 The Body shall for those staff delivering the Provision be responsible for their continuing professional development and training and meeting any legal requirements to ensure that they are appropriately qualified and trained.

- 12.2.7 Where the GLA is made aware that Ofsted has assessed the Body as having made “insufficient progress” during their programme of New Provider Monitoring Visits or any other visit, the GLA may, in its absolute discretion take any of the actions set out at Clause 12.2.3.

13. Ofsted Provider Monitoring Visits

- 13.1 Where the GLA is made aware that Ofsted has assessed the Body as having made “insufficient progress” during their programme of Provider Monitoring Visits, the GLA may, in its absolute discretion take the following actions:

- 13.1.1 require the Body to, and the Body shall, accept and comply with additional conditions of funding relating to the improvement of the overall Provision. Such conditions will include complying with the published recommendations of Ofsted. These conditions will apply until a full Ofsted inspection of the Body has taken place; and/or
- 13.1.2 require the Body to temporarily suspend the recruitment of Learners;
- 13.1.3 require the Body to stop working with new Learners via a Subcontracting arrangement with another main provider or employer-provider;
- 13.1.4 require the Body to inform all of their existing main providers or employer-providers about the outcome of the Ofsted visit;
- 13.1.5 terminate this Agreement in accordance with Clause 40 where Learners may be at immediate risk on the grounds of safeguarding issues and/or the quality of leadership and/or training provision is such that one or more Learner has no reasonable prospect of achieving their training objective.

- 13.2 Where the GLA is made aware that Ofsted has assessed a Subcontractor to the Body as having made “insufficient progress” during their programme of New Provider Monitoring Visits, the Body is required to ensure that the Subcontractor suspends the recruitment of Learners until further notice.

14. Intervention and assessment by other parties

- 14.1 The Body must notify the GLA where it receives a letter from the ESFA setting out that it is assessed to be at risk and has triggered Active Support or where the ESFA notifies that the Body that it falls under Supervised College Status. A copy of the letter from the ESFA must be provided to the GLA within three working days of receipt.
- 14.2 If the Body is notified in writing by the ESFA that it has failed to meet quality standards, it must provide the GLA with a copy of the notification letter within three working days of receipt. Where the ESFA writes to the Body to confirm that it has assessed the financial health and/or control of the Body is inadequate, the Body must provide a copy of the letter within three working days.

- 14.3 Where the Body is referred for a diagnostic or intervention assessment by the FE Commissioner, it must provide the GLA with a copy of the letter received from the FE Commissioner setting out the reasons for the assessment within three working days of receipt. The Body must report the outcome and recommendations from the assessment to the GLA within three working days of feedback being received from the FE Commissioner including a copy of any assessment report or other outcomes.
- 14.4 Where the ESFA determines the need for a FE Commissioner Local Provision Review, Independent Business Review or Structure and Prospects Appraisal, the Body must comply with requests and requirements of the FE Commissioner to enable her to undertake her role.
- 14.5 The Body must take account of any recommendations of the Further Education Commissioner as a result of the Local Provision Review, Independent Business Review or Structure and Prospects Appraisal in considering any future plans for the Body.
- 14.6 Where the FE Commissioner writes to the Body to indicate that the Body may be escalated to Intervention, the Body must provide the GLA with a copy of the letter from the FE Commissioner within three working days of receipt.
- 14.7 If the Body receives a Notice to Improve from the ESFA, it must notify the GLA of the notice and subsequent assessment by the FE Commissioner by providing a copy of the letter from the FE Commissioner outlining the assessment process within three working days of receipt. The Body must provide the GLA with a copy of the draft report or findings provided by the FE Commissioner within 3 working days of receipt.
- 14.8 On the basis of Clauses 14.1 to 14.7 above, the GLA may, in its absolute discretion take one or more of the following actions:
- 14.8.1 require the Body to accept and comply with temporary additional obligations relating to the recommendations of the FE Commissioner's assessment;
 - 14.8.2 require the Body to accept and comply with additional Body obligations relating to the recommendations of the diagnostic or intervention assessment;
 - 14.8.3 reduce, suspend or recover payment to the Body; and/or
 - 14.8.4 terminate this Agreement in accordance with Clause 40 (Termination). The failure by the Body, as assessed by the GLA, to comply with any requirements of Clause 14.8 within such time as the GLA may deem reasonable may lead to the GLA taking such actions as it deems appropriate which may include, but is not limited to, terminating in accordance with Clause 40 (Termination).

15. **Fraud and Irregularity**

15.1 The Body must notify the GLA immediately where it becomes aware of any instance of suspected fraud or financial irregularity in the delivery of the Agreement including, but not limited to, cases of:

15.1.1 collusion with members of the staff of the Body or employees of the GLA;

15.1.2 computer fraud;

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

15.1.4 fraud involving Awarding Organisations;

15.1.5 fraud involving Subcontractors;

provided that nothing in this Clause 15 will require the Body to do anything, which may cause it to infringe any Law.

15.2 Where the GLA has reasonable cause to suspect that fraud or irregularity has occurred in relation to the delivery of the Agreement and payments made hereunder, the GLA and/or its agents will have:

15.2.1 the right of access to the Body's Premises (or that of any of its Subcontractors) at any reasonable time with or without notice to examine and remove or copy all relevant documents and records including electronic records;

15.2.1 the right to require the Body to provide written authority to enable the GLA to obtain such documents, records and/or information directly from third parties; and

15.2.2 to interview the Body's servants or agents engaged with the delivery of the Agreement.

Failure to comply with this Clause 15.2 will constitute a Serious Breach of this Agreement.

15.3 Where the GLA has reasonable cause to suspect that fraud or irregularity has occurred in relation to the delivery of the Agreement and payments made hereunder, the GLA may require the Body to procure the services of an independent accountant (or other equivalent/appropriate professional) to investigate at the Body's cost (or the GLA will procure and recharge to the Body at its sole discretion).

15.4 Where the GLA has reasonable cause to suspect that fraud or irregularity has occurred in relation to the delivery of the Agreement or any other Agreement between the GLA and the Body and payments made there under, the GLA will have the right to suspend payments and/or require the Body to suspend

recruitment of Learners under this Agreement and any other Agreement between the Parties.

15.5 Where the Body is a charity, the Body will inform the GLA of any schemes, orders or official warnings issued to them by the Charity Commission. Failure to inform the GLA will constitute a Serious Breach of this Agreement.

15.6 The Parties will co-operate in the identification of Learners who may be unlawfully claiming benefits. The Body may from time to time brief the GLA as to the co-operation and assistance it reasonably requires including the provision of information regarding fraud by Learners. The GLA will provide a named contact or telephone answering machine for receiving such information.

16. **Enquiries, Investigations and Inspections**

16.1 The Body must and will ensure that it and its Subcontractors will at all times during the Agreement Period and for a period of six (6) years, or such other time period as notified by the GLA, afterwards fully co-operate with any enquiry, investigation or inspection (whether routine or specific) which in any way concerns, affects or relates to the Provision, or any sum claimed or charged in relation to this Agreement or to any other Agreement of the GLA. Such enquiry, investigation or inspection may be by, inter alia: -

- (a) the GLA;
- (b) the GLA's auditors (whether internal or external);
- (c) Regulatory Bodies; and/or
- (d) the Inspectorates.

16.2 Such co-operation will include (but not be limited to) the following:

- (a) providing access to or copies of such files, documents, letters, emails, notes, minutes, records, accounts or any other information (whether held or stored electronically, in hard copy format or otherwise) which relate to the subject or Provision (in whole or in part) under investigation;
- (b) providing access to the premises, equipment (including IT hardware and software) or other assets used by the Body and/or its Subcontractors in the performance of this Agreement, such access to be supervised at all times unless the nature of the investigation requires the parties defined at Clause 16.1 to be unsupervised, such parties acting reasonably in making such assessment;
- (c) providing access to Body Personnel (of whatever seniority) involved in this Agreement (including managerial or supervisory staff) or who may be the subject of, or be named in, any enquiry or

investigation by the auditors or the ombudsmen (including providing suitable facilities for interviewing such staff);

(d) maintaining the confidentiality of the enquiry or investigation when requested to do so;

(e) making such explanations (whether written or oral) as may be necessary for the enquiry or investigation to be satisfied that the terms and conditions of this Agreement, the Funding Rules and the Law are being complied with;

(f) at all times and without notice allow access to the Inspectorates, in connection with any complaint, investigation or inspection relating to this Agreement or the Provision. This will extend to the Body's Premises; and to all documentation and information relating to this Agreement to which the Body has access; and to the Body's agents, employees and Subcontractors.

- 16.3 Where the GLA has undertaken an investigation or received a report from an independent accountant or otherwise, in relation to the Body it may, as a consequence of that investigation or report, require the Body to, and the Body will, accept and comply with additional funding conditions and will meet the cost of such investigation.
- 16.4 Where the Body fails to comply with the funding conditions imposed under Clause 16.3, within such time as the GLA deems reasonable, the GLA may take such actions as it deems appropriate which may include, but is not limited to, under Clause 38 (Minor Breach and Serious Breach).
- 16.5 The GLA will in performing the Provision will comply fully with all relevant rules and regulations of the GLA in force from time to time.
- 16.6 The Body will, if requested by the GLA, co-operate with the GLA, at its own expense, in connection with any legal proceedings, adjudication, arbitration, court proceedings or ombudsmen enquiries in which the GLA may become involved, arising from breaches of the GLA's duties under the Equality Act 2010, or any statutory modification or re-enactment thereof or any other statutory provision relating to discrimination in employment or the delivery of the Provision, due to the alleged acts or omissions of the Body, its employees, Subcontractors or agents.
- 16.7 The Body will ensure that the terms of any Subcontract include identical provisions to this Clause 16 and will indemnify the GLA against any Losses, damages or claims it suffers in consequence of a failure to ensure the inclusion of such identical items.

17. **Information for Learners**

- 17.1 As part of the delivery of the Provision, the Body must provide high quality and easily accessible information and advice in helping Learners to understand the

opportunities and support available to them about education, training or connected matters (including employment):

- 17.1.1 where one of the main objectives of the Provision to be provided under this Agreement is to deliver information and advice, the Body will have to have or attain the matrix Standard accreditation within the Funding Year;
- 17.1.2 if the information and advice is embedded as part of the delivery of the Provision the Body must work towards achieving the matrix Standard accreditation within the Funding Year;
- 17.1.3 where the Provision is delivered by a Subcontractor on behalf of the Body, the requirements set out in Clauses 17.1.1 and 17.1.2 must be applied to the Subcontractor. This does not apply where the Body retains responsibility for the delivery of information and advice to the Learners; and
- 17.1.4 once achieved, matrix Standard accreditation is valid for three years. The Body must continue to demonstrate their continuous improvement via annual continuous improvement checks with the matrix Standard assessor.

18. **Data Collection**

- 18.1 The Body must supply to the GLA data on each individual Learner (and where relevant member of its workforce involved in the Provision), in accordance with the data collections framework notified to the Body.
- 18.2 The Body must supply the GLA with data in accordance with the following:
 - 18.2.1 in line with agreed audit arrangements;
 - 18.2.2 in adherence with the Data Protection Laws;
 - 18.2.3 to support payments received on profile;
 - 18.2.4 to enable reconciliation to take place;
 - 18.2.5 to enable the GLA to contact Learners for the purpose of conducting surveys;
 - 18.2.6 to support the contract management and allocation processes; and
 - 18.2.7 any written request from the GLA,
 together, the “Agreed Purposes”.
- 18.3 To the extent possible, and except in the case of data transferred for the purpose in 18.2.6, the Body shall anonymise and/or aggregate the data supplied pursuant to Clause 18.1.

- 18.4 Data to be supplied pursuant to this Clause 18.1 (“Learner Data”) must be securely transmitted to the GLA through OPS and/or the Education and Skills Funding Agency as required by the GLA. Access to this web portal is restricted and the Body agrees to comply with the conditions of use regarding the supply of data to the GLA notified to the Body as amended and updated from time to time. The Body must keep its information on OPS fully updated and ensure that it accurately reflects the agreed delivery of provision.
- 18.5 The Body is responsible for the accuracy of the Learner Data, where the GLA is concerned about the quality of the Learner Data, including the completeness or accuracy of the Learner Data, provided by the Body, the GLA may require the Body to supply data more frequently for such period as the GLA shall require.
- 18.6 The GLA reserves the right to require the Body, at its own cost, to carry out such work as the GLA deems necessary to improve the quality of Learner Data.
- 18.7 The GLA reserves the right to require the Body to:
- 18.7.1 review the management reports provided by either the Body's Internal Auditors or by the GLA's Funding Auditors about the quality and reliability of the Body's Management Information System (MIS) and ILR Data;
 - 18.7.2 commission either the Body's Internal Auditors or the GLA's Funding Auditors to evaluate and support the Body's actions and action plan to address any data quality issues that have been identified in the resulting management letters; and/or
 - 18.7.3 secure confirmation from the Body that it has been informed of any concerns and secure their commitment to overseeing the timely and accurate return of Learner Data in future.
- 18.8 The GLA reserves the right to suspend payments to the Body under the Agreement where Learner Data quality gives rise to concern about the accuracy of the data provided by the Body.
- 18.9 Failure to transmit complete and accurate Learner Data to the GLA in accordance with Clause 18.5 above may result in Funding being withheld or recovered.
- 18.10 The Body must update the course information with details of all of the Provision funded by the GLA to the course directory ([course directory \(nationalcareers.service.gov.uk\)](https://course-directory.nationalcareers.service.gov.uk)). The Body must regularly review this information and keep it updated.
- 18.11 Where the Body is delivering the Provision to Learners claiming out of work benefits, it must provide data to the Secretary of State with responsibility for unemployment or their nominated representative in accordance with the legal requirements notified to the Body (“Unemployment Data”) in accordance with

Data Protection Laws. Failure to transmit complete and accurate data under this Clause 18 will constitute a breach of the conditions of Funding set out in this Agreement and may result in payments for this Provision to be delayed or withheld.

- 18.12 The Body must submit data about any member of its workforce in the format and to the timescales as required by the GLA.
- 18.13 The Body must register with UK Register of Learning Providers (UKRLP) and maintain contact details on an on-going basis (<https://www.ukrlp.co.uk/>)

19. **Data Protection and Protection of Personal Data**

- 19.1 The Body shall ensure that information acquired by the Body and its Subcontractors under the delivery of this Agreement will at all times comply with the provisions and obligations imposed by the Data Protection Laws and the GDPR Principles in storing and Processing Personal Data, and all Personal Data acquired by either party from the other shall be returned to the disclosing party on request. Both parties hereby acknowledge that performance of a duty imposed by the Data Protection Laws shall not constitute a breach of any obligation in respect of confidentiality which may be owed to the other party. The clause shall not affect the GLA's ability to make a search of the Body with a credit reference agency.
- 19.2 With respect to the parties' rights and obligations under this Agreement the parties acknowledge and agree that in respect of Learner Data:
 - 19.2.1 they are both sole, independent Controllers for the purposes of the Data Protection Laws in relation to their own Processing of the Learner Data for the Agreed Purposes as set out in Clause 18.2;
 - 19.2.2 each party has a valid registration with the Supervisory Authority and pay any required fee if required which, by the time that the data sharing is expected to commence, covers the intended data sharing pursuant to this Agreement;
 - 19.2.3 the framework of all data sharing pursuant to Clause 18.1 between the parties shall comply with the Data Protection Laws; and
 - 19.2.4 the parties shall enter into a separate data sharing agreement (in the form that GLA directs) prior to any sharing of Personal Data with the GLA pursuant to this agreement either on a Controller to Controller basis pursuant to Clause 18.1 or otherwise.
- 19.3 The Body shall:
 - 19.3.1 share properly anonymised or aggregated Learner Data and Workforce Data with the GLA in compliance with its obligations under Clause 18;

- 19.3.2 ensure that each Data Subject of any Learner Data shared with the GLA has been provided with the necessary fair processing information to ensure that the GLA's collection and other processing of that Personal Data is fair and transparent in accordance with the Data Protection Laws; and
 - 19.3.3 otherwise comply with its obligations under the Data Protection Laws in respect of such Learner Data.
- 19.4 If there is a conflict between this Clause 19 and the Funding Rules, this clause takes precedence and nothing contained within those rules shall vary or amend this Clause 19.
- 19.5 Where the Body is delivering the Provision to Learners claiming out of work benefits, the Secretary of State with responsibility for unemployment is the Data Controller in relation to Personal Data, which the Body is required to provide to the Secretary of State under any enactment. This Clause 19.5 will be enforceable by the appropriate Secretary of State in relation to any Personal Data processed by the Body on their behalf. Failure to transmit complete and accurate data under this Clause 19.5 will constitute a breach of the conditions of Funding set out in this Agreement and may result in payments for this Provision to be delayed or withheld.
- 19.6 Where the Body is providing the Provision to Learners who are subject to active management by the Offender Manager in respect of an order or licence, the Secretary of State for Justice (or their successor) is the Controller in relation to Personal Data which the Body is required to provide to the Secretary of State for Justice.
- 20. **Branding and Logos**
 - 20.1 All publicity generated by the Body referring to the Mayor of London, the GLA and/or each of their respective names, logos or branding including (without limitation) all press and media releases must be approved in writing at least two weeks in advance of any release of publicity material (in any form) by the GLA. The Body shall also ensure that any proposals for any launch or other related publicity activity are approved in writing by the GLA at least one month before the date of such proposed launch or other related publicity activity.
 - 20.2 The Body shall be given access to the current Mayor of London and GLA logos, branding and publicity requirements or statements, which it is required to use in line with any guidance issued by the GLA. The Body will be required to use logos and statements in accordance with the terms of use and should not alter or amend such logos or statements. Logos and statements are only to be used in relation to the Provision under this Agreement. Any breach of this clause 20 or the requirements or terms of use of which the Body is made aware are a condition of Funding, failure to comply could result in the Funding being withdrawn.

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

20.4 The Body must ensure all the terms of Clause 20 are applied to the Body's Subcontractors in carrying out its responsibilities under this Agreement.

21. Feedback and Complaints

21.1 The primary responsibility for receiving feedback and investigating complaints promptly and thoroughly in respect of the Provision shall rest with the Body. The Body shall have procedures in place including but not limited to a complaints framework, which are acceptable to the GLA, to gather and act upon feedback and complaints from Learners and/or their representatives and employers and the wider community. The Body must also keep a log of the complaints received which will be accessible to the GLA upon request.

21.2 The Body 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. The complaints procedure must be published on the Body's website and be provided to the relevant parties as part of the Body's onboarding process.

21.3 The Body shall be responsible for resolving complaints in accordance with its own procedures and any guidance issued by the GLA. Once the Body has concluded its investigations, including any appeal, it must inform the complainant in writing of the outcome.

21.4 Where a complaint has not been resolved to the satisfaction of the complainant the Body will advise the complainant of their right to complain to the GLA and co-operate with any investigation carried out by the GLA or their representatives and act on any recommendations made by the GLA following the investigation.

22. Representative

Provider Manager

22.1 Without limiting the GLA's obligations or rights in respect of such matters the GLA will appoint a Provider Manager who may subject to Clause 22.2 exercise the rights and powers conferred by this Agreement upon the GLA.

22.2 Except pursuant to Clause 45 (The Agreement and its Acceptance and Execution), or unless specifically authorised for that purpose, the Provider Manager does not have authority to amend the Agreement or to relieve the Body of any express obligations under the Agreement.

OPS Org Admin User

- 22.3 The Body will notify the GLA through OPS of details of the person appointed as the OPS Org Admin. The person who registers the Body on OPS will become the OPS Org Admin User, who is responsible for:

22.3.1 Keeping the Body's details up-to-date;

22.3.2 Approving new users for the Body; and

22.3.3 Assigning each user a role (including assigning additional admins).

The GLA recommends that the Body select someone who will be involved daily with the data and monitoring of AEB delivery – for example, someone in the MIS team.

- 22.4 The Body must ensure that those members of staff who are authorised to use OPS on behalf of the Body to submit funding claims, seek approvals and return data are registered as users of the GLA Open Project System and comply at all times with the terms of this agreement and any instructions or guidance issued by the GLA in respect of OPS and the funding rules. It is the Body's responsibility to maintain appropriate user roles on an on-going basis.

23. **Retention of Documents**

- 23.1 The Body and its Subcontractors shall retain original invoices, management information returns and all other documents necessary to verify the Provision delivered by itself or by its Subcontractors in relation to this agreement for 6 years, subject to any requirements for a longer retention period, from the end of the financial year in which the last payment is made.

24. **Confidentiality of Information**

- 24.1 All information referred to in this clause 24 is subject to the obligations set out in Clause 31 (Confidentiality) and Clause 30 (Freedom of Information).
- 24.2 For the purposes of the examination and certification of the GLA's accounts and/or any examination of the economy, efficiency and effectiveness with which the GLA has used its resources, the National Audit Office, internal or external auditor may examine such documents premises, systems and staff as they may reasonably require which are owned, held or otherwise within the control or employ of the Body or Subcontractors (who must ensure that any person acting on its behalf who has such documents and/or other information will also provide access) and may require the Body to produce such oral or written explanation as they consider necessary.
- 24.3 Where the GLA appoints an independent third party to undertake, exercise or carry out any of the rights or powers contained in this Clause 24 the Body must ensure that such independent third party enters into a Confidentiality Agreement with the Body simultaneously with its appointment.

25. Access and Monitoring

- 25.1 The GLA shall give the Body reasonable advance notice in writing of proposed visits to the Body or its Subcontractors, to observe the delivery of the Provision, by any person who has taken or will take no direct part in the delivery or content of the Provision.
- 25.2 For monitoring and evaluation purposes, the GLA, the Secretary of State and their agents, the Department, the Department for Work and Pensions (or their Successors), the Ministry of Justice, 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 Body's staff during these visits.
- 25.3 The Body shall, and shall ensure that its Subcontractors shall, permit access at any reasonable time to any of the representatives listed at Clause 25.2 in order to:
 - 25.3.1 examine, audit or take copies of any original or copy documentation, accounts, books and records of the Body and its Subcontractors that relate to the Agreement;
 - 25.3.2 visit, view or assess the design, management and delivery of the Provision at any Premises where those operations are carried out (including those of Subcontractors) and conduct relevant interviews, including interviews with Learners, during these visits at any reasonable time; and/or
 - 25.3.3 carry out examinations into the economy, efficiency and effectiveness with which the Body has used the GLA's resources in the delivery of the Provision.
- 25.4 Where reasonably required, the Body and its Subcontractors shall provide copies of any relevant documents required by any of the representatives listed at Clause 25.2.
- 25.5 The Body shall, if required by any of the representatives stated at Clause 25.2 provide appropriate oral or written explanations.
- 25.6 The GLA reserves the right, at any reasonable time, and as it may deem necessary to require the Body at its own cost to:
 - 25.6.1 provide evidence of financial resources and the level of turnover sufficient to enable it to continue to deliver the Provision;
 - 25.6.2 provide such assurance as the GLA may require that the delivery of the Provision complies with the requirements of the Agreement;
 - 25.6.3 obtain a report by an independent accountant of the GLA's choice on the financial systems and controls operated by the Body or the

accuracy of Funding claims in respect of payments claimed or received under the Agreement. The report and the work required in order to produce the report shall be carried out to the satisfaction of the GLA, and the GLA must be able to place reliance on it. The Body must agree the instructions for the work with the GLA and the Body shall provide a copy of the interim and final report to the GLA as soon as they are available. The GLA reserves the right to require the Body to publish the report;

- 25.6.4 provide a copy of the Body's latest audited Accounts; and/or
- 25.6.5 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 GLA.
- 25.7 The Body shall in delivering the Provision comply fully with all relevant rules and regulations of the GLA in force from time to time especially when on GLA's premises.
- 25.8 Where the GLA has undertaken an investigation or received a report from an independent accountant or otherwise, in relation to the Body, it may, as a consequence of that investigation or report, impose additional conditions of funding upon the Body.
- 25.9 The Body must comply with any additional conditions of funding imposed under Clause 25.8.
- 25.10 If the GLA assesses that the Body has failed to comply with any additional conditions of funding imposed under Clause 25.8 within such time as the GLA deems reasonable, the GLA may take such actions as it deems appropriate which may include, but is not limited to, under Clause 38.3 - 38.4 Minor Breach or Clause 38.5 - 38.6 Serious Breach.

26. **Employees**

- 26.1 The Body must 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, or an interim prohibition order made under regulation 14 of the Teachers' Disciplinary (England) Regulations 2012, to carry out teaching work (as defined in regulation 3 of the Teachers' Disciplinary (England) Regulations 2012), in respect of any 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).
- 26.2 Before employing or engaging a person to carry out teaching work in respect of any 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 Body will 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.
- 26.3 The Body will make arrangements for ensuring that the Provision is delivered 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 Body in an environment outside the direct control of the Body. This must include the adoption of safer recruitment procedures.
- 26.4 The Body must ensure it takes the following action in respect of all Body Personnel and potential Body Personnel whom in connection with the Body's provision of the Provision will or is likely to be in contact with Learners or who will have access to Learners information (other than GLA's employees):
- 26.4.1 They are questioned as to whether they have any Convictions or ASBOs;
 - 26.4.2 the results are obtained of a background check with the DBS of the most extensive kind available;
 - 26.4.3 to the extent permitted by Law, a copy of the results of such a background check as is referred to in Clause 26.4.2 are provided to the GLA on request;
 - 26.4.4 in respect of potential Body Personnel from overseas the Body must comply with the following guidance <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>,
 - 26.4.5 the Body must take the above action before the relevant Body Personnel or potential Body Personnel commences any activities in relation to the Provision.
- 26.5 The Body must carry out appropriate disclosure and barring service checks on all applicants for employment where such applicants would be employed to work in regulated activity relating to Children and/or vulnerable adults (as defined by the Safeguarding Vulnerable Groups Act 2006) if successful, and must seek additional information about an applicant's conduct. The Body must also ensure that:
- 26.5.1 no person who appears on a Barred List following the results of a DBS background check will be employed or engaged in the performance of the Provision; and
 - 26.5.2 it and all its Subcontractors will comply with all reporting requirements to the DBS.
- 26.6 In so far as permitted by Law, where the Body 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

- Body will ensure that it informs the GLA Provider Manager that a referral has been made/information has been provided.
- 26.7 In the event that any Body Personnel or any employee of any Subcontractor is added to a Barred List, the Body must ensure that such member of staff will cease to be engaged in the Provision.
- 26.8 The Body will require Body Personnel to declare annually whether there has been a change in their circumstances relating to the background checks referred to in this Clause 26. Where the self-declaration indicates a change in circumstances relating to those background checks, the Body will:
- 26.8.1 assess the risk of continuing to engage such member of Body Personnel in the delivery of the Provision;
 - 26.8.2 request new background checks of such member of Body Personnel as required by this Clause 26;
 - 26.8.3 put in place appropriate actions to ensure Learners are safeguarded, including, but not limited to, extra supervision of the member of Body Personnel, re-assignment to an area of the delivery of the Provision that does not bring the member of Body Personnel into regular contact with Learners, or removal from the delivery of the Provision of the member of Body Personnel, until such time as the Body has received the outcome of the background checks required under Clause 26.8.2 and has taken any action required as a result of the outcome of such background checks.
- 26.9 Pending the receipt by the Body of the results of the background checks referred to in this clause, Body Personnel will not be used in the delivery of the Provision.
- 26.10 Failure by the Body to comply with Clauses 26.4 to 26.9 will constitute a Serious Breach.
- 26.11 The Body will provide details of its policies and procedures for recruitment, training, development, supervision and other employment-related policies when requested to do so.
- 26.12 The Body will ensure that it has in place and complies with an effective whistleblowing procedure whereby staff may raise in confidence concerns about possible malpractice without fear of victimisation, subsequent discrimination or disadvantage.
- 26.13 When requested by the GLA on reasonable grounds, the Body will cease to use any Body Personnel specified by the GLA in the delivery of Provision. For the purposes of this clause Body Personnel will include external members of the board.
- 26.14 The Body must ensure that:

- 26.14.1 there will be at all times a sufficient number of staff (including all relevant grades of supervisory staff) engaged in the Provision with the requisite level of skill and experience. This obligation will include ensuring that there are sufficient staff to cover periods of holiday, sickness, other absences and anticipated and actual peaks in demand for each part of the Provision; and
 - 26.14.2 all Body Personnel receive such training and supervision as is necessary to ensure the proper performance of the Provision under this Agreement.
- 26.15 The Body must ensure that there are set up and maintained by it and by all Subcontractors involved in the Provision, personnel policies and procedures covering all relevant matters (including discipline, grievance, equal opportunities and health and safety). The Body must ensure that the terms and implementation of such policies and procedures comply with Law and Good Industry Practice and that they are published in written form. The Body must provide copies of such policies to the GLA, on the GLA's request.
- 27. Body Personnel on Termination**
- 27.1 The GLA and the Body will act on the basis that TUPE applies on expiry or termination of the Agreement where the GLA is proposing re-provision for delivery which is substantially the same as the Provision. For the avoidance of doubt this Clause 27 does not apply where the Body will be providing the Provision in the following Funding year.
- 27.2 During the period of 3 months preceding the expiry of the Agreement or within 21 days after the GLA or the Body has given notice to terminate the Agreement, the Body will disclose to the GLA and will permit the GLA to disclose to any new provider or potential new provider of provision which is substantially the same as the Provision, the Staffing Information provided that prior to so doing any such provider will have executed in writing a confidentiality undertaking in favour of the Body.
- 27.3 During the period of 3 months preceding the expiry of this Agreement or within 21 days after the GLA or the Body has given notice to terminate the Agreement, the Body must, subject to the provisions of the Data Protection Laws, provide and thereafter keep updated at monthly intervals, to the GLA and to the Successor Body information equivalent to the Staffing Information in respect of each employee whom the Body reasonably believes will be a Future Transferring Employee provided that prior to so doing the Successor Body nominated by the GLA will have executed in writing a confidentiality undertaking in favour of the Body.
- 27.4 The Body must make reasonable endeavours to assist the Successor Body to communicate with, meet and inform and consult with the employees whom the Body reasonably believes will be a Future Transferring Employee and their trade union or other employee representatives for the purposes of complying with TUPE.

- 27.5 The Body must immediately prior to the Provision Transfer Date provide to the GLA or the Successor Body a complete and accurate list of the Staffing Information and identification details of all employees whom it reasonably believes will be Future Transferring Employees.
- 27.6 Within a period of 21 days following the expiry or termination of this Agreement the Body must provide to the GLA or the Successor Body in writing final pay details of the Future Transferring Employees.
- 27.7 The Body warrants that it will supply complete and accurate information pursuant to Clauses 27.2, 27.3, 27.5 and 27.6 in all material respects and the Body will indemnify and keep the GLA indemnified fully now and in the future in respect of all or any costs whether arising in contract or under any relevant Law suffered or incurred by the GLA or the Successor Body nominated by the GLA by reason of any proceeding, claim or demand arising from or in connection with the provision of information and/or the failure to provide complete and accurate information under Clauses 27.2, 27.3, 27.5 and 27.6, and/or the provision of assistance and/or failure to provide assistance under Clause 27.4 of this Agreement.
- 27.8 After receiving notice of the termination of this Agreement and for 6 months preceding expiry of this Agreement the Body will promptly notify the GLA or the Successor Body:
- 27.8.1 of the period of notice given by the employment of any employee whom the Body reasonably believes will be a Future Transferring Employee; and
 - 27.8.2 of any other change to any employee whom the Body reasonably believes will be a Future Transferring Employee and their terms and conditions of employment and their Staffing Information.
- 27.9 The Body warrants that it will supply the Staffing Information completely and accurately in all respects at the time of supply and will indemnify and keep the GLA and/or any Successor Body indemnified in respect of all and any costs suffered or incurred by the GLA or the Successor Body by reason of any proceedings, claim or demand arising out of or in connection with:
- 27.9.1 any claim against the GLA or the Successor Body by any Future Transferring Employee so far as it relates to any act or omission of the Body after the Employee Transfer Date and prior to the Provision Transfer Date; and
 - 27.9.2 any claim against the GLA or the Successor Body by any Future Transferring Employee whose name is not included on the list provided by the Body pursuant to Clause 27.5 so far as it relates to the dismissal of such Future Transferring Employee within two months of the GLA or Successor Body becoming aware of the transfer of such Future Transferring Employee.

- 27.10 For the purposes of Clause 27.9, in the event that the GLA or the Successor Body incurs costs, liabilities or expenditure in respect of Future Transferring Employees which is greater than would have been the case if the Staffing Information supplied by the Body had been accurate and complete, then such (net) greater costs, liabilities or expenditure will be deemed to be costs suffered or incurred by the GLA or Successor Body and included within the indemnity provided by the Body.
- 27.11 The GLA or Successor Body will be entitled to recover from the Body in full any legal, accountancy and other costs actually and reasonably incurred by the GLA or Successor Body in connection with the costs and liabilities indemnified by the Body.

This Clause 27 will continue in effect for 6 months following the expiry or termination of this Agreement.

28. **Tax Compliance**

- 28.1 The GLA may ask the Body to provide information which demonstrates how the Body complies with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax in respect of that consideration.
- 28.2 The GLA may terminate this Agreement if:
- 28.2.1 (a) in the case of a request mentioned in Clause 28.1 the Body:
- (i) fails to provide information in response to the request within a reasonable time; or
 - (ii) provides information which does not demonstrate either how the Body complies with Clauses 28.1 and 28.3 or why those clauses do not apply to it;
 - (iii) it receives information which demonstrates that it is not complying with its obligations under the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax.
- 28.3 The GLA may supply any information which it receives under Clause 28.1 to HMRC.
- 28.4 If, during the Agreement Period, an Occasion of Tax Non-Compliance occurs, the Body will:
- 28.4.1 (a) notify the GLA in writing of such fact within 5 Working Days of its occurrence; and
- 28.4.2 (b) promptly give the GLA:

- (i) details of the steps it is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors it considers relevant; and
- (ii) such other information in relation to the Occasion of Tax Non-Compliance as the GLA may reasonably require.

29. **Review of Performance and Reconciliation of Funding**

- 29.1 Where the Body receives profile payments from the GLA, payments will be reconciled to cash earned by actual delivery of the Provision or the period to the timetable published in the Funding Rules.
- 29.2 Where the Body's actual delivery will result or has already resulted in an overpayment to the Body by the GLA, the GLA will either:
 - 29.2.1 withhold future payments;
 - 29.2.2 raise an invoice for the amount of the overpayment; or
 - 29.2.3 deduct the amount owed from payments due to the Body under the Agreement for current or subsequent months or years accordingly.
- 29.3 Where the Body's actual delivery has resulted in an underpayment to the Body by the GLA, the GLA will adjust the amount due to the Body accordingly. This adjustment shall not exceed the overall maximum value set out in Schedule 1.
- 29.4 Should there be an under or over payment to the Body, the GLA may, at its absolute discretion, require a variation to the profile payments.
- 29.5 A review will take place at the end of the term of this Agreement in respect of the delivery of the Provision. The GLA will notify the Body of the actual amount of money which has been earned against the Provision delivered and compare this to the total profile payments made and to the overall maximum value specified Schedule 1. At this stage final cash reconciliation will take place. Any overpayment made to the Body by the GLA will be repayable within 30 days of receiving an invoice. The GLA reserves the right to reduce future payments to recover any overpayments. The GLA will pay any outstanding monies owed, up to the overall maximum value specified in Schedule 1 of this Agreement, within 30 days of final reconciliation being completed. Payment will be made via BACS.
- 29.6 The evidence required in respect of each learning programme is set out in the Funding Rules and the Body must retain such evidence for inspection on demand.

30. **Freedom of Information**

- 30.1 The Body acknowledges and agrees that the GLA is subject to legal duties under FOIA, which may require the GLA to disclose on request information relating to this Agreement or otherwise relating to the Body.
- 30.2 The Body acknowledges and agrees that the GLA is required by law to consider each and every request made under FOIA for information.
- 30.3 The Body acknowledges and agrees that all decisions made by the GLA pursuant to a request under FOIA is solely a matter for and at the discretion of the GLA.
- 30.4 Notwithstanding anything in this Agreement to the contrary (including without limitation any obligations of Confidentiality), the GLA shall be entitled to disclose information in whatever form pursuant to a request made under FOIA, save that in relation to any information that is exempt information the GLA shall use reasonable endeavours (but shall not be obliged) to consult the Body and shall not:
- 30.4.1 confirm or deny that information is held by the GLA; or
 - 30.4.2 disclose information requested
- to the extent that in the GLA's opinion the information is eligible in the circumstances for an exemption and therefore the GLA may lawfully refrain from doing either of the things described in clauses 30.4.1 and 30.4.2.
- 30.5 In relation to information relating to the Body or this Agreement which the Body requests should be exempt under the FOIA the Body shall indemnify the GLA for any and all costs (including legal fees) incurred by the GLA in:
- 30.5.1 assessing the application of any exemption under FOIA; and
 - 30.5.2 responding to any FOIA Notice; and/or
 - 30.5.3 lodging any appeal against a decision of the information commissioner in relation to disclosure
- where such costs are incurred pursuant to efforts by the GLA to withhold exempt information.
- 30.6 The GLA shall in no event be liable for any loss, damage, harm or detriment, howsoever caused, arising from or in connection with the disclosure under FOIA of any exempt information or other information whether relating to this Agreement or otherwise relating to the Body.
- 30.7 The Body shall assist the GLA as reasonably necessary to enable the GLA to comply with its obligations under FOIA.

31. Confidentiality**31.1** The Body hereby warrants that:

- 31.1.1 Any person employed or engaged by it (in connection with this Agreement in the course of such employment or engagement) shall treat all Confidential Information belonging to the GLA as confidential, safeguard it accordingly and only use such Confidential Information for the purposes of this Agreement;
- 31.1.2 Any person employed or engaged by it (in connection with this Agreement in the course of such employment or engagement) shall not disclose any Confidential Information to any third party without prior written consent of the GLA, except where disclosure is otherwise expressly permitted by the Provisions of this Agreement;
- 31.1.3 It shall take all necessary precautions to ensure that all Confidential Information obtained from the GLA is treated as confidential and not disclosed (without prior approval) or used other than for the purposes of this Agreement by any of its employees, servants, agents or Subcontractors.

31.2 The provisions of Clause 31.1 shall not apply to any information:

- 31.2.1 which is or becomes public knowledge (other than by breach of this Clause 31.1);
- 31.2.2 which was in the possession of the receiving party, without restriction as to its disclosure, before the date of receipt from the disclosing party; or
- 31.2.3 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 Freedom of Information Act or the Environmental Information Regulations;

31.3 Nothing in this Clause 31.3 shall be deemed or construed to prevent the GLA from disclosing any Confidential Information obtained from the Body:

- 31.3.1 to any Crown Body;
- 31.3.2 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
- 31.3.3 to any professional adviser, consultant, contractor or other person engaged by the GLA directly in connection with this Agreement, provided that such information is treated as confidential by the receiving consultant, contractor or any other person; or

- 31.3.4 on a confidential basis to any proposed successor body in connection with any assignment disposal of its rights, obligations or liabilities under this Agreement;
- 31.4 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the course of the delivery of the Provision, the Body undertakes to maintain adequate security arrangements that meet the requirements of professional standards and best practice;
- 31.5 The Body will immediately notify the GLA of any breach of security in relation to Confidential Information and all data obtained in the course of the delivery of the Provision and will keep a record of such breaches. The Body will use its best endeavours to recover such Confidential Information or data however it may be recorded. The Body will co-operate with the GLA in any investigation that the GLA considers necessary to undertake as a result of any breach of security in relation to Confidential Information or data;
- 31.6 The Body shall, at its own expense, alter any security systems at any time during the period of the Agreement at the GLA's request if the GLA reasonably believes the Body has failed to comply with Clause 31.5;
- 31.7 The GLA reserves the right to publish details of this Agreement and the payments made under it to comply with the Government's transparency requirements;
- 31.8 The Parties agree that the text of any press release or other communication to be published by or in the media concerning the subject matter of this Agreement shall require the approval of each of the Parties which shall not be unreasonably withheld or delayed; and
- 31.9 The provisions of this Clause 31 will apply for the duration of the Agreement and after its termination.
32. **Subsidy Control**
- 32.1 The Body has undertaken its own independent assessment of the compatibility of the applicable UK subsidy control laws and confirms to the GLA that the Provision delivered under this Agreement is structured so it is compliant with applicable UK subsidy control laws.
- 32.2 Where the rules on subsidy control apply, the GLA will supply to the Body details of the records that the Body will need to collect and retain and the Body shall comply with the subsidy control provisions in the Funding Rules or as notified to the Body from time to time.
- 32.3 The GLA reserves the right to require the Body to obtain a contribution towards the cost of the Provision delivered under this Agreement from the employer of any learner. Where a contribution is required, the GLA will confirm to the Body in writing the exact percentage of the contribution.

32.4 Where the GLA requires the Body to obtain a contribution towards the cost of the Provision under Clause 32.3 of this Agreement, the Body must provide evidence that the contribution has been received.

32.5 In the event that any Funding paid under this Agreement is deemed to constitute unlawful subsidy control, the GLA reserves the right to require immediate repayment of any such Funding, together with interest applicable to the same in accordance with the relevant reference rates.

33. Dispute Resolution

33.1 Any dispute, difference or question arising between the parties either during the currency of the Agreement or afterwards shall be referred to the Provider Manager for the GLA and nominated contact for the Body for discussion and review in order to try to resolve the same.

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

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

33.4 In the event of the Dispute Resolution Panel failing to identify a mutually acceptable resolution within 28 days of the date of reference, then the dispute shall be referred to and settled as far as possible by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure.

33.5 Neither Party may commence court proceedings in relation to any dispute arising out of the Agreement until they have attempted to settle it by mediation. Any such mediation may be terminated by either Party at any time of such Party wishing to commence court proceedings.

34. Indemnities and Liabilities

Body Indemnity

34.1 The Body will be responsible for, and will release and indemnify the GLA, its employees and agents on demand from and against all liability from:

(a) death or personal injury caused by its negligence or that of its employees, agents or Subcontractors (as applicable);

(b) breach of statutory duty;

(c) third party actions, claims or demands brought against the GLA as a direct consequence of the Body's breach of this Agreement;

(d) fraud or fraudulent misrepresentation by it, its employees, agents or Subcontractors (as applicable);

(e) loss of or damage to property;

to the extent which the same may arise out of, or in consequence of:

(f) the performance or non-performance by the Body of its obligations under this Agreement; and

(g) in all other respects, any negligent act, default or breach of statutory duty in connection with the performance or non-performance by the Body of its obligations under this Agreement.

Body Not Responsible

- 34.2 The Body will not be responsible for or obliged to indemnify the GLA for any injury, loss, damage, cost and expense caused by the negligence or wilful misconduct of the GLA or by the breach by the GLA of its obligations under this Agreement.

Limitation of Indemnity

- 34.3 Subject to Clause 34.10, an indemnity by either Party under any provision of this Agreement will be without limitation to any indemnity by that Party under any other provision of this Agreement.

Responsibility for Related Parties

- 34.4 The Body will be responsible as against the GLA for the acts or omissions of the Body Related Parties as if they were the acts or omissions of the Body and the GLA will be responsible as against the Body for the acts or omissions of GLA Related Parties as if they were the acts or omissions of the GLA.

Notification of Claims

- 34.5 Where either Party (the "Indemnified Party") wishes to make a claim under this Clause 34 (Indemnities and Liability) against the other (the "Indemnifying Party") in relation to a claim made against it by a third party (a "Third Party Claim"), the Indemnified Party will give notice of the relevant claim as soon as reasonably practicable setting out full particulars of the claim.

Conduct of Claims

- 34.6 The Indemnifying Party may at its own expense and with the assistance and co-operation of the Indemnified Party have the conduct of the Third Party Claim including its settlement and the Indemnified Party will not, unless the Indemnifying Party has failed to resolve the Third Party Claim within a reasonable period (and the Indemnified Party has notified the Indemnifying Party in writing that it is of the opinion that such reasonable period has expired), take any action to settle or pursue the Third Party Claim.

Costs of Claims

- 34.7 The Indemnifying Party may, if it wishes to have conduct of any claim, give reasonable security to the Indemnified Party for any cost or liability arising out of the conduct of the claim by the Indemnifying Party.
- 34.8 The Body's liability to the GLA pursuant to this Clause 34 (Indemnities and Liability) will be, for the avoidance of doubt, without prejudice to any other right or remedy available to the GLA under this Agreement.

No Limit on Liability

- 34.9 Neither Party excludes nor limits its liability to the other Party for:
- 34.9.1 death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors (as applicable); or
 - 34.9.2 any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982; or
 - 34.9.3 fraud by it, fraud by its employees, fraud by its agents or Subcontractors (as applicable); or
 - 34.9.4 any breach of the DPA 2018.

Body Limit on Liability

- 34.10 Subject to Clauses 34.2 (Body Not Responsible) and 34.9 (No Limit on Liability) the liability of the Body for the Agreement Period will be Ten Million Pounds (£10,000,000) in aggregate in respect of all claims, losses or damages, whether arising under any indemnity from tort (including negligence), breach of Agreement or otherwise under or in connection with this Agreement.

Body Aggregate Liability

- 34.11 If the aggregate liability of the Body under Clause 34.10 (Body Limit on Liability) is equalled or exceeded at any time during the Agreement Period, it will entitle the GLA at its discretion to terminate this Agreement pursuant to Clause 40.3 (Termination).

GLA Limit on Liability

- 34.12 With regard to the GLA the total aggregate liability for the Agreement Period will be one million pounds (£1,000,000) and for the avoidance of doubt, this will be in addition to its obligation to pay the Funding as and when it falls due in accordance with this Agreement.

Indirect Loss

- 34.13 Neither Party will be liable to the other Party for any Indirect Loss or indirect damage.

Additional Clauses

- 34.14 The Parties expressly agree that if any limitation or provision contained or expressly referred to in this Clause 34 (Indemnities and Liability) is held to be invalid under any Law, it will be deemed omitted to that extent, and if any party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this Clause 34 (Indemnities and Liability).
- 34.15 Nothing in this Clause 34 (Indemnities and Liability) will act to reduce or affect a Party's general duty to mitigate its loss and for the avoidance of doubt including any circumstances under which a party has the benefit of an indemnity under this Agreement.

No Double Recovery

- 34.16 Neither the GLA nor the Body will be entitled to recover compensation or make a claim under this Agreement in respect of any loss that it or they has or have incurred to the extent that the Party has already been compensated in respect of that loss pursuant to this Agreement or otherwise.

35. Insurance

- 35.1 Without prejudice to its liability to indemnify the GLA under Clause 34 (Indemnities and Liability) the Body must take out and maintain in force or procure the taking out and maintenance of the Required Insurances and any other insurances as may be required by Law. The insurances will be effective in each case no later than the date on which the relevant risk commences.
- 35.2 The Required Insurances referred to in Clause 35.1 will amount to:
- (a) ten million pounds (£10 million) in respect of public liability cover in respect of each and every occurrence;
 - (b) ten million pounds (£10 million) in respect of employer's liability cover in respect of each and every occurrence; and
 - (c) five million pounds (£5 million) in respect of professional indemnity cover in respect of each and every claim.
- 35.3 The GLA reserves the right, at any time, to request evidence that the Required Insurances are in force.

36. Prohibited acts

- 36.1 The Body will not offer or give, or agree to give, to any member, employee or representative of the GLA any gift or consideration of any kind as an inducement or reward for doing or refraining from doing, or for having done or

refrained from doing, any act in relation to the obtaining or execution of this Agreement or any other Agreement with the GLA or for showing or refraining from showing favour or disfavour to any person in relation to this Agreement or any such Agreement.

- 36.2 The Body's attention is drawn to the criminal offences created by the Bribery Act 2010. Any offence by the Body or its employees or by anyone acting on its behalf under the Bribery Act 2010 in relation to this Agreement or any Agreement with the GLA or Her Majesty's Government will entitle the GLA to terminate the Agreement and recover from the Body the amount of any loss resulting from such termination and/or to recover from the Body the amount of value of any gift, consideration or commission.
- 36.3 The Body must not use any Funding provided by the GLA under this Agreement for any of the purposes set out in paragraphs 16 - 19 of the Cabinet Office: [Guidance for General Grants](#), regardless of whether the Funding consists of a general grant or any other type of grant. For the avoidance of doubt, the Body's costs of memberships for their associations are deemed eligible under the terms of the Agreement
- 36.4 The Body will not hold itself out as acting on behalf of the GLA without the GLA's permission.

37. **Additional Conditions of Funding**

- 37.1 The GLA reserves the right to impose additional conditions of funding where it considers it is necessary to do so to secure the delivery of education and training of a reasonable quality by the Body, or to ensure that the resources provided by the GLA are being used effectively and efficiently.

38. **Breach**

- 38.1 For the purpose of this Clause 38, the following definitions shall have the meanings set out below:

38.1.1 **"Minor Breach"** shall mean a delay or non-performance by either Party, including any Body Related Parties, of its obligations, in part or in full, under this Agreement which does not materially, adversely or substantially affect the performance or delivery of the Provision, in part or in full, or the Provision of a safe, healthy and supportive learning environment; and

38.1.2 **"Serious Breach"** shall mean any breach which adversely, materially and substantially affects the performance or delivery of the Provision, in part or in full, or the provision of a safe, healthy and supportive learning environment. Serious breach includes but is not limited to:

a breach of security that adversely affects the Personal Data or privacy of an individual; or

failure to comply with Law, or acts or omissions by the Body that endanger the health or safety of students.

38.2 For the avoidance of doubt:

- 38.2.1 neither Party shall be liable for any Minor Breach or Serious Breach under this clause, which occurs as a direct result of any act or omission by the other Party, its staff or agents; and
- 38.2.2 in the event of a breach the Party not in breach may enforce the clauses in this Agreement relating to breach even if it has not done so in the event of earlier breaches.

Minor Breach

- 38.3 Without prejudice to any other remedy, in the event of a Minor Breach, 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.
- 38.4 If the Party in breach fails to remedy the Minor Breach within the time specified in notice served under Clause 38.3, or such other period as may subsequently be agreed in writing between the Parties, it shall constitute a Serious Breach by the Party in breach.

Serious Breach

- 38.5 Without prejudice to any other remedy, in the event of a Serious Breach, which in the view of the GLA is capable of remedy, the Parties shall adopt the following procedure:
 - 38.5.1 the Party not in breach shall be entitled to serve written notice on the other Party giving full details of the breach and requiring the Party in breach to remedy the breach within a specified time period;
 - 38.5.2 in the event that a Serious Breach of this Agreement by the Body is in the view of the GLA not, or cannot be, remedied within the period specified in the notice served under Clause 38.5.1, or such other period as may subsequently be agreed in writing between the Parties, the GLA may:
 - 38.5.2.1 require the Body to suspend recruitment of Learners, and cap growth of Learning Programmes in future years, to the Provisions to which the Serious Breach relates;
 - 38.5.2.2 give consideration to the Serious Breach in its allocations when finalising the amount of Funding in any subsequent Agreement(s) between the Parties;

- 38.5.2.3 reduce, suspend or recover payment to the Body in respect of that part of the Provision to which the Serious Breach relates; or
 - 38.5.2.4 terminate, in accordance with Clause 40 (Termination), in full or in respect of that part of the Provision to which the Serious Breach relates.
- 38.6 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 38.5.1 or such other period as may be agreed in writing between the Parties, the Party not in breach may at its sole discretion terminate this Agreement or that part of the Provision to which the breach relates with immediate effect on notice in writing to the other Party.

39. **Withholding, Suspension and Repayment of Funding**

- 39.1 Without prejudice to the GLA's other rights and remedies, the GLA may at its discretion withhold or suspend payment of Funding if one or more of the following applies:
- 39.2 the Body materially breaches any of the terms or conditions of this Agreement;
 - 39.3 the GLA, acting reasonably, has concerns:
 - 39.3.1 about the standard of Provision that the Body is delivering or has delivered including in respect of one or more standard or framework; and / or
 - 39.3.2 that the quality of leadership at the Body is such that one or more Learner has no reasonable prospect of achieving their training objective; and / or
 - 39.3.3 that Learners may be at risk on safeguarding grounds;
 - 39.4 an Awarding Organisation is taking remedial and / or enforcement action against the Body;
 - 39.5 the GLA has reasonable grounds to suspect fraud, financial irregularity, dishonesty, negligence or practice by any of the Body and / or one or more Body Related Party;
 - 39.6 the GLA has concerns about the completeness, accuracy or promptness of the data submitted by the Body on the ILR in relation to this Agreement or, subject to Clause 39.12 any other agreement;
 - 39.7 any employee of the Body or any other Body Related Party has acted or failed to act in a way which, in the reasonable opinion of the GLA, brings or is likely

- to bring the GLA's name, brand or reputation or the Mayor of London brand into disrepute;
- 39.8 the Body was not entitled to Funding under the Funding Rules in relation to one or more Learner;
- 39.9 there occurs, in respect of the Body, any Insolvency Event which, in the reasonable opinion of the GLA, may affect the Body's ability to comply with its obligations under this Agreement; and / or
- 39.10 the Body fails to comply with any of the provisions set out in this Agreement (including the provisions in the Funding Rules and / or any requirements) and fails to rectify any such failure within 30 days of receiving written notice from the GLA (or such other timescale specified in the notice) detailing the failure and requiring it to rectify the failure;
- 39.11 A right to withhold, suspend and / or require repayment of the Funding is set out in other provisions in this Agreement.
- 39.12 If under Clause 39.6 some or all of the GLA's concerns about the completeness, accuracy or promptness of data relate to data submitted under an agreement other than this Agreement, then such concerns are relevant to the extent that they undermine the GLA's confidence in the Body's ability to comply with its obligations to submit complete or accurate or prompt data in relation to this Agreement.
- 39.13 The right to suspend Funding in accordance with Clause 39.1 includes the right to:
- 39.14 suspend the payment of Funding to the Body in relation to current Learners for a specified period; and / or
- 39.15 not consider any applications or pay any Funding for new Learners for a specified period.
- 39.16 Where the GLA suspends Funding in accordance with the terms of this Agreement, it shall notify the Body in writing of the suspension and its duration as well as the intervals at which the suspension will be reviewed to see whether the suspension should be withdrawn or extended.
- 39.17 The GLA reserves the right to recover from the Body any Funding paid to a Body where the payment of Funding , breaches the Funding Rules or the entitlement to Funding was based on wrong, inaccurate or misleading information.
- 40. Termination**
- 40.1 Without prejudice to any other remedy, on the occurrence of a Serious Breach that is not capable of being remedied the GLA shall be entitled to terminate

this Agreement, in respect of that part of the Provision to which the Serious Breach relates, by notice to the Body with immediate effect.

- 40.2 The GLA shall be entitled to terminate this Agreement on written notice in the circumstances as detailed in clause 10 above (Quality Assurance and Raising Standards). The period of notice shall be that which, in all the circumstances, the GLA deems reasonable.
- 40.3 The GLA may terminate this Agreement with immediate effect in the event that in its reasonable opinion the conduct of the Body in performing its obligations under this Agreement amounts to a Serious Breach of the Agreement, which is incapable of remedy. For the avoidance of doubt this will include but not be limited to:
 - 40.3.1 an Insolvency Event affecting the Body occurs; or
 - 40.3.2 Regulation 73(1) (b) of The Public Contracts Regulations 2015 applies to the Body; or
 - 40.3.3 the Body commits one or more Prohibited Acts; or
 - 40.3.4 any other Body breach has occurred that is incapable of remedy.
- 40.4 The GLA reserves the right to terminate this Agreement with immediate effect by giving notice in writing if the Body:
 - 40.4.1 the outcome of any financial health and/or control assessment undertaken in relation to the Body is inadequate; and/or
 - 40.4.2 the Body fails to comply with requirements imposed under Clauses 10.14.1 and/or 10.14.2; and/or
 - 40.4.3 the Body fails to comply with requirements imposed under Clause 11 (Support and Intervention); and/or
 - 40.4.4 an inspection results in the Provision in part or overall thereof being assessed as inadequate; and/or
 - 40.4.5 in accordance with Clause 13.1.5 an Inspectorate monitoring visit results in the Provision being assessed as having made “insufficient progress” and in the reasonable view of the GLA Learners may be at immediate risk on safeguarding grounds, and/or the quality of leadership and/or training provision is such that one or more Learner has no reasonable prospect of achieving his or her training objective; and/or

- 40.4.6 receives a “qualified” rating in two consecutive full funding audits; and/or
- 40.4.7 the Body commits a Serious Breach of Clause 6; and/or
- 40.4.8 The Body commits a Serious Breach of Clause 36.3.
- 40.5 The GLA shall be entitled to terminate this Agreement on written notice if the Body does not recruit or data returns reveal that no Learners have been enrolled for the academic year to which this Agreement relates. Where the GLA terminates the Agreement under this Clause 40.3, the GLA will withdraw the allocation of Funding for the academic year and will take action to recover Funds where payments have already occurred.
- 40.6 The GLA shall be entitled to terminate this Agreement on written notice in the event that any of the Funding is deemed to be an unlawful subsidy.
- 40.7 In addition to the rights of termination under any other clauses of this Agreement, either party shall be entitled to terminate this Agreement in respect of all or part of the Provision delivered under this Agreement by giving to the other not less than six months' notice, in writing, to that effect without the need to give a reason for termination. Where this right is exercised by the Body it shall be implemented at no cost to the GLA.
- 40.8 The Body must notify the GLA in writing if there is a change in its name and/or ownership at least twelve weeks prior to the change taking effect. The GLA reserves the right to terminate the Agreement if it considers in its absolute discretion that the change in ownership would prejudice the Body's ability to deliver the Provision.
- 40.9 Termination under this Clause 40 shall not prejudice or affect any right of action or remedy, which shall have accrued or shall thereupon accrue to the Parties under this Agreement.
- 41. **Consequences of Termination and Expiry**
- 41.1 The termination of this Agreement howsoever arising is without prejudice to the rights, duties and liabilities of either Party accrued prior to termination. The clauses of this Agreement which expressly or impliedly have effect after termination or expiry will continue to be enforceable notwithstanding termination in accordance with Clause 53 (Continuing Obligations).
- 41.2 On or before the Expiry Date (except where the Body will be responsible for delivering the Provision in the subsequent Funding year) or Termination Date, the Body must ensure that all documents or computer records in its possession, custody or control including but not limited to e-portfolios, which contain information relating to the Provision including any documents in the possession, custody or control of a Subcontractor are made available upon request to the GLA.

- 41.3 For the avoidance of doubt, after notice of termination and/or an Insolvency Event affecting the Body, the Body must not share any information about Learners, including but not limited to GLA's Data, with another organisation unless the GLA provides written authorisation for the Body to do so. In addition, the Body shall not recruit Learners from another body that has been issued with a notice of termination and/or in relation to whom an Insolvency Event has occurred, without the permission of the GLA.
- 41.4 The Body hereby grants the GLA a non-exclusive licence to access the Body's Premises from the date of a notice of termination for such periods as may be reasonably necessary to enable the GLA to retrieve the information referred to in Clause 41.2. The GLA will exercise the rights provided under this clause where the Body has failed to comply with Clause 41.2.
- 41.5 The termination or expiry of this Agreement shall be without prejudice to rights of either Party accrued prior to the Termination Date or Expiry Date and shall not affect the continuing rights of the Parties under any provision of the Agreement that either expressly or by implication has effect after the Termination Date or the Expiry Date.
- 41.6 The GLA reserves the right to retain Funding that would otherwise be paid to the Body prior to the Expiry Date or Termination Date and/or to demand repayment of Funding, as relevant, in order to reconcile what has already been paid to the Body under this Agreement with the amount the Body is entitled to under this Agreement (including the Funding Rules).
- 41.7 Where this Agreement is terminated or expires, the GLA may elect to take the role of Data Controller to secure and protect Learner Files, including e-portfolios until the Learner information can be transferred to a new Provider, the Learner, or destroyed in accordance with defined retention periods. If the Body elects to assume this role, the Body shall co-operate fully to facilitate this.
42. **Exit Arrangements**
- 42.1 The Body must create and update an Exit Plan in a form required by the GLA from time to time.
- 42.2 The GLA and the Body must, unless the Body will be responsible for delivering the Provision in the following Funding Year, comply with the exit arrangements set out in any current Exit Plan.
- 42.3 On expiry or termination of this Agreement for any reason, the Body shall do its utmost to minimise any disruption to Learners and shall cooperate fully with any reasonable requests made by the GLA relating to this. For the avoidance of doubt the GLA will be entitled to request that where the Body cannot complete Learners that it will co-operate in transferring the Learners to a new provider even if this is prior to the Termination Date or Expiry Date of this Agreement and the Body's Exit Plan should reflect this. The GLA will not be liable for any costs prior to or after the Termination Date or Expiry Date incurred by the Body in complying with this Clause 42.3.

- 42.4 Unless the GLA otherwise requires, during the time between service of a notice of termination of this Agreement in whole or in part and such termination taking effect, the Body must take all steps, which are necessary and consistent with its continuing obligations, to mitigate any losses, costs, liabilities and expenses which the Body may incur as a result of the termination, including to:
- 42.4.1 cancel all capital and recurring cost commitments in connection with the Provision on the most cost effective terms without fettering the GLA's access to GLA's Data;
 - 42.4.2 terminate all relevant Agreements or the relevant parts of relevant Agreements with its Subcontractors in connection with the Provision on the most favourable terms as can be achieved in the particular circumstances, having first ascertained from the GLA whether such Agreements are required to be transferred to the GLA or any Successor Body instead; and
 - 42.4.3 reduce labour costs by the redeployment or release of Body's Personnel to the extent possible in the circumstances.
- 42.5 If the Body does not fulfil its obligations in accordance with Clause 42.4, the GLA will not pay any sums in excess of those which the GLA would have paid had such action been taken.
- 42.6 If the Body does not co-operate with the GLA in relation to exit in accordance with this Clause 42 and the GLA incurs additional expenditure of any description as a result, the GLA reserves the right to require the Body to reimburse the GLA for this additional expenditure.
43. **Recovery of Funds**
- 43.1 The GLA reserves the right to require the Body to repay all or part of the funds provided by it in the event of a breach of the terms and Conditions of Funding set out in this Agreement or any previous Agreement between the GLA or any predecessor body.
- 43.2 The GLA shall be entitled to recover any sums repayable by the Body by deducting them from payments due to the Body under this Agreement.
44. **Provision of Information**
- 44.1 In addition to the other requirements to provide information set out in this Agreement the GLA reserves the right to request information from the Body in order to exercise GLA's responsibilities and/or to fulfil requirements to provide information to another body. On occasion, the GLA will require urgent information from the Body.
- 44.2 The Body shall provide the GLA or agents acting on its behalf with the information it requires under Clause 44.1 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.

- 44.3 Failure to comply with any request for information under Clause 44.1, at all or in the required timescales, will constitute a Minor / Serious Breach of this Agreement

45. The Agreement and its Acceptance and Execution

45.1 This Agreement:

- 45.1.1 constitutes the entire agreement between the parties and shall not be varied except by an instrument in writing signed by the parties;

- 45.1.2 may be executed validly by and on behalf of the Parties by the:

- 45.1.2.1 GLA's electronic application of a duly authorised officer's signature to it and uploading of this signed Agreement to GLA OPS; and

- 45.1.2.2 Body's irrevocable and absolute acceptance of the offer (that offer made by the GLA's signature and uploading of this signed Agreement as per Clause 45.1.2.1) such acceptance being made by an officer of the Body clicking the "accept" button on the "Contracts" section of the "Organisation Profile" page on GLA OPS.

- 45.2 The Body represents and warrants and acknowledges and agrees that it is a condition of this Agreement that the Body, has read and understood this Agreement, agrees to be bound legally by it and that the officer clicking the "accept" button on the "Contracts" section of the "Organisation Profile" page on GLA OPS (as per Clause 45.1.2.2) is duly authorised to do so for and on behalf of and can legally bind the Body.

- 45.3 Any breach by the Body of this Clause 45 shall constitute a Serious Breach of this Agreement.

46. Effective Date

- 46.1 The terms and conditions set out in this document will take effect from 1 August 2023 and will be reviewed on or before 31 July 2024 ("the Term").

47. Severability

- 47.1 If any term, condition or provision contained in this Agreement is held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will not affect the validity, legality or enforceability of the remaining parts of this Agreement.

48. Law and Jurisdiction

- 48.1 This Agreement is governed by the Laws of England and Wales and, subject to Disputes which are properly referred to and resolved in accordance with the

Dispute Resolution Procedure, the Parties submit to the exclusive jurisdiction of the courts of England and Wales.

49. Interest on late payments

- 49.1 The Parties will pay interest on any amount payable under this Agreement not paid by the required date, from that date to the date of payment at the rate of 4% above the base lending rate published by the Bank of England. The Parties agree that this clause constitutes a substantial remedy for the purposes of the Late Payments of Commercial Debts (Interest) Act 1998. For the avoidance of doubt, the Body will have no right to claim interest on corrections issued by the GLA.

50. Mitigation

- 50.1 The GLA and the Body will at all times take all reasonable steps to minimise and mitigate any loss for which the relevant Party is entitled to bring a claim against the other Party pursuant to this Agreement and to take all reasonable steps to minimise and mitigate any effects or circumstances and/or events adversely affecting the performance of its obligations under this Agreement which would otherwise entitle that Party to relief and/or to claim compensation hereunder.

51. Further Assistance

- 51.1 Each Party must do all things and execute all further documents necessary to give full effect to this Agreement.

52. Third party rights

- 52.1 No term of this Agreement is enforceable under the Agreements (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

53. Continuing obligations

- 53.1 Save as otherwise expressly provided in this Agreement:
- 53.1.1 the termination or expiry of this Agreement will be without prejudice to any accrued rights and obligations under this Agreement as at the Expiry Date or the Termination Date; and Agreement as at the Expiry Date or the Termination Date; and
 - 53.1.2 the termination or expiry of this Agreement will not affect the continuing rights or obligations of the GLA and the Body under any provision of this Agreement which is expressed to survive expiry or termination or which is required to give effect to such expiry or termination or the consequences of such expiry or termination for a period of six (6) years, after such expiry or termination.

IN WITNESS of which this Agreement has been duly executed by the Parties as per Clause 45: a GLA officer applying their signature electronically below:

SIGNED for and on behalf of **the Greater London Authority** by:

Signature.....

Name.....Michelle Cuomo Boorer

Position.....Assistant Director, Skills & Employment Unit

Date.....[INSERT DATE] 2023

; and

an officer of the **Body** clicking the “accept” button on the “Contracts” section of the “Organisation Profile” page on GLA OPS.

Schedule 1

Summary of Adult Education Budget Funding 2023/2024

Provider name - UKPRN:	«GA_Provider_Name» - UKPRN	
Academic Year:	2023/24	
Allocation – maximum value £:	«Allocation__Innovation_Fund__Covid19__»	
of which, Community Learning £:	«Of_which_ACL»	Payment profile set out in Table 1.
of which, FCFJ Funding £:	(Add source field)	

Table 1

MONTH	Aug (P1)	Sep (P2)	Oct (P3)	Nov (P4)	Dec (P5)	Jan (P6)	Feb (P7)	Mar (P8)	Apr (P9)	May (P10)	Jun (P11)	Jul (P12)	Total
ALLOCATION PROFILE %	14.44%	8.58%	8.67%	7.08%	5.69%	7.44%	5.39%	5.36%	12.69%	10.21%	8.70%	5.75%	100.00%
MONTHLY PAYMENTS £	«Aug_P1»	«Sep_P2»	«Oct_P3»	«Nov_P4»	«Dec_P5»	«Jan_P6»	«Feb_P7»	«Mar_P8»	«Apr_P9»	«May_P10»	«Jun_P11»	«Jul_P12»	«TOTAL1»
CUMULATIVE PAYMENTS £	«Cumulative_P1»	«Cumulative_P2»	«Cumulative_P3»	«Cumulative_P4»	«Cumulative_P5»	«Cumulative_P6»	«Cumulative_P7»	«Cumulative_P8»	«Cumulative_P9»	«Cumulative_P10»	«Cumulative_P11»	«Cumulative_P12»	

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London
E16 1ZE

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MAYOR OF LONDON

Conditions of funding (Grant)

Jobs and Skills for Londoners

Dated: 1st August 2023

- (1) The Greater London Authority
 - (2) Provider
-

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**Greater London Authority
February 2023**

Published by
Greater London Authority
City Hall
Kamal Chunchie Way
London
E16 1ZE

www.london.gov.uk
enquiries 020 7983 4000
minicom 020 7983 4458
ISBN
Photographs ©
Copies of this report are available
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Conditions of Funding (Grant)

1. Introduction

- 1.1 This Agreement is made between GREATER LONDON AUTHORITY and PROVIDER NAME, Provider Address (insert mail-merge field), Company Reg Number or Charity Number (insert mail-merge field), UKPRN UKPRN NUMBER (insert mail-merge field) (“the Body”) regarding the amount of Funding to be paid to the Body for the Skills & Jobs for Londoners for the Agreement Period as set out in Schedule 1.
- 1.2 The Funding allocation(s) by the GLA is made subject to the conditions set out in this Agreement and any documents referred to herein.

2. Definitions

“Active Support”	means the process by which the GLA works with Bodies when the GLA has evidence that there is risk of failure, either financial and/or quality as per published GLA policy, Managing Provider Performance.
“Agreement”	means these Conditions of Funding, the attached Appendices to the Conditions of Funding and any documents or parts thereof, policies or guidance specified in this Agreement and any variation to the Agreement accepted by the GLA in OPS as at the date of this Agreement (as the same may be amended, added to, supplemented, substituted or varied in accordance with the terms of this Agreement).
“Agreement Date”	means that later of the date(s) upon which each of the GLA and Body execute this Agreement in accordance with Clause 44.
“Agreement Period”	means the period between the Agreement Date and the Expiry Date, unless terminated earlier on the Termination Date.
“Awarding Organisation”	means an organisation that is regulated by Ofqual or is recognised by QAA as an access validating agency.
“Barred List”	means the list of individuals who are barred from engaging in regulated activity with Children, adults or

	both in England and Wales maintained by the Disclosure and Barring Service.
“Body”	means the Body with whom this Agreement is made with the GLA.
“Body Personnel”	means all persons employed or engaged by the Body together with the Body’s servants, agents, consultants and sub-contractors (and all persons employed by any sub-contractor together with the sub-contractor’s servants, consultants, agents, Body’s and sub-contractors) used in the performance of its obligations under this Agreement.
“Body Related Parties”	means any employee, officer, consultant, agent or any other person whatsoever acting for or on behalf of the Body or otherwise under the Body's control and direction (including but not limited to subcontractors).
“Brokerage”	means where a third-party matches, for a fee, the Body with an unused allocation with a provider that can secure enrolments of learners to utilise it.
“Business Continuity Plan”	any plan prepared pursuant to Clause 7.18, as may be amended from time to time;
“Child” or “Children”	shall have the meaning given to it in Section 60 of the Safeguarding Vulnerable Groups Act 2006.
“Confidential Information”	means any information, including Personal Data as defined by the Data Protection Act 2018, and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Parties including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked "confidential").
“Crown Body”	means any department, office or agency of the Crown, including Ofsted, the Care Quality Commission, the Charity Commission, the Office for Students, any and all Local Authority or Combined Authority bodies.
“Data Protection Laws”	means all applicable Law and binding and non-binding guidance and codes of practice by relevant Supervisory Authorities relating to data protection, the processing of personal data and privacy, including (to the extent and so long as it remains in force): (1) the

	General Data Protection Regulation (EU) 2016/679 (“GDPR”); (2) the Data Protection Act 2018; (3) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the proposed EU Regulation on Privacy and Electronic Communications) and references to “Controller”, “Data Subjects”, “Personal Data”, “Processor”, “Process”, “Processed”, “Processing”, “Special Personal Data”, “Sensitive Personal Data” and “Supervisory Authority” have the meanings set out in, and will be interpreted in accordance with the Data Protection Act 2018 and General Data Protection Regulation (EU) 2016/679.
“Department”	means the Secretary of State for Education and the Department for Education which incorporates its Executive Agency, the Education and Skills Funding Agency “ESFA”.
“Disclosure and Barring Service” or “DBS”	means the non-departmental public body established pursuant to the Protection of Freedoms Act 2012.
“Dispute Resolution Procedure”	means the procedure for resolving disputes as set out in Clause 32 (Dispute Resolution).
“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 Agreement or otherwise relating to the Body, which potentially falls within an exemption to FOIA (as set out therein).
“Exit Plan”	means the plan created by the Body in accordance with Clause 41.
“Expiry Date”	means 31st October 2025.
“FE Commissioner”	means the Further Education Commissioner or their office.
“FOIA”	means the Freedom of Information Act 2000 and all regulations made there under 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 18.
“FOIA Notice”	means a decision notice, enforcement notice and/or an information notice.

“Funding Rules”	means the documents produced by GLA which set out the detailed requirements with which the Body must comply in respect of the Provision delivered under this Agreement as may be amended by the GLA from time to time.
“Funds or Funding”	means the monies paid by the GLA to the Body pursuant to this Agreement and the Funding Rules for the delivery of Provision.
“Future Transferring Employees”	means those employees of the Body and/or the Body’s Subcontractors to whom TUPE will apply on the Provision Transfer Date.
“GDPR Principles”	means as set out in Article 5 the GDPR.
“GLA”	means the Greater London Authority.
“GLA Policies”	means the policies, guidance and other instructions issued or published by the GLA that relate to Skills & Jobs for Londoners provision and this funding agreement.
“Good Industry Practice”	means the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector.
“Guidance”	means any applicable guidance or directions with which the Body is bound to comply.

“High Needs Learner”	means a Learner aged 16 to 18 with high levels of SEND, supported with top-up funding from the high needs budget, or any young person aged 19 to 25 subject to an Education Health and Care Plan, who requires additional support costing over £6,000.
“Indirect Losses”	means loss of profits, loss of production, loss of business, loss of business opportunity, or any claim for consequential loss or for indirect loss of any nature.
“ILR” or “Individualised Learner Record”	means the on-going collection of Learner data undertaken by training providers including the Body in the Further Education (FE) and Skills sector as set out at Individualised Learner Record (ILR) - GOV.UK (www.gov.uk)
“ILR Data”	means Individualised Learner Record data.

“Insolvency Event”	<p>means, in respect of the Body:</p> <p>(a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or</p> <p>(b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or</p> <p>(c) a petition is presented for its winding up (which is not dismissed within 14 Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or</p> <p>(d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or</p> <p>(e) an application order is made either for the appointment of an administrator or for an administration order, an education administrator or administrator is appointed, or notice of intention to appoint an administrator is given; or</p> <p>(f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or</p> <p>(g) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986, in so far as the Body is a further education corporation, the above shall apply as amended by the Technical and Further Education Act 2017;</p>
“Inspectorates”	<p>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 Care Quality Commission (CQC) and the Office for Students (OfS).</p>

“Intervention”	means the process through which the GLA or the Department requires the Body to take steps to improve financial or quality performance in circumstances as per the published policies of those organisations.
“Law”	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Body is bound to comply.
“Learner”	means any third party including any student or similar to whom the Body is required to deliver the Provision.
“Learner Files”	means any information relating to a Learner generated by the Body, 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 Body under this Agreement.
“Local Provision Review”	means a review conducted by the Further Education Commissioner to consider overall provision for Learners in a geographical area, which will include consideration of options for delivering quality provision in that area.
“London Learner Survey”	means a London-wide survey of participants commissioned by the GLA that will measure the extent to which participants progress into further learning or employment, as well as measures of health, wellbeing and social integration. More information is available on the GLA website .
“Maximum Agreement Value”	means the value set out as such at Schedule 1.
“Minor Breach”	means a delay or non-performance by either Party of its obligations, in part or in full, under the Agreement which does not materially, adversely or substantially affect the performance or delivery of the Provision, in part or in full, or the provision of a safe, healthy and supportive learning environment.

“Monitoring Visits” and “New Provider Monitoring Visits”	<p>“Monitoring Visits” and “New Provider Monitoring Visits” means a type of visit carried out by Ofsted, which explores one or more specific themes, with the purpose of assessing progress against these themes, promoting improvement and assessing risk. Such inspections may apply to new further education colleges starting to deliver Provision directly funded by the Department, or where the college is a newly merged college, or other reasons as set out in their published Further education and skills handbook - gov.uk (www.gov.uk)</p>
“Notice to Improve”	<p>means a notice issued to the Body in those instances where the Department has placed the Body in Intervention for financial reasons. Such a notice may include additional conditions of funding as well as the time period for improvement and compliance by the Body.</p>
“Occasion of Tax Non-Compliance”	<p>means:</p> <p>(a) any tax return of the Body submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:</p> <ul style="list-style-type: none"> (i) a Relevant Tax Authority successfully challenging the Body under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; (ii) the failure of an avoidance scheme which the Body was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or <p>(b) any tax return of the Body submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Effective Date or to a civil penalty for fraud or evasion;</p>

“Offender Manager”	means an officer from Her Majesty’s Prison and Probation Service who is working directly with an offender serving their sentence in the community.
“Office for Students (OfS)”	means the non-departmental public body of the Department that acts as the regulator and competition authority for the Higher Education sector in England;
“Ofsted”	means the Office for Standards in Education, Children's Services and Skills.
“OPS”	means the "GLA Open Project System", being the GLA’s on-line management information system (MIS), or any successor system and/or any other system which performs any of the same functions and which GLA notifies to the Body from time to time.
“Parties”	means the GLA and the Body.
“Premises”	means the location(s) where the Provision is to be performed.
“Prohibited Acts”	means the acts specified in Clause 35 (Prohibited Acts).
“Provider Manager”	means the person(s) identified by the GLA to manage the relationship with the provider.
“Provision”	means the education and training to be delivered by the Body under this Agreement.
“Provision Transfer”	means any transfer of the Provision (or any part of the Provision), for whatever reason, from the Body or any Subcontractor to a Successor Body.
“Provision Transfer Date”	means the date of a Provision Transfer or, if more than one, the date of the relevant Provision Transfer as the context requires.
“Regulated Qualification Framework” or “RQF”	means a system for cataloguing all qualifications regulated by Ofqual.
“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 Agreement or any other affairs of the Body or the GLA, including, without limitation Ofsted, the European Commission and the European Court of Auditors.

“Serious Breach”	shall mean any breach defined as a Serious Breach in the Agreement or any breach or breaches which adversely, materially or substantially affect the performance or delivery of the Provision or compliance with the terms and conditions of the Agreement or the provision of a safe, healthy and supportive learning environment or a breach of security that adversely affects the Personal Data or privacy of an individual. Failure to comply with Law, or actions or omissions by the Body that endanger the Health or Safety of Learners, Body Personnel, and all other persons including members of the public would constitute a Serious Breach.
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<p>“Staffing Information”</p>	<p>means in relation to all persons identified on the Body's Personnel, as the case may be, such information as the GLA may reasonably request (subject to all applicable provisions of the Data Protection Laws), 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 (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 TUPE.
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“Subcontract”	means an agreement entered into between the Body and a Subcontractor for the purposes of engaging the Subcontractor to deliver some or all of the Provision on behalf of the Body.
“Subcontractor”	means a separate legal entity that has an agreement with the Body to deliver any element of the education and training we fund. A separate legal entity includes companies in the Body's group, other associated companies and sole traders. It also includes individuals who are self-employed or supplied by an employment agency, unless those individuals are working under the Body's direction and control, in the same way as the Body's own employees.
“Sub-Processor”	means any third Party appointed to process Personal Data on behalf of that Processor related to this Agreement.
“Subsidy Control”	means the UK Government's rules on the provision of subsidies
“Successor Body”	means the person nominated by the GLA to deliver the provision substantially the same as the Provision after the termination of this Agreement;
“TUPE”	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or replaced or any other Regulation implementing the Acquired Rights Directive 77/187/EC.
“Termination Date”	means any date on which this Agreement terminates in accordance with Clause 39..
“Working Day”	means a day (other than a Saturday or Sunday) on which banks are open for domestic business in the City of London.

3. The Agreement

- 3.1 The Provision to be delivered by the Body under this Agreement is set out in Schedule 2. The funds which the GLA agrees to pay to the Body are set out in Schedule 1 of this Agreement.
- 3.2 The Body will comply (and will ensure that any sub-contractor complies) with the GLA Policies.

- 3.3 The Agreement Period will commence on the Agreement Date and terminate or expire on the earlier of:
- 3.3.1 the Expiry Date;
- 3.3.2 the Termination Date.
- 3.4 The provision of the Funding amounts to a conditional gift and is therefore not subject to Value Added Tax (VAT). If, at any time, it is held by the UK government to be subject to VAT, then the Body agrees and acknowledges that the Funding shall have included any and all applicable VAT.
4. **Delivery of Provision**
- 4.1 The detailed requirements in respect of each learning programme are set out in the Funding Rules as amended and updated from time to time by the GLA and which form part of the terms and conditions of this Agreement.
- 4.2 The maximum value of the Jobs and Skills for Londoners budget, or for learning Provision excluded from this budget, as shown in Schedule 1, may not be exceeded for any reason, except by an agreed variation through OPS to this Agreement. The GLA will not be liable to make any payment in excess of the maximum values set out above or as varied through OPS. Where the Agreement Period is longer than one year, Funding for subsequent years is subject to funds being made available to the GLA.
- 4.3 The maximum value of each Learning Programme as shown in Schedule 1 of this Agreement may not be exceeded for any reason. The GLA will not be liable to make any payment in excess of the maximum value of each Learning Programme unless this has been agreed and evidenced by a variation in writing.
- 4.4 The Provision is to be delivered in accordance with any specific requirements of the GLA.
- 4.5 The GLA reserves the right to give the Body three months' notice to reduce the overall maximum value for any learning programme without the need to give a reason.
- 4.6 The Body must ensure appropriate members of staff register as users on OPS. It is the Body's responsibility to maintain appropriate user roles on an on-going basis.
- 4.7 The GLA and the Body will each nominate a contact for the purpose of dealing with queries and issues under this Agreement and advise the other of the contact details.
- 4.8 Where the Body's actual delivery, as against the Maximum Agreement Value, will result or has already resulted in an overpayment to the Body by the GLA, the GLA will withhold from, or deduct the amount owed from, payments due to

the Body under the Agreement for current or subsequent months or years accordingly.

- 4.9 Where the Body's actual delivery, as against the Maximum Agreement Value, has resulted in an underpayment to the Body by the GLA, the GLA will adjust the amount due to the Body accordingly. This adjustment shall not exceed the Maximum Agreement Value for each financial year and each funding year as set out in Schedule 1 of this Agreement.
- 4.10 Should there be an under or over payment to the Body, the GLA will consider the underlying causes for that, in accordance with the Funding Rules and, may at its absolute discretion require an Agreement variation to amend the Maximum Agreement Value.
- 4.11 An Agreement review will take place after the end of each funding year and at the end of the period of this Agreement in respect of the Provision specified in Schedule 1 of this Agreement. The GLA will notify the Body of the actual amount of money, which has been earned against the Provision delivered, and compare this to the total payments made and to the overall maximum agreement value specified in Schedule 1. At this stage final cash reconciliation will take place. Any overpayment made to the Body by the GLA will be repayable within 30 days of receiving an invoice. The GLA reserves the right to set off any amounts owing due to the Body under any other contract it has with the GLA. The GLA will pay any outstanding monies owed, up to the Maximum Agreement Value as specified in Schedule 1 of this Agreement, within 30 days of final reconciliation being completed.
- 4.12 The evidence required in respect of each Learning Programme is set out in the Funding Rules and the Body must retain such evidence for inspection on demand.
- 4.13 The GLA reserves the right to amend the basis of the calculation of the Body's actual delivery depending on arrangements yet to be agreed between the GLA and the Education and Skills Funding Agency. The GLA will reconcile this funding at the end of the funding year based on the annual final funding claim and evidence the Body has provided. The GLA will recover any overpayments.

5. Performance Monitoring

- 5.1 The Body must put in place the necessary internal control framework, including an internal audit function to ensure that it meets its obligations and those of its sub-contractors under this Agreement.
- 5.2 The Body acknowledges and agrees that, notwithstanding any provision of this Agreement which contemplates that the GLA will or may from time to time:
- (a) monitor or inspect any performance of the Provision;
 - (b) check compliance by the Body with its obligations;

(c) confirm or indicate approval of or non-objection to proposals made by the Body;

or (d) request that the Body makes a Change to the Provision; it will always be fully the responsibility of the Body, and not the responsibility of the GLA, to ensure that the Provision is delivered in all respects in accordance with the Body's obligations under this Agreement and no such action by or on behalf of the GLA will in any way limit or affect such obligations.

6. Subcontracted Provision

- 6.1 The Body may not subcontract Provision to any subcontractor without the prior written approval of the GLA. The Body may not materially amend the level of subcontracting of Provision it carries out in any year without the prior written approval of the GLA.
- 6.2 The Body must comply with the requirements on subcontracting delivery of the Provision set out in the Funding Rules as amended and updated from time to time. Subcontracting any part of the Agreement shall not relieve the Body of any obligation or duty attributable to them under the Agreement. The Body is responsible for all the actions of its subcontractors connected to or arising out of the delivery of the Provision which it subcontracts.
- 6.3 The delivery of the Provision under this Agreement may only be subcontracted to one level unless otherwise specified in the Funding Rules when the Body must obtain the consent of the GLA in writing.
- 6.4 Where the Body has subcontracted any duties or obligations arising out of this Agreement, the Body shall ensure that there is in place a legally binding subcontract and send copies of the subcontract to the GLA if requested in writing to do so. Where the Body enters into a subcontract for the purpose of performing the Provision, the Body shall ensure that the subcontract requires the subcontractor to comply with the conditions of this Agreement and includes any terms specified in the Funding Rules.
- 6.5 The Body shall ensure that any subcontract entered into for the purpose of delivering the Provision under this Agreement contains a term providing that the GLA has the right to enforce the terms of the subcontract.
- 6.6 The Body shall ensure that subcontractors are selected fairly and in accordance with the Public Contracts Regulations 2015 and that subcontractors have sufficient capacity, capability, quality and financial standing to deliver the Provision.
- 6.7 The Body shall
 - 6.7.1 make payment to any subcontractor within 30 days of receiving a valid claim for payment and ensure that any subcontract entered into for the purpose of performing the Body's obligations under this Agreement contains a term giving effect to this requirement; and

- 6.7.2 ensure that that any invoices for payment submitted by the subcontractor are considered and verified by the Body in a timely fashion and that undue delay in doing so is not to be sufficient justification for failing to regard an invoice as valid and undisputed.
- 6.8 The Body may not assign any rights, duties or obligations under this Agreement without the consent of the GLA.
- 6.9 The Body must not enter into any agreement for Brokerage.
- 7. Learner Health, Safety and Welfare**
- 7.1 The Body shall ensure that learning takes place in safe, healthy and supportive environments, which meet the needs of Learners. The Body shall provide information to the GLA, as and when specifically requested, to give assurance that adequate arrangements exist for Learner health safety and welfare.
- 7.2 Where part of the learning takes place in an environment outside the direct control of the Body, the Body shall ensure that adequate arrangements are in place to ensure the health and safety of Learners.
- 7.3 The Body shall make arrangements for ensuring that the Provision is provided with a view to safeguarding and promoting the welfare of Learners receiving education or training at the institution or under the auspices of the Body in an environment outside the direct control of the Body. In doing so, the Body shall have regard to any guidance published, from time to time, by the GLA or 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 Agreement, 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 Agreement.
- 7.4 The Body 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 Body in an environment outside the direct control of the Body. This must include the adoption of safer recruitment procedures as set out at Clause 25. In doing so, the Body 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.
- 7.5 In working with other organisations/bodies, the Body 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.

- 7.6 In providing the Provision, the Body 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.
- 7.7 In providing the Provision, the Body 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 Agreement.
- 7.8 In providing the Provision, the Body must comply with the duty on partners of a panel in section 38 of the Counter-Terrorism and Security Act 2015 (the Channel co-operation duty). Failure to do so may constitute a Serious Breach of this Agreement.
- 7.9 The Body will also monitor, and act on, any other harm to Learners to the extent that the Body 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.
- 7.10 The Body will co-operate with the GLA 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.
- 7.11 The Body and/or the Body Related Parties must be able to demonstrate that they have robust record-keeping procedures in respect of health, safety and safeguarding through checks on record keeping undertaken. Failure to do so will constitute a Serious Breach.
- 7.12 Where the Body or one of its Body Related Parties refer:
- 7.12.1 a safeguarding concern related to sexual violence to Local Authority children's social care/adult social care and/or the police; or
 - 7.12.2 an allegation of abuse made against a teacher or other member of staff to the designated officer(s) (at the local authority),

the Body must, as soon as practicable, inform the GLA via email to **UPDATE EMAIL ADDRESS aeb@london.gov.uk**. Such notification must include the name of the institution, a high-level summary of the nature of the incident (without sharing personal information about victims or alleged perpetrators) and confirmation of whether it is, or is scheduled to be, investigated by the Local Authority and/or the police. Where the Body 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 Body shall ensure it

notifies the GLA that a referral has been made provided always that no Personal Data shall be provided in breach of the Data Protection Laws.

- 7.13 The Body shall, in circumstances where it subcontracts the management and/or delivery of the Provision under this Agreement, ensure that all the clauses in respect of learner health safety and welfare are included in its contract with subcontractors.
- 7.14 The Body shall inform the GLA of the death of any Learner which is as a result of work undertaken whilst in employment and who is undertaking a related Learning Programme. This shall be done by informing the Provider Manager by telephone or email immediately the Body becomes aware of the event.
- 7.15 The Body shall report all reportable incidents in line with The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013, and shall investigate or assess the circumstances of all learner incidents within the scope of The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 and follow HSE guidance 'Investigating Accidents and Incidents: A Workbook for Employers, Unions, Safety Representatives and Safety Professionals' (HSG245) ISBN 0717628272. The Body 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.
- 7.16 The Body shall also monitor, and act on, any other harm to Learners to the extent that the Body 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) other incidents that cause absence from learning, any loss to the learner of any physical or mental faculty or any disfigurement, incidents of bullying and harassment.
- 7.17 The Body shall co-operate with GLA's representatives and Department for Work and Pensions (DWP) for the purposes of the Industrial Injuries Disablement Benefit (IIDB) in respect to those Learners to which it applies.
- 7.18 The Body must have and maintain an up-to-date Business Continuity Plan. The Body must at the request of the GLA provide whatever support and assistance may reasonably be required by the GLA in response to any national, regional or local emergency or incident including at any premises identified by the GLA. The Body will ensure that Learners have access to portfolios, e-portfolios, learning materials and other evidence at all times.
- 7.19 The Body will, in circumstances where it subcontracts the management and/or delivery of the Provision under this Agreement, ensure that all the provisions in respect of learner welfare in this Clause 7 are included in the Sub-Contract with each sub-contractor.
- 7.20 Where it applies:

- 7.20.1 the Body must comply with the Modern Slavery Act 2015 and must have in place throughout the Agreement Period policies and procedures to ensure full compliance;
- 7.20.2 the Body must ensure that all Subcontracts that it enters into include an obligation for the Subcontractor to comply with the Modern Slavery Act 2015 with special emphasis on express anti-slavery and anti-human trafficking provisions; and
- 7.20.3 the Body shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain.

8. **Disposal of Assets and Change of Use**

- 8.1 In respect of Assets whose value exceeds £2,500 including VAT the following provisions shall apply.
- 8.2 For the purposes of this section:
 - 8.2.1 'Asset' shall mean any property, real or personal, tangible or intangible;
 - 8.2.2 an Asset shall be considered to have been financed by the GLA if it has been acquired wholly or partly with funds provided by the GLA;
 - 8.2.3 the use of any Asset shall be considered to have changed if the Body uses it for any purpose other than for the provision or connected with the delivery of the Provision under the Agreement; and
 - 8.2.4 'the appropriate proportion thereof' shall be the proportion represented by the amount of Funding provided by the GLA to acquire, develop or improve an asset in relation to the entire price paid for its acquisition, or its market value when its development or improvement have been completed.
- 8.3 The Body shall ensure that any Asset financed by the GLA is adequately insured.
- 8.4 The Body shall inform the GLA if it proposes to dispose of, or change the use of, any Asset that has been financed by the GLA.
- 8.5 The Body shall not dispose of any Asset financed by monies provided by the GLA unless it has first obtained the written consent of the GLA to such a disposal.
- 8.6 Where the Body disposes of the Asset it shall pay the GLA whichever is the greater, either the amount of Funding provided by the GLA in respect of the Asset or the net proceeds of any disposal of an Asset, or the appropriate proportion thereof, to the GLA unless otherwise agreed with the GLA.

- 8.7 If the Body changes the use of any such Asset it will be treated as a disposal and the Body shall make a payment to the GLA in accordance with Clause 8.6 above.
- 8.8 In the event of the Body being taken over, merging or going into liquidation, all Assets financed by the GLA, or the equivalent portion of their market value, will become the property of the GLA.
- 8.9 The provisions of this clause shall apply during the Term of this Agreement and after its termination howsoever arising. The GLA reserves the right to decide when interest in Assets financed by the GLA under the terms of this Agreement shall cease.
9. **Equal Opportunities**
- 9.1 The Body shall not unlawfully discriminate within the meaning and scope of the provisions of the Equality Act 2010, or any statutory modification or re-enactment thereof or any other statutory provision relating to discrimination in employment or the delivery of the Provision. The Body shall take all reasonable steps to ensure the observance of these provisions by all servants, employees or agents of the Body and all subcontractors employed in the execution of the Agreement. The Body will comply with the detailed requirements in relation to equality of opportunity set out in Clauses 9.1 to 9.4.
- 9.2 The Body shall at all times have due regard in and about its Provision to the: elimination of discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010, advancement of equality of opportunity and fostering of good relations between persons who share a relevant protected characteristic (race, disability, sex, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not share it. The Body will take all reasonable steps to ensure the observance of these provisions by all servants, employees or agents of the Body and all subcontractors employed to deliver the Provision.
- 9.3 The Body shall ensure that equality of opportunity is built into all aspects of the Provision; the business planning process; and the self-assessment process. The Body 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 Body shall use appropriate, specific and measurable objectives. These will be proportionate, relevant and aligned to the Provision the Body is funded to deliver.
- 9.4 The GLA shall 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.

10. **Quality Assurance and Raising Standards**

- 10.1 The Body undertakes to the GLA that it and any Body Related Party has the resources and skills necessary to carry out the Body's obligations pursuant to this Agreement.
- 10.2 The Body must comply with the Funding Rules published by the GLA as amended from time to time and any other requirements, which may from time to time be issued by the GLA, Inspectorates, the Awarding Organisations and other Regulatory Bodies and of which the Body is made aware.
- 10.3 The Body must ensure that all activities carried out pursuant to this Agreement will be documented in accordance with any requirements of the GLA and must provide such documentation as the Body may request from time to time to ensure compliance with this Clause 10.
- 10.4 The Body will continuously seek to improve the Provision and raise standards to benefit the Learner. The Body will have the primary responsibility for improving standards and will need to demonstrate to the GLA's satisfaction that it has an effective quality assurance system based on the implementation of its own quality improvement process. The GLA reserves the right to require the Body to provide the GLA or Ofsted evidence to support the quality improvement processes.
- 10.5 The Body must use all reasonable endeavours:
 - 10.5.1 to minimise dropout rates, deliver high completion, achievement and success rates and appropriate progression;
 - 10.5.2 to at least meet the quality standards as published by the Department and / or the GLA that apply to the learning programmes delivered;
 - 10.5.3 to ensure competent and appropriately qualified staff deliver and assess learning. The Body shall be responsible for the continuing professional development and training of its staff and for meeting any minimum requirements which may be required by Ofsted or any other regulatory authority;
 - 10.5.4 to offer equality of access to learning opportunities and close equality gaps in learning and outcomes;
 - 10.5.5 to provide a safe, healthy and supportive environment, which meets the needs of Learners;
 - 10.5.6 to provide good management and leadership of the learning process;
 - 10.5.7 to deliver value for money and financial regularity and probity; and
 - 10.5.8 to ensure any subcontractors delivering the Provision comply with the requirements set out in Clauses 10.5.1 to 10.5.8 above.

- 10.6 Failure to meet the requirements set out in Clauses 10.5.1 to 10.5.8 may result in the GLA assessing the Body to be in Serious Breach of the Agreement under Clause 34 (Minor and Serious Breach) of the Agreement.
- 10.7 The Body shall continuously seek to improve the Provision and raise standards to benefit the Learner. The Body shall have the primary responsibility for improving standards and will need to demonstrate to the GLA satisfaction that it has an effective quality assurance system based on the implementation of its own quality improvement process. The GLA reserves the right to require the Body to provide the GLA or an Inspectorate evidence to support the quality improvement processes.
- 10.8 The Body must take all reasonable steps to meet the relevant requirements for data gathering for the FE Choices Performance Indicators as outlined currently at: <https://www.gov.uk/government/collections/fe-choices-information-for-providers> and in any subsequent updates to these web pages.
- 10.9 The Body must take all reasonable steps to meet the relevant requirements for data gathering in respect of the London Learner Survey.
- 10.10 Where appropriate, the Body must confirm in writing to the GLA that their (including Body Related Parties) Centre Approval Status for the relevant Provision 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 Organisation name(s). The Body must notify the GLA immediately in writing via the Provider Manager if it receives any sanction from an Awarding Organisation including but not limited to the suspension and/or removal of Centre Approval Status and/or the removal of the ability to register or certificate learners.
- 10.11 The GLA can request any Awarding Organisation reports, assessments and notices from the Body at any time.
- 10.12 The Body shall have in place its own quality assurance arrangements that demonstrate that it can meet the terms and conditions of this Agreement and evidence these arrangements if required to do so in a form and subject to any other conditions, as from time to time the GLA may specify.
- 10.13 If requested by the GLA, the Body will make available to the GLA a report on its own assessment of the quality of the Provision provided by the Body under this Agreement in a form and subject to any other conditions, as from time to time the GLA may specify.
- 10.14 The GLA may assess the quality and delivery of the Provision and the Body's compliance with the requirements in Clauses 10.5.1 to 10.5.8 during the Agreement Period. The Body will be informed of the outcome of that assessment. The GLA will issue a notice which, where the GLA is not terminating, may:

- 10.14.1 require the Body to meet improvement indicators to improve the quality of its Provision. The GLA will meet with the Body to discuss and reach agreement on implementation of these actions and improvement indicators and to agree arrangements for monitoring and reviewing progress. In such cases reviews will take place at the frequency specified by the GLA and in agreement with the Body;
- 10.14.2 agree detailed improvement plans and measures that set out clearly the expected timescale for improvement;
- 10.14.3 agree arrangements for more frequent monitoring of quality improvement plans.

Quality Standards

- 10.15 The GLA may, at any time during the Agreement Period, undertake an assessment of the quality and delivery of the Provision which may include analysis of performance against the quality standards, as published by the Department or the GLA. The GLA will have the right upon reasonable notice and at reasonable times to audit the Body's quality management systems (for example ISO 9000 or equivalent standard) and/or any other quality management system to which the Provision refers, including examining and inspecting Provision and activities on or off the premises owned or occupied by the Body to establish the adequacy or accuracy of the quality management system documentation. The Body will use all reasonable endeavours to assist the GLA in such exercise.
- 10.16 Where the GLA assesses that the Provision, in whole or in part, falls below the required standards, the GLA may, in its absolute discretion, take one or more of the following actions:
 - 10.16.1 require the Body to accept and comply with additional conditions of Funding relating to the improvement of the Provision;
 - 10.16.2 require the Body to suspend the recruitment of Provision to, and/or to cap any growth in, those Learning Programmes which are identified as below the required standards;
 - 10.16.3 give consideration to the Provision which are below the required standards in its allocations when finalising the amount of Funding in any subsequent Agreements between the Parties;
 - 10.16.4 reduce, suspend or recover payment to the Body in respect of that part of the Provision to which the failure to meet the required standards relate; and/or
 - 10.16.5 terminate this Agreement in accordance with Clause 39.2 (Termination) in full, or that part of the Provision failing to meet the required standards.

- 10.17 The failure of the Body, as assessed by the GLA, to comply with any requirements of Clauses 10.16.1 to 10.16.5 within such time as the GLA may deem reasonable may lead to the GLA taking such actions as it deems appropriate which may include, but is not limited to, terminating in accordance with Clause 39.2 (Termination).
- 10.18 The Body must make the GLA aware of any notification of quality concerns by the Education and Skills Funding Agency within three working days of receiving the notification.
- 10.19 Where the Body subcontracts any part of the Provision, the Body must ensure that the subcontractor is able to meet the minimum quality standards and any other quality threshold required by the GLA or identified through an inspection by Ofsted. The GLA may request evidence from the Body that the Provision meets the requirements of this Agreement.
- 10.20 The Body shall, for those staff delivering the Provision, be responsible for their professional development and training and meeting any legal requirements to ensure that they are appropriately qualified and trained.

11. **Support and Intervention**

- 11.1 The Body is subject to regular reviews of risk by the GLA. The GLA has published a policy document, 'Managing Provider Performance'. Please check our website for most up-to-date document, which sets out its policy on Active Support and the circumstances in which improvement action may be taken, including where triggers for Active Support are met. Please check our website for most up-to-date document. Intervention may be triggered for the following four reasons, as outlined in paragraph 26 of 'Managing Provider Performance':
- 11.1.1 ESFA Financial Health assessment determines that the provider's financial health 'Requires Improvement', or risks declining to 'Requires Improvement' or 'Inadequate' in future and/or the provider's financial information shows that the provider may not be to meet liabilities in future;
 - 11.1.2 Two consecutive 'Requires Improvement' ratings for overall effectiveness by Ofsted or "Adult Learning Programmes" judgement is graded "Requires Improvement";
 - 11.1.3 Poor and/or a measurable decline in educational performance management data such as qualification achievement rates or other outcomes (as outlined in the "Quality Assurance and Raising Standards" section of the providers funding agreement); and/or
 - 11.1.4 Escalation by the GLA Provider Manager due to local intelligence, such as complaints or poor-quality data returns.

- 11.2 The Body shall, on request, provide the GLA and/or Ofsted with a copy of its self-assessment report, quality improvement activity, and any other relevant information in accordance with the required timescale of Ofsted. The Body must notify the GLA of the date of the meeting at which Ofsted gives feedback on the inspection and allow the GLA's nominated representative to attend the meeting. The Body will also inform the GLA of any Further Education Commissioner intervention assessment.
- 11.3 Should the Body meet any of the triggers for intervention, or other action, as set out in the 'Managing Provider Performance' document, the GLA may, in its absolute discretion, take one or more of the following actions:
- 11.3.1 issue a Notice to Improve;
 - 11.3.2 require the Body to share their ESFA Single Improvement Plan or complete the GLA Improvement Action Plan
 - 11.3.3 require the Body to accept and comply with additional conditions of funding, relating to the improvement or resolution of the issues which led to the Body being placed in Intervention. Such conditions will include recommendations of any published reports of the Further Education Commissioner and/or the published recommendations of Ofsted. These conditions will apply until the Body can demonstrate the required improvement / resolution to the GLA's satisfaction;
 - 11.3.4 require the Body to suspend the recruitment of Learners to, and/or to cap any growth in Learner numbers and/or any Provision which is assessed by Ofsted as overall inadequate;
 - 11.3.5 in accordance with the 'Managing Provider Performance' document, the GLA will write to the Body to confirm the position and thereafter consult with the Body's governors, principal, and, where required, local stakeholders.
 - 11.3.6 The Body will be subject to a Further Education Commissioner intervention assessment. The Body must comply with the requirements/requests of the Further Education Commissioner to enable them to undertake their role;
 - 11.3.7 give consideration to what changes, if any, are required in its allocations when finalising the amount of Funding in any subsequent grant(s) between the Parties;
 - 11.3.8 give consideration to the Provision which is assessed as inadequate in its allocations when finalising the amount of Funding in any subsequent agreements between the Parties;
 - 11.3.9 reduce, suspend and/or recover payment to the Body;
 - 11.3.10 terminate in accordance with Clause 39. (Termination).

- 11.4 The failure of the Body to comply with any action required of it by the GLA under Clause 11.3 within such time as the GLA has stipulated will be a breach of agreement and the GLA may take such further action as it deems appropriate which may include, but is not limited to, terminating this Agreement in accordance with Clause 39. (Termination).

12. **Ofsted Inspection**

- 12.1 When the Body receives notification from Ofsted that the Provision is to be inspected, the Body shall, on request, provide the GLA with a copy of its quality improvement activity, and any other relevant information in accordance with the required timescale of Ofsted. The Body must notify the GLA of the date of the meeting at which Ofsted gives feedback on the inspection and allow the GLA's nominated representative to attend the meeting. The Body must confirm to the GLA in writing the outcome of the inspection within 5 working days of receiving the feedback from Ofsted.
- 12.2 Ofsted may, at any time during the Agreement Period, undertake an inspection of the Body. The GLA will consider the outcome of any such inspection as follows:

Inadequate in part

- 12.2.1 Where Ofsted has assessed the Provision to be inadequate in any graded sub-judgement, the GLA may, in its absolute discretion take one or more of the following actions:
- 12.2.1.1 require the Body to accept and comply with additional conditions of Funding relating to the improvement of the Provision assessed as inadequate. Such conditions will include complying with the published recommendations of Ofsted and the recommendations of any published report of the Further Education Commissioner. These conditions will apply until the Body can demonstrate the required improvement to the GLA's satisfaction;
 - 12.2.1.2 require the Body to suspend the recruitment of Learners to, and/or to cap any growth in, the Provision which is assessed as inadequate;
 - 12.2.1.3 give consideration to the Provision which are assessed as inadequate in its allocations when finalising the amount of Funding in any subsequent Agreements between the Parties; and/or
 - 12.2.1.4 reduce, suspend or recover payment to the Body in respect of that part of the Provision assessed as inadequate.
 - 12.2.1.5 Terminate the agreement in accordance with Clause 39 (Termination).

Inadequate overall

- 12.2.2 Where the GLA is made aware that Ofsted has provisionally assessed the Provision to be inadequate overall, the GLA may, in its absolute discretion take one or more of the following actions:
- 12.2.2.1 require the Body to accept and comply with temporary additional conditions of Funding relating to the improvement of the overall Provision, including but not limited to, requiring the Body to temporarily suspend the recruitment of Learners and/or temporarily cap any growth in those Learning Programmes which are assessed as inadequate. These conditions will apply until the Body can demonstrate the required improvement to the GLA's absolute satisfaction; and/or
 - 12.2.2.2 commence discussions with the Body and the Local Authority within whose area the Body is located, either with Ofsted or not, as part of considering what actions as specified in Clauses 12.2.3.1 to 12.2.3.5 inclusive may be taken.
- 12.2.3 Where Ofsted has confirmed its assessment that the Provision is inadequate overall, the GLA may, in its absolute discretion take one or more of the following actions:
- 12.2.3.1 require the Body to accept and comply with additional conditions of Funding relating to the improvement of the overall Provision. Such conditions will include complying with the published recommendations of Ofsted and the recommendations of any published report of the Further Education Commissioner. These conditions will apply until the Body can demonstrate the required improvement to the GLA's satisfaction;
 - 12.2.3.2 require the Body to suspend the recruitment of Students to, and/or to cap any growth in, those Learning Programmes which are assessed as inadequate;
 - 12.2.3.3 give consideration to the assessment of inadequate in its allocations when finalising the amount of Funding in any subsequent Agreements between the Parties;
 - 12.2.3.4 reduce, suspend or recover payment to the Body;
 - 12.2.3.5 take account of the finding by Ofsted of "inadequate" when considering the amount of Funding to be made available to the Body in any subsequent Contracts between the Parties and/or

- 12.2.3.6 terminate this Agreement in accordance with Clause 39.2 (Termination).
- 12.2.4 The failure of the Body, as assessed by the GLA, to comply with any requirements of Clauses 12.2.3.1 to 12.2.3.3 within such time as the GLA may deem reasonable may lead to the GLA taking such actions as it deems appropriate which may include, but is not limited to, terminating in accordance with Clause 39.2 (Termination).
- 12.2.5 GLA will take action based on Ofsted's provisional and confirmed outcomes as in Clauses 12.2.3.1 to 12.2.3.3 above. Where GLA is made aware that the Body has made a complaint about the graded outcome of the overall assessment by Ofsted, GLA will continue to progress action under Clauses 12.2.3.2 to 12.2.3.3 but will be mindful of the implications arising from the outcome of a complaint. The GLA will review any decisions made at such time as outcomes of any complaint are made known.
- 12.2.6 The Body shall for those staff delivering the Provision be responsible for their continuing professional development and training and meeting any legal requirements to ensure that they are appropriately qualified and trained.
- 12.2.7 Where the GLA is made aware that Ofsted has assessed the Body as having made "insufficient progress" during their programme of New Provider Monitoring Visits or any other visit, the GLA may, in its absolute discretion take any of the actions set out at Clause 12.2.3.

13. Ofsted Providers Monitoring Visits

- 13.1 Where the GLA is made aware that Ofsted has assessed the Body as having made "insufficient progress" during their programme of Provider Monitoring Visits, the GLA may, in its absolute discretion take the following actions:
 - 13.1.1 require the Body to, and the Body shall, accept and comply with additional conditions of funding relating to the improvement of the overall Provision. Such conditions will include complying with the published recommendations of Ofsted. These conditions will apply until a full Ofsted inspection of the Body has taken place; and/or
 - 13.1.2 require the Body to temporarily suspend the recruitment of Learners;
 - 13.1.3 require the Body to stop working with new Learners via a sub-contracting arrangement with another main provider or employer-provider;
 - 13.1.4 require the Body to inform all of their existing main providers or employer-providers about the outcome of the Ofsted visit;
 - 13.1.5 terminate this Agreement in accordance with Clause 35.3 where Learners may be at immediate risk on the grounds of safeguarding

issues and/or the quality of leadership and/or training provision is such that one or more Learner has no reasonable prospect of achieving his or her training objective.

- 13.2 Where the GLA is made aware that Ofsted has assessed a sub-contractor to the Body as having made “insufficient progress” during their programme of New Provider Monitoring Visits, the Body is required to ensure that the sub-contractor suspends the recruitment of Learners until further notice.

14. **Intervention and assessment by other parties**

- 14.1 The Body must notify the GLA where, under the terms of any funding agreement with the ESFA, the Body is:

14.1.1 required to accept and comply with additional contract obligations relating to the improvement of financial health and/or control arrangements; or

14.1.2 required to suspend the recruitment of learners to the services and/or cap any growth in learner numbers; or

14.1.3 deemed to be in breach of the contract (whether that is a minor breach or serious breach); or

14.1.4 subject to a termination of the contract.

- 14.2 On the basis of Clauses 14.1, the GLA may, in its absolute discretion take one or more of the following actions:

14.2.1 require the Body to accept and comply with temporary additional obligations; and/or

14.2.2 reduce, suspend or recover payment to the Body.

- 14.3 The failure by the Body, as assessed by the GLA, to comply with any requirements of Clause 14.2 within such time as the GLA may deem reasonable may lead to the GLA taking such actions as it deems appropriate which may include, but is not limited to, terminating in accordance with Clause 39 (Termination).

15. **Fraud and Irregularity**

- 15.1 The Body must notify the GLA immediately where it becomes aware of any instance of suspected fraud or financial irregularity in the delivery of the Agreement including, but not limited to, cases of:

15.1.1 collusion with members of the staff of the Body or employees of the GLA;

15.1.2 computer fraud;

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

15.1.4 fraud involving Awarding Organisations;

15.1.5 fraud involving sub-contractors;

provided that nothing in this Clause 15 will require the Body to do anything, which may cause it to infringe any Law.

15.2 Where the GLA has reasonable cause to suspect that fraud or irregularity has occurred in relation to the delivery of the Agreement and payments made hereunder, the GLA and/or its agents will have:

15.2.1 the right of access to the Body's Premises (or that of any of its Subcontractors) at any reasonable time with or without notice to examine and remove or copy all relevant documents and records including electronic records;

15.2.1 the right to require the Body to provide written authority to enable the GLA to obtain such documents, records and/or information directly from third parties; and

15.2.2 to interview the Body's servants or agents engaged with the delivery of the Agreement.

Failure to comply with this Clause 15 will constitute a Serious Breach of this Agreement.

15.3 Where the GLA has reasonable cause to suspect that fraud or irregularity has occurred in relation to the delivery of the Agreement and payments made hereunder, the GLA may require the Body to procure the services of an independent accountant (or other equivalent/appropriate professional) to investigate at the Body's cost (or the GLA will procure and recharge to the Body at its sole discretion).

15.4 Where the GLA has reasonable cause to suspect that fraud or irregularity has occurred in relation to the delivery of the Agreement or any other Agreement between the GLA and the Body and payments made there under, the GLA will have the right to suspend payments and/or require the Body to suspend recruitment of Learners under this Agreement and any other Agreement between the Parties.

15.5 Where the Body is a charity, the Body will inform the GLA of any schemes, orders or official warnings issued to them by the Charity Commission. Failure to inform the GLA will constitute a Serious Breach of this Agreement.

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

named contact or telephone answering machine for receiving such information.

16. Enquiries, Investigations and Inspections

16.1 The Body must and will ensure that it and its sub-contractors will at all times during the Agreement Period and for a period of six (6) years, or such other time period as notified by the GLA, afterwards fully co-operate with any enquiry, investigation or inspection (whether routine or specific) which in any way concerns, affects or relates to the Provision, or any sum claimed or charged in relation to this Agreement or to any other Agreement of the GLA. Such enquiry, investigation or inspection may be by, inter alia: -

- (a) the GLA;
- (b) the GLA's auditors (whether internal or external);
- (c) Regulatory Bodies; and/or
- (d) the Inspectorates.

16.2 Such co-operation will include (but not be limited to) the following:

- (a) providing access to or copies of such files, documents, letters, emails, notes, minutes, records, accounts or any other information (whether held or stored electronically, in hard copy format or otherwise) which relate to the subject or Provision (in whole or in part) under investigation;
- (b) providing access to the premises, equipment (including IT hardware and software) or other assets used by the Body and/or its sub-contractors in the performance of this Agreement, such access to be supervised at all times unless the nature of the investigation requires the parties defined at Clause 16.1 to be unsupervised, such parties acting reasonably in making such assessment;
- (c) providing access to Body Personnel (of whatever seniority) involved in this Agreement (including managerial or supervisory staff) or who may be the subject of, or be named in, any enquiry or investigation by the auditors or the ombudsmen (including providing suitable facilities for interviewing such staff);
- (d) maintaining the confidentiality of the enquiry or investigation when requested to do so;
- (e) making such explanations (whether written or oral) as may be necessary for the enquiry or investigation to be satisfied that the terms and conditions of this Agreement, the Funding Rules and the Law are being complied with;

(f) at all times and without notice allow access to the Inspectorates, in connection with any complaint, investigation or inspection relating to this Agreement or the Provision. This will extend to the Body's Premises; and to all documentation and information relating to this Agreement to which the Body has access; and to the Body's agents, employees and sub-contractors.

- 16.3 Where the GLA has undertaken an investigation or received a report from an independent accountant or otherwise, in relation to the Body it may, as a consequence of that investigation or report, require the Body to, and the Body will, accept and comply with additional funding conditions and will meet the cost of such investigation.
- 16.4 Where the Body fails to comply with the funding conditions imposed under Clause 16.3, within such time as the GLA deems reasonable, the GLA may take such actions as it deems appropriate which may include, but is not limited to, under Clause 37 (Minor Breach and Serious Breach).
- 16.5 The GLA will in performing the Provision will comply fully with all relevant rules and regulations of the GLA in force from time to time.
- 16.6 The Body will, if requested by the GLA, co-operate with the GLA, at its own expense, in connection with any legal proceedings, adjudication, arbitration, court proceedings or ombudsmen enquiries in which the GLA may become involved, arising from breaches of the GLA's duties under the Equality Act 2010, or any statutory modification or re-enactment thereof or any other statutory provision relating to discrimination in employment or the delivery of the Provision, due to the alleged acts or omissions of the Body, its employees, subcontractors or agents.
- 16.7 The Body will ensure that the terms of any Sub-Contract include identical provisions to this Clause 16 and will indemnify the GLA against any Losses, damages or claims it suffers in consequence of a failure to ensure the inclusion of such identical items.

17. Information for Learners

- 17.1 As part of the delivery of the Provision, the Body must provide high quality and easily accessible information and advice in helping Learners to understand the opportunities and support available to them about education, training or connected matters (including employment):
 - 17.1.1 where one of the main objectives of the Provision to be provided under this Agreement is to deliver information and advice, the Body will have to have or attain the matrix Standard accreditation within the Funding Year;
 - 17.1.2 if the information and advice is embedded as part of the delivery of the Provision the Body should work towards achieving the matrix Standard accreditation within the Funding Year;

- 17.1.3 where the Provision is delivered by a subcontractor on behalf of the Body, the requirements set out in Clauses 17.1.1 and 17.1.2 must be applied to the subcontractor. This does not apply where the Body retains responsibility for the delivery of information and advice to the Learners; and
- 17.1.4 once achieved, matrix Standard accreditation is valid for three years. The Body must continue to demonstrate their continuous improvement via annual continuous improvement checks with the matrix Standard assessor.

18. Data Collection

- 18.1 The Body must supply to the GLA data on each individual Learner (and where relevant member of its workforce involved in the Provision), in accordance with the data collections framework notified to the Body.
- 18.2 The Body must supply the GLA with data in accordance with the following:
 - 18.2.1 in line with agreed audit arrangements;
 - 18.2.2 in adherence with the Data Protection Laws;
 - 18.2.3 to support payments received on profile;
 - 18.2.4 to enable reconciliation to take place;
 - 18.2.5 to enable the GLA to contact Learners for the purpose of conducting surveys; and
 - 18.2.6 to support the contract management and allocation processes, together, the “Agreed Purposes”.
- 18.3 To the extent possible, and except in the case of data transferred for the purpose in 18.2.6, the Body shall anonymise and/or aggregate the data supplied pursuant to Clause 18.1.
- 18.4 Data to be supplied pursuant to this Clause 18.1 (“Learner Data”) must be securely transmitted to the GLA through OPS and/or the Education and Skills Funding Agency as required by the GLA. Access to this web portal is restricted and the Body agrees to comply with the conditions of use regarding the supply of data to the GLA notified to the Body as amended and updated from time to time. The Body must keep its information on OPS fully updated and ensure that it accurately reflects the agreed delivery of provision.

- 18.5 The Body is responsible for the accuracy of the Learner Data, where the GLA is concerned about the quality of the Learner Data, including the completeness or accuracy of the Learner Data, provided by the Body, the GLA may require the Body to supply data more frequently for such period as the GLA shall require.
- 18.6 The GLA reserves the right to require the Body, at its own cost, to carry out such work as the GLA deems necessary to improve the quality of Learner Data.
- 18.7 The GLA reserves the right to require the Body to:
- 18.7.1 review the management reports provided by either the Body's Internal Auditors or by the GLA's Funding Auditors about the quality and reliability of the Body's Management Information System (MIS) and ILR data;
 - 18.7.2 commission either the Body's Internal Auditors or the GLA's Funding Auditors to evaluate and support the Body's actions and action plan to address any data quality issues that have been identified in the resulting management letters; and/or
 - 18.7.3 secure confirmation from the Body that it has been informed of any concerns and secure their commitment to overseeing the timely and accurate return of Learner Data in future.
- 18.8 The GLA reserves the right to suspend payments to the Body under the Agreement where Learner Data quality gives rise to concern about the accuracy of the data provided by the Body.
- 18.9 Failure to transmit complete and accurate Learner Data to the GLA in accordance with Clause 18.5 above may result in Funding being withheld or recovered.
- 18.10 The Body must update the course information with details of all of the Services funded by the Department to the course directory (Publish to the [course directory \(nationalcareers.service.gov.uk\)](https://nationalcareers.service.gov.uk)). The Body must regularly review this information and keep it updated.
- 18.11 Where the Body is delivering the Provision to Learners claiming out of work benefits, it must provide data to the Secretary of State with responsibility for unemployment or their nominated representative in accordance with the legal requirements notified to the Body ("Unemployment Data") in accordance with Data Protection Laws. Failure to transmit complete and accurate data under this Clause 18 will constitute a breach of the conditions of Funding set out in this Agreement and may result in payments for this Provision to be delayed or withheld.
- 18.12 The Body must submit data about any member of its workforce in the format and to the timescales as required by the GLA.

- 18.13 The Body must register with UK Register of Learning Providers (UKRLP) and maintain contact details on an on-going basis (<http://www.ukrlp.co.uk/>).

19. Data Protection and Protection of Personal Data

- 19.1 The Body shall ensure that information acquired by the Body and its subcontractors under the delivery of this Agreement will at all times comply with the provisions and obligations imposed by the Data Protection Laws and the GDPR Principles in storing and Processing Personal Data, and all Personal Data acquired by either party from the other shall be returned to the disclosing party on request. Both parties hereby acknowledge that performance of a duty imposed by the Data Protection Laws shall not constitute a breach of any obligation in respect of confidentiality which may be owed to the other party. The clause shall not affect the GLA's ability to make a search of the Body with a credit reference agency.
- 19.2 With respect to the parties' rights and obligations under this Agreement the parties acknowledge and agree that in respect of Learner Data:
- 19.2.1 they are both sole, independent Controllers for the purposes of the Data Protection Laws in relation to their own Processing of the Learner Data for the Agreed Purposes as set out in Clause 18.2;
 - 19.2.2 each party has a valid registration with the Supervisory Authority and pay any required fee if required which, by the time that the data sharing is expected to commence, covers the intended data sharing pursuant to this Agreement;
 - 19.2.3 the framework of all data sharing pursuant to Clause 18.1 between the parties shall comply with the Data Protection Laws; and
 - 19.2.4 the parties shall enter into a separate data sharing agreement (in the form that GLA directs) prior to any sharing of Personal Data with the GLA pursuant to this agreement either on a Controller to Controller basis pursuant to Clause 18.1 or otherwise.
- 19.3 The Body shall:
- 19.3.1 share properly anonymised or aggregated Learner Data and Workforce Data with the GLA in compliance with its obligations under Clause 18;
 - 19.3.2 ensure that each Data Subject of any Learner Data shared with the GLA has been provided with the necessary fair processing information to ensure that the GLA's collection and other processing of that Personal Data is fair and transparent in accordance with the Data Protection Laws; and
 - 19.3.3 otherwise comply with its obligations under the Data Protection Laws in respect of such Learner Data.

- 19.4 If there is a conflict between this Clause 19 and the Funding Rules, this clause takes precedence and nothing contained within those rules shall vary or amend this Clause 19.
- 19.5 Where the Body is delivering the Provision to Learners claiming out of work benefits, the Secretary of State with responsibility for unemployment is the Data Controller in relation to Personal Data, which the Body is required to provide to the Secretary of State under any enactment. This Clause 19.5 will be enforceable by the appropriate Secretary of State in relation to any Personal Data processed by the Body on their behalf. Failure to transmit complete and accurate data under this Clause 19.5 will constitute a breach of the conditions of Funding set out in this Agreement and may result in payments for this Provision to be delayed or withheld.
- 19.6 Where the Body is providing the Provision to Learners who are subject to active management by the Offender Manager in respect of an order or licence, the Secretary of State for Justice (or their successor) is the Controller in relation to Personal Data which the Body is required to provide to the Secretary of State for Justice.

20. Branding and Logos

- 20.1 All publicity generated by the Body referring to the Mayor of London, the GLA and/or each of their respective names, logos or branding including (without limitation) all press and media releases must be approved in writing at least two weeks in advance of any release of publicity material (in any form) by the GLA. The Body shall also ensure that any proposals for any launch or other related publicity activity are approved in writing by the GLA at least one month before the date of such proposed launch or other related publicity activity.
- 20.2 The Body shall be given access to the current GLA logos and statements, which it is required to use. The Body will be required to use logos and statements in accordance with the terms of use and should not alter or amend such logos or statements. Logos and statements are only to be used in relation to the Provision under this Agreement. Any breach of this clause 20 or the requirements or terms of use of which the Body is made aware are a condition of Funding, failure to comply could result in the Funding being withdrawn.
- 20.3 The Body may also be required to use logos from other co-branding or co-funding participants and must comply with any terms which apply to the use of such logos.
- 20.4 The Body must ensure all the terms of Clause 20 are applied to the Body's subcontractors in carrying out its responsibilities under this Agreement.

21. Feedback and Complaints

- 21.1 The primary responsibility for receiving feedback and investigating complaints promptly and thoroughly in respect of the Provision shall rest with the Body. The Body shall have procedures in place including but not limited to a

complaints framework, which are acceptable to the GLA, to gather and act upon feedback and complaints from Learners and/or their representatives and employers and the wider community. The Body must also keep a log of the complaints received which will be accessible to the GLA upon request.

- 21.2 The Body 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. The complaints procedure must be published on the Body's website and be provided to the relevant parties as part of the Body's onboarding process.
- 21.3 The Body shall be responsible for resolving complaints in accordance with its own procedures and any guidance issued by the GLA. Once the Body has concluded its investigations, including any appeal, it must inform the complainant in writing of the outcome.
- 21.4 Where a complaint has not been resolved to the satisfaction of the complainant the Body will advise the complainant of his or her right to complain to the GLA and co-operate with any investigation carried out by the GLA or their representatives and act on any recommendations made by the GLA following the investigation.

22. **Representative**

Provider Manager

- 22.1 Without limiting the GLA's obligations or rights in respect of such matters the GLA will appoint a Provider Manager who may subject to Clause 22.2 exercise the rights and powers conferred by this Agreement upon the GLA.
- 22.2 Except pursuant to Clause 44 (The Agreement), or unless specifically authorised for that purpose, the Provider Manager does not have authority to amend the Agreement or to relieve the Body of any express obligations under the Agreement.

OPS Org Admin User

- 22.3 The Body will notify the GLA through OPS of details of the person appointed as the OPS Org Admin. The person who registers the Body on OPS will become the OPS Org Admin User, who is responsible for:
 - 22.3.1 Keeping the Body's details up-to-date;
 - 22.3.2 Approving new users for the Body; and
 - 22.3.3 Assigning each user a role (including assigning additional admins).

The GLA recommends that the Body select someone who will be involved daily with the data and monitoring of Skills and Jobs delivery – for example, someone in the MIS team.

- 22.4 The Body must ensure that those members of staff who are authorised to use OPS on behalf of the Body to submit funding claims, seek approvals and return data are registered as users of the GLA Open Project System and comply at all times with the terms of this agreement and any instructions or guidance issued by the GLA in respect of OPS and the funding rules. It is the Body's responsibility to maintain appropriate user roles on an on-going basis.

23. Retention of Documents

- 23.1 The Body and its subcontractors shall retain original invoices, management information returns and all other documents necessary to verify the Provision delivered by itself or by its subcontractors in relation to this agreement for 6 years, subject to any requirements for a longer retention period, from the end of the financial year in which the last payment is made.

24. Confidentiality of Information

- 24.1 All information referred to in this clause 24 is subject to the obligations set out in Clause 30 (Confidentiality) and Clause 29 (Freedom of Information).
- 24.2 For the purposes of the examination and certification of the GLA's accounts and/or any examination of the economy, efficiency and effectiveness with which the GLA has used its resources, the National Audit Office, internal or external auditor may examine such documents premises, systems and staff as he may reasonably require which are owned, held or otherwise within the control or employ of the Body or sub-contractors (who must ensure that any person acting on its behalf who has such documents and/or other information will also provide access) and may require the Body to produce such oral or written explanation as he considers necessary.
- 24.3 Where the GLA appoints an independent third party to undertake, exercise or carry out any of the rights or powers contained in this Clause 24 the Body must ensure that such independent third party enters into a Confidentiality Agreement with the Body simultaneously with its appointment.

25. Access and Monitoring

- 25.1 The GLA shall give the Body reasonable advance notice in writing of proposed visits to the Body or its subcontractors, to observe the delivery of the Provision, by any person who has taken or will take no direct part in the delivery or content of the Provision.
- 25.2 For monitoring and evaluation purposes, the GLA, the Secretary of State and their agents, the Department, the Department for Work and Pensions (or their Successors), the Ministry of Justice, 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 Body's staff during these visits.

- 25.3 The Body shall, and shall ensure that its subcontractors shall, permit access at any reasonable time to any of the representatives listed at Clause 25.2 in order to:
- 25.3.1 examine, audit or take copies of any original or copy documentation, accounts, books and records of the Body and its subcontractors that relate to the Agreement;
 - 25.3.2 visit, view or assess the design, management and delivery of the Provision at any Premises where those operations are carried out (including those of subcontractors) and conduct relevant interviews, including interviews with Learners, during these visits at any reasonable time; and/or
 - 25.3.3 carry out examinations into the economy, efficiency and effectiveness with which the Body has used the GLA's resources in the delivery of the Provision.
- 25.4 Where reasonably required, the Body and its subcontractors shall provide copies of any relevant documents required by any of the representatives listed at Clause 25.2.
- 25.5 The Body shall, if required by any of the representatives stated at Clause 25.2 provide appropriate oral or written explanations.
- 25.6 The GLA reserves the right, at any reasonable time, and as it may deem necessary to require the Body at its own cost to:
- 25.6.1 provide evidence of financial resources and the level of turnover sufficient to enable it to continue to deliver the Provision;
 - 25.6.2 provide such assurance as the GLA may require that the delivery of the Provision complies with the requirements of the Agreement;
 - 25.6.3 obtain a report by an independent accountant of the GLA's choice on the financial systems and controls operated by the Body or the accuracy of Funding claims in respect of payments claimed or received under the Agreement. The report and the work required in order to produce the report shall be carried out to the satisfaction of the GLA, and the GLA must be able to place reliance on it. The Body must agree the instructions for the work with the GLA and the Body shall provide a copy of the interim and final report to the GLA as soon as they are available. The GLA reserves the right to require the Body to publish the report;
 - 25.6.4 provide a copy of the Body's latest audited Accounts; and/or
 - 25.6.5 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 GLA.

- 25.7 The Body shall in delivering the Provision comply fully with all relevant rules and regulations of the GLA in force from time to time especially when on GLA's premises.
- 25.8 Where the GLA has undertaken an investigation or received a report from an independent accountant or otherwise, in relation to the Body, it may, as a consequence of that investigation or report, impose additional conditions of funding upon the Body.
- 25.9 The Body must comply with any additional conditions of funding imposed under Clause 25.8.
- 25.10 If the GLA assesses that the Body has failed to comply with any additional conditions of funding imposed under Clause 25.8 within such time as the GLA deems reasonable, the GLA may take such actions as it deems appropriate which may include, but is not limited to, under Clause 37.3 - 37.4 Minor Breach or Clause 37.5 - 37.6 Serious Breach.

26. **Employees**

- 26.1 The Body must 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, or an interim prohibition order made under regulation 14 of the Teachers' Disciplinary (England) Regulations 2012, to carry out teaching work (as defined in regulation 3 of the Teachers' Disciplinary (England) Regulations 2012), in respect of any 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).
- 26.2 Before employing or engaging a person to carry out teaching work in respect of any 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 Body will 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.
- 26.3 The Body will make arrangements for ensuring that the Provision is delivered 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 Body in an environment outside the direct control of the Body. This must include the adoption of safer recruitment procedures.
- 26.4 The Body must ensure it takes the following action in respect of all Body Personnel and potential Body Personnel whom in connection with the Body's provision of the Provision will or is likely to be in contact with Learners or who will have access to Learners information (other than GLA Employees):

- 26.4.1 They are questioned as to whether he has any Convictions or ASBOs;
 - 26.4.2 the results are obtained of a background check with the DBS of the most extensive kind available;
 - 26.4.3 to the extent permitted by Law, a copy of the results of such a background check as is referred to in Clause 26.4.2 are provided to the GLA on request;
 - 26.4.4 in respect of potential Body Personnel from overseas the Body must comply with the following guidance <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>,
 - 26.4.5 the Body must take the above action before the relevant Body Personnel or potential Body Personnel commences any activities in relation to the Provision.
- 26.5 The Body must carry out appropriate disclosure and barring service checks on all applicants for employment where such applicants would be employed to work in regulated activity relating to children and/or vulnerable adults (as defined by the Safeguarding Vulnerable Groups Act 2006) if successful, and must seek additional information about an applicant's conduct. The Body must also ensure that:
- 26.5.1 no person who appears on a Barred List following the results of a DBS background check will be employed or engaged in the performance of the Provision; and
 - 26.5.2 it and all its sub-contractors will comply with all reporting requirements to the DBS.
- 26.6 In so far as permitted by Law, where the Body 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 Body will ensure that it informs the GLA Provider Manager that a referral has been made/information has been provided.
- 26.7 In the event that any Body Personnel or any employee of any sub-contractor is added to a Barred List, the Body must ensure that such member of staff will cease to be engaged in the Provision.
- 26.8 The Body will require Body Personnel to declare annually whether there has been a change in their circumstances relating to the background checks referred to in this Clause 26. Where the self-declaration indicates a change in circumstances relating to those background checks, the Body will:
- 26.8.1 assess the risk of continuing to engage such member of Body Personnel in the delivery of the Provision;

- 26.8.2 request new background checks of such member of Body Personnel as required by this Clause 26;
- 26.8.3 put in place appropriate actions to ensure Learners are safeguarded, including, but not limited to, extra supervision of the member of Body Personnel, re-assignment to an area of the delivery of the Provision that does not bring the member of Body Personnel into regular contact with Learners, or removal from the delivery of the Provision of the member of Body Personnel, until such time as the Body has received the outcome of the background checks required under Clause 26.8.2 and has taken any action required as a result of the outcome of such background checks.
- 26.9 Pending the receipt by the Body of the results of the background checks referred to in this clause, Body Personnel will not be used in the delivery of the Provision.
- 26.10 Failure by the Body to comply with Clauses 29.4.1 to 26.9 will constitute a Serious Breach.
- 26.11 The Body will provide details of its policies and procedures for recruitment, training, development, supervision and other employment-related policies when requested to do so.
- 26.12 The Body will ensure that it has in place and complies with an effective whistleblowing procedure whereby staff may raise in confidence concerns about possible malpractice without fear of victimisation, subsequent discrimination or disadvantage.
- 26.13 When requested by the GLA on reasonable grounds, the Body will cease to use any Body Personnel specified by the GLA in the delivery of Provision. For the purposes of this clause Body Personnel will include external members of the board.
- 26.14 The Body must ensure that:
 - 26.14.1 there will be at all times a sufficient number of staff (including all relevant grades of supervisory staff) engaged in the Provision with the requisite level of skill and experience. This obligation will include ensuring that there are sufficient staff to cover periods of holiday, sickness, other absences and anticipated and actual peaks in demand for each part of the Provision; and
 - 26.14.2 all Body Personnel receive such training and supervision as is necessary to ensure the proper performance of the Services under this Agreement.
- 26.15 The Body must ensure that there are set up and maintained by it and by all sub-contractors involved in the Provision, personnel policies and procedures covering all relevant matters (including discipline, grievance, equal opportunities and health and safety). The Body must ensure that the terms and

implementation of such policies and procedures comply with Law and Good Industry Practice and that they are published in written form. The Body must provide copies of such policies to the GLA, on the GLA's request.

27. Body Personnel on Termination

- 27.1 The GLA and the Body will act on the basis that TUPE applies on expiry or termination of the Agreement where the GLA is proposing re-provision for delivery which is substantially the same as the Provision. For the avoidance of doubt this Clause 27 does not apply where the Body will be providing the Provision in the following Funding year.
- 27.2 During the period of 3 months preceding the expiry of the Agreement or within 21 days after the GLA or the Body has given notice to terminate the Agreement, the Body will disclose to the GLA and will permit the GLA to disclose to any new provider or potential new provider of provision which is substantially the same as the Provision, the Staffing Information provided that prior to so doing any such provider will have executed in writing a confidentiality undertaking in favour of the Body.
- 27.3 During the period of 3 months preceding the expiry of this Agreement or within 21 days after the GLA or the Body has given notice to terminate the Agreement, the Body must, subject to the provisions of the Data Protection Laws, provide and thereafter keep updated at monthly intervals, to the GLA and to the Successor Body information equivalent to the Staffing Information in respect of each employee whom the Body reasonably believes will be a Future Transferring Employee provided that prior to so doing the Successor Body nominated by the GLA will have executed in writing a confidentiality undertaking in favour of the Body.
- 27.4 The Body must make reasonable endeavours to assist the Successor Body to communicate with, meet and inform and consult with the employees whom the Body reasonably believes will be a Future Transferring Employee and their trade union or other employee representatives for the purposes of complying with TUPE.
- 27.5 The Body must immediately prior to the Provision Transfer Date provide to the GLA or the Successor Body a complete and accurate list of the Staffing Information and identification details of all employees whom it reasonably believes will be Future Transferring Employees.
- 27.6 Within a period of 21 days following the expiry or termination of this Agreement the Body must provide to the GLA or the Successor Body in writing final pay details of the Future Transferring Employees.
- 27.7 The Body warrants that it will supply complete and accurate information pursuant to Clauses 27.2, 27.3, 27.5 and 27.6 in all material respects and the Body will indemnify and keep the GLA indemnified fully now and in the future in respect of all or any costs whether arising in contract or under any relevant Law suffered or incurred by the GLA or the Successor Body nominated by the

GLA by reason of any proceeding, claim or demand arising from or in connection with the provision of information and/or the failure to provide complete and accurate information under Clauses 27.2, 27.3, 27.5 and 27.6, and/or the provision of assistance and/or failure to provide assistance under Clause 27.4 of this Agreement.

- 27.8 After receiving notice of the termination of this Agreement and for 6 months preceding expiry of this Agreement the Body will promptly notify the GLA or the Successor Body:
- 27.8.1 of the period of notice given by the employment of any employee whom the Body reasonably believes will be a Future Transferring Employee; and
 - 27.8.2 of any other change to any employee whom the Body reasonably believes will be a Future Transferring Employee and their terms and conditions of employment and their Staffing Information.
- 27.9 The Body warrants that it will supply the Staffing Information completely and accurately in all respects at the time of supply and will indemnify and keep the GLA and/or any Successor Body indemnified in respect of all and any costs suffered or incurred by the GLA or the Successor Body by reason of any proceedings, claim or demand arising out of or in connection with:
- 27.9.1 any claim against the GLA or the Successor Body by any Future Transferring Employee so far as it relates to any act or omission of the Body after the Employee Transfer Date and prior to the Provision Transfer Date; and
 - 27.9.2 any claim against the GLA or the Successor Body by any Future Transferring Employee whose name is not included on the list provided by the Body pursuant to Clause 27.5 so far as it relates to the dismissal of such Future Transferring Employee within two months of the GLA or Successor Body becoming aware of the transfer of such Future Transferring Employee.
- 27.10 For the purposes of Clause 27.9, in the event that the GLA or the Successor Body incurs costs, liabilities or expenditure in respect of Future Transferring Employees which is greater than would have been the case if the Staffing Information supplied by the Body had been accurate and complete, then such (net) greater costs, liabilities or expenditure will be deemed to be costs suffered or incurred by the GLA or Successor Body and included within the indemnity provided by the Body.
- 27.11 The GLA or Successor Body will be entitled to recover from the Body in full any legal, accountancy and other costs actually and reasonably incurred by the GLA or Successor Body in connection with the costs and liabilities indemnified by the Body.

This Clause 27 will continue in effect for 6 months following the expiry or termination of this Agreement.

28. Tax Compliance

28.1 The GLA may ask the Body to provide information which demonstrates how the Body complies with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax in respect of that consideration.

28.2 The GLA may terminate this Agreement if:

28.2.1 (a) in the case of a request mentioned in Clause 28.1 the Body:

28.2.1.1 (i) fails to provide information in response to the request within a reasonable time; or

28.2.1.2 (ii) provides information which does not demonstrate either how the Body complies with Clauses 28.1 and 28.3 or why those clauses do not apply to it;

28.2.1.3 (iii) it receives information which demonstrates that it is not complying with its obligations under the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax.

28.3 The GLA may supply any information which it receives under Clause 28.1 to HMRC.

28.4 If, during the Agreement Period, an Occasion of Tax Non-Compliance occurs, the Body will:

28.4.1 (a) notify the GLA in writing of such fact within 5 Working Days of its occurrence; and

28.4.2 (b) promptly give the GLA:

28.4.2.1 (i) details of the steps it is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors it considers relevant; and

28.4.2.2 (ii) such other information in relation to the Occasion of Tax Non-Compliance as the GLA may reasonably require.

29. **Freedom of Information**

- 29.1 The Body acknowledges and agrees that the GLA is subject to legal duties under FOIA, which may require the GLA to disclose on request information relating to this Agreement or otherwise relating to the Body.
- 29.2 The Body acknowledges and agrees that the GLA is required by law to consider each and every request made under FOIA for information.
- 29.3 The Body acknowledges and agrees that all decisions made by the GLA pursuant to a request under FOIA is solely a matter for and at the discretion of the GLA.
- 29.4 Notwithstanding anything in this Agreement to the contrary (including without limitation any obligations of Confidentiality), the GLA shall be entitled to disclose information in whatever form pursuant to a request made under FOIA, save that in relation to any information that is exempt information the GLA shall use reasonable endeavours (but shall not be obliged) to consult the Body and shall not:
- 29.4.1 confirm or deny that information is held by the GLA; or
 - 29.4.2 disclose information requested
- to the extent that in the GLA's opinion the information is eligible in the circumstances for an exemption and therefore the GLA may lawfully refrain from doing either of the things described in clauses 29.4.1 and 29.4.2.
- 29.5 In relation to information relating to the Body or this Agreement which the Body requests should be exempt under the FOIA the Body shall indemnify the GLA for any and all costs (including legal fees) incurred by the GLA in:
- 29.5.1 assessing the application of any exemption under FOIA; and
 - 29.5.2 responding to any FOIA Notice; and/or
 - 29.5.3 lodging any appeal against a decision of the information commissioner in relation to disclosure
- where such costs are incurred pursuant to efforts by the GLA to withhold exempt information.
- 29.6 The GLA shall in no event be liable for any loss, damage, harm or detriment, howsoever caused, arising from or in connection with the disclosure under FOIA of any exempt information or other information whether relating to this Agreement or otherwise relating to the Body.
- 29.7 The Body shall assist the GLA as reasonably necessary to enable the GLA to comply with its obligations under FOIA.

30. Confidentiality**30.1** The Body hereby warrants that:

- 30.1.1 Any person employed or engaged by it (in connection with this Agreement in the course of such employment or engagement) shall treat all Confidential Information belonging to the GLA as confidential, safeguard it accordingly and only use such Confidential Information for the purposes of this Agreement;
- 30.1.2 Any person employed or engaged by it (in connection with this Agreement in the course of such employment or engagement) shall not disclose any Confidential Information to any third party without prior written consent of the GLA, except where disclosure is otherwise expressly permitted by the Provisions of this Agreement;
- 30.1.3 It shall take all necessary precautions to ensure that all Confidential Information obtained from the GLA is treated as confidential and not disclosed (without prior approval) or used other than for the purposes of this Agreement by any of its employees, servants, agents or subcontractors.

30.2 The provisions of Clause 30.1 shall not apply to any information:

- 30.2.1 which is or becomes public knowledge (other than by breach of this Clause 30.1);
- 30.2.2 which was in the possession of the receiving party, without restriction as to its disclosure, before the date of receipt from the disclosing party; or
- 30.2.3 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 Freedom of Information Act or the Environmental Information Regulations;

30.3 Nothing in this Clause 30.3 shall be deemed or construed to prevent the GLA from disclosing any Confidential Information obtained from the Body:

- 30.3.1 to any Crown Body;
- 30.3.2 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
- 30.3.3 to any professional adviser, consultant, contractor or other person engaged by the GLA directly in connection with this Agreement, provided that such information is treated as confidential by the receiving consultant, contractor or any other person; or

- 30.3.4 on a confidential basis to any proposed successor body in connection with any assignment disposal of its rights, obligations or liabilities under this Agreement;
- 30.4 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the course of the delivery of the Provision, the Body undertakes to maintain adequate security arrangements that meet the requirements of professional standards and best practice;
- 30.5 The Body will immediately notify the GLA of any breach of security in relation to Confidential Information and all data obtained in the course of the delivery of the Provision and will keep a record of such breaches. The Body will use its best endeavours to recover such Confidential Information or data however it may be recorded. The Body will co-operate with the GLA in any investigation that the GLA considers necessary to undertake as a result of any breach of security in relation to Confidential Information or data;
- 30.6 The Body shall, at its own expense, alter any security systems at any time during the period of the Agreement at the GLA's request if the GLA reasonably believes the Body has failed to comply with Clause 30.5;
- 30.7 The GLA reserves the right to publish details of this Agreement and the payments made under it to comply with the Government's transparency requirements;
- 30.8 The Parties agree that the text of any press release or other communication to be published by or in the media concerning the subject matter of this Agreement shall require the approval of each of the Parties which shall not be unreasonably withheld or delayed; and
- 30.9 The provisions of this Clause 30 will apply for the duration of the Agreement and after its termination.
31. **Subsidy Control**
- 31.1 The Body has undertaken its own independent assessment of the compatibility of the applicable UK subsidy control laws and confirms to the GLA that the Provision delivered under this Agreement is structured so it is compliant with applicable UK subsidy control laws.
- 31.2 Where the rules on subsidy control apply, the GLA will supply to the Body details of the records that the Body will need to collect and retain and the Body shall comply with the subsidy control provisions in the Funding Rules or as notified to the Body from time to time.
- 31.3 The GLA reserves the right to require the Body to obtain a contribution towards the cost of the Provision delivered under this Agreement from the employer of any learner. Where a contribution is required, the GLA will confirm to the Body in writing the exact percentage of the contribution.

31.4 Where the GLA requires the Body to obtain a contribution towards the cost of the Provision under Clause 1 of this Agreement, the Body must provide evidence that the contribution has been received.

31.5 In the event that any Funding paid under this Agreement is deemed to constitute unlawful subsidy control, the GLA reserves the right to require immediate repayment of any such Funding, together with interest applicable to the same in accordance with the relevant reference rates.

32. Dispute Resolution

32.1 Any dispute, difference or question arising between the parties either during the currency of the Agreement or afterwards shall be referred to the Provider Manager for the GLA and nominated contact for the Body for discussion and review in order to try to resolve the same.

32.2 In the event of the nominated contacts being unable to resolve the relevant issue, either party may request in writing that the matter is referred to the GLA's nominated representative and the Body'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.

32.3 The Dispute Resolution Panel will meet within 28 days of receiving a request for referral made in accordance with Clause 32.2 above.

32.4 In the event of the Dispute Resolution Panel failing to identify a mutually acceptable resolution within 28 days of the date of reference, then the dispute shall be referred to and settled as far as possible by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure.

32.5 Neither Party may commence court proceedings in relation to any dispute arising out of the Agreement until they have attempted to settle it by mediation. Any such mediation may be terminated by either Party at any time of such Party wishing to commence court proceedings.

33. Indemnities and Liabilities

Body Indemnity

33.1 The Body will be responsible for, and will release and indemnify the GLA, its employees and agents on demand from and against all liability from:

(a) death or personal injury caused by its negligence or that of its employees, agents or sub-contractors (as applicable);

(b) breach of statutory duty;

(c) third party actions, claims or demands brought against the GLA as a direct consequence of the Body's breach of this Agreement;

(d) fraud or fraudulent misrepresentation by it, its employees, agents or sub-contractors (as applicable);

(e) loss of or damage to property;

to the extent which the same may arise out of, or in consequence of:

(f) the performance or non-performance by the Body of its obligations under this Agreement; and

(g) in all other respects, any negligent act, default or breach of statutory duty in connection with the performance or non-performance by the Body of its obligations under this Agreement.

Body Not Responsible

- 33.2 The Body will not be responsible for or obliged to indemnify the GLA for any injury, loss, damage, cost and expense caused by the negligence or wilful misconduct of the GLA or by the breach by the GLA of its obligations under this Agreement.

Limitation of Indemnity

- 33.3 An indemnity by either Party under any provision of this Agreement will be without limitation to any indemnity by that Party under any other provision of this Agreement.

Responsibility for Related Parties

- 33.4 The Body will be responsible as against the GLA for the acts or omissions of the Body Related Parties as if they were the acts or omissions of the Body and the GLA will be responsible as against the Body for the acts or omissions of GLA Related Parties as if they were the acts or omissions of the GLA.

Notification of Claims

- 33.5 Where either Party (the “Indemnified Party”) wishes to make a claim under this Clause 33 (Indemnities and Liability) against the other (the “Indemnifying Party”) in relation to a claim made against it by a third party (a “Third Party Claim”), the Indemnified Party will give notice of the relevant claim as soon as reasonably practicable setting out full particulars of the claim.

Conduct of Claims

- 33.6 The Indemnifying Party may at its own expense and with the assistance and co-operation of the Indemnified Party have the conduct of the Third Party Claim including its settlement and the Indemnified Party will not, unless the Indemnifying Party has failed to resolve the Third Party Claim within a reasonable period (and the Indemnified Party has notified the Indemnifying Party in writing that it is of the opinion that such reasonable period has expired), take any action to settle or pursue the Third Party Claim.

Costs of Claims

- 33.7 The Indemnifying Party may, if it wishes to have conduct of any claim, give reasonable security to the Indemnified Party for any cost or liability arising out of the conduct of the claim by the Indemnifying Party.
- 33.8 The Body's liability to the GLA pursuant to this Clause 33 (Indemnities and Liability) will be, for the avoidance of doubt, without prejudice to any other right or remedy available to the GLA under this Agreement.

No Limit on Liability

- 33.9 Neither Party excludes or limits its liability to the other Party for:
- 33.9.1 death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable); or
 - 33.9.2 any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982; or
 - 33.9.3 fraud by it, fraud by its employees, fraud by its agents or sub-contractors (as applicable); or
 - 33.9.4 any breach of the DPA 2018.

Body Limit on Liability

- 33.10 Subject to Clauses 33.2 (Body Not Responsible) and 33.9 (No Limit on Liability) the liability of the Body for the Agreement Period will be Ten Million Pounds (£10,000,000) in aggregate in respect of all claims, losses or damages, whether arising under any indemnity from tort (including negligence), breach of Agreement or otherwise under or in connection with this Agreement.

Body Aggregate Liability

- 33.11 If the aggregate liability of the Body under Clause 33.10 (Body Limit on Liability) is equalled or exceeded at any time during the Agreement Period, it will entitle the GLA at its discretion to terminate this Agreement pursuant to Clause 39.4 (Termination).

GLA Limit on Liability

- 33.12 With regard to the GLA the total aggregate liability for the Agreement Period will be one million pounds (£1,000,000) and for the avoidance of doubt, this will be in addition to its obligation to pay the Funding as and when it falls due in accordance with this Agreement.

Indirect Loss

- 33.13 Neither Party will be liable to the other Party for any Indirect Loss or indirect damage.

Additional Clauses

- 33.14 The Parties expressly agree that if any limitation or provision contained or expressly referred to in this Clause 33 (Indemnities and Liability) is held to be invalid under any Law, it will be deemed omitted to that extent, and if any party becomes liable for loss or damage to which that limitation or provision applied, that liability will be subject to the remaining limitations and provisions set out in this Clause 33 (Indemnities and Liability).
- 33.15 Nothing in this Clause 33 (Indemnities and Liability) will act to reduce or affect a Party's general duty to mitigate its loss and for the avoidance of doubt including any circumstances under which a party has the benefit of an indemnity under this Agreement.

No Double Recovery

- 33.16 Neither the GLA nor the Body will be entitled to recover compensation or make a claim under this Agreement in respect of any loss that it or they has or have incurred to the extent that the Party has already been compensated in respect of that loss pursuant to this Agreement or otherwise.

34. Insurance

- 34.1 Without prejudice to its liability to indemnify the GLA under Clause 33 (Indemnities and Liability) the Body must take out and maintain in force or procure the taking out and maintenance of the Required Insurances and any other insurances as may be required by Law. The insurances will be effective in each case no later than the date on which the relevant risk commences.
- 34.2 The Required Insurances referred to in Clause 34.1 will amount to:
- (a) ten million pounds (£10 million) in respect of public liability cover in respect of each and every occurrence;
 - (b) ten million pounds (£10 million) in respect of employer's liability cover in respect of each and every occurrence; and
 - (c) five million pounds (£5 million) in respect of professional indemnity cover in respect of each and every claim.
- 34.3 The GLA reserves the right, at any time, to request evidence that the Required Insurances are in force.

35. Prohibited acts

- 35.1 The Body will not offer or give, or agree to give, to any member, employee or representative of the GLA any gift or consideration of any kind as an inducement or reward for doing or refraining from doing, or for having done or

refrained from doing, any act in relation to the obtaining or execution of this Agreement or any other Agreement with the GLA or for showing or refraining from showing favour or disfavour to any person in relation to this Agreement or any such Agreement.

- 35.2 The Body's attention is drawn to the criminal offences created by the Bribery Act 2010. Any offence by the Body or its employees or by anyone acting on its behalf under the Bribery Act 2010 in relation to this Agreement or any Agreement with the GLA or Her Majesty's Government will entitle the GLA to terminate the Agreement and recover from the Body the amount of any loss resulting from such termination and/or to recover from the Body the amount of value of any gift, consideration or commission.
- 35.3 The Body will not enter into any Agreement with any political or religious organisation using any funding provided by the GLA under this Agreement if the effect of that Agreement would be to promote a particular political or religious point of view.
- 35.4 The Body must not use any Funding provided by the GLA under this Agreement for any of the purposes set out in paragraphs 16 - 19 of the Cabinet Office: [Guidance for General Grants](#), regardless of whether the Funding consists of a general grant or any other type of grant. For the avoidance of doubt, the Body's costs of memberships for their Associations are deemed eligible under the terms of the Agreement
- 35.5 The Body will not hold itself out as acting on behalf of the GLA without the GLA's permission.

36. **Additional Conditions of Funding**

- 36.1 The GLA reserves the right to impose additional conditions of funding where it considers it is necessary to do so to secure the delivery of education and training of a reasonable quality by the Body, or to ensure that the resources provided by the GLA are being used effectively and efficiently.

37. **Breach**

- 37.1 For the purpose of this Clause 37, the following definitions shall have the meanings set out below:

- 37.1.1 **"Minor Breach"** shall mean a delay or non-performance by either Party, including any Body Related Parties, of its obligations, in part or in full, under this Agreement which does not materially, adversely or substantially affect the performance or delivery of the Provision, in part or in full, or the Provision of a safe, healthy and supportive learning environment; and
- 37.1.2 **"Serious Breach"** shall mean any breach which adversely, materially and substantially affects the performance or delivery of the Provision, in part or in full, or the provision of a safe, healthy and supportive learning environment. Serious breach includes but is not limited to:

37.1.2.1 a breach of security that adversely affects the Personal Data or privacy of an individual; or

37.1.2.2 failure to comply with Law, or acts or omissions by the Body that endanger the health or safety of students.

37.2 For the avoidance of doubt:

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

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

Minor Breach

37.3 Without prejudice to any other remedy, in the event of a Minor Breach, 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.

37.4 If the Party in breach fails to remedy the Minor Breach within the time specified in notice served under Clause 37.3, or such other period as may subsequently be agreed in writing between the Parties, it shall constitute a Serious Breach by the Party in breach.

Serious Breach

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

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

37.5.2 in the event that a Serious Breach of this Agreement by the Body is in the view of the GLA not, or cannot be, remedied within the period specified in the notice served under Clause 37.5.1, or such other period as may subsequently be agreed in writing between the Parties, the GLA may:

37.5.2.1 require the Body to suspend recruitment of Learners, and cap growth of Learning Programmes in future years, to the Provisions to which the Serious Breach relates;

37.5.2.2 give consideration to the Serious Breach in its allocations when finalising the amount of Funding in any subsequent Agreement(s) between the Parties;

- 37.5.2.3 reduce, suspend or recover payment to the Body in respect of that part of the Provision to which the Serious Breach relates; or
 - 37.5.2.4 terminate, in accordance with Clause 39 (Termination), in full or in respect of that part of the Provision to which the Serious Breach relates.
- 37.6 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 37.5.1 or such other period as may be agreed in writing between the Parties, the Party not in breach may at its sole discretion terminate this Agreement or that part of the Provision to which the breach relates with immediate effect on notice in writing to the other Party.
- 38. **Withholding, Suspension and Repayment of Funding**
- 38.1 Without prejudice to the GLA's other rights and remedies, the GLA may at its discretion withhold or suspend payment of Funding if one or more of the following applies:
- 38.2 the Body materially breaches any of the terms or conditions of this Agreement;
- 38.3 the GLA, acting reasonably, has concerns:
 - 38.3.1 about the standard of Provision that the Body is delivering or has delivered including in respect of one or more standard or framework; and / or
 - 38.3.2 that the quality of leadership at the Body is such that one or more Learner has no reasonable prospect of achieving their training objective; and / or
 - 38.3.3 that Learners may be at risk on safeguarding grounds;
- 38.4 an Awarding Organisation is taking remedial and / or enforcement action against the Body;
- 38.5 the GLA has reasonable grounds to suspect fraud, financial irregularity, dishonesty, negligence or practice by any of the Body and / or one or more Body Related Party;
- 38.6 the GLA has concerns about the completeness, accuracy or promptness of the data submitted by the Body on the ILR in relation to this Agreement or, subject to Clause 39.12 any other agreement;
- 38.7 any employee of the Body or any other Body Related Party has acted or failed to act in a way which, in the reasonable opinion of the GLA, brings or is likely to bring the GLA's name, brand or reputation or the Mayor of London brand into disrepute;

- 38.8 the Body was not entitled to Funding under the Funding Rules in relation to one or more Learner;
- 38.9 there occurs, in respect of the Body, any Insolvency Event which, in the reasonable opinion of the GLA, may affect the Body's ability to comply with its obligations under this Agreement; and / or
- 38.10 the Body fails to comply with any of the provisions set out in this Agreement (including the provisions in the Funding Rules and / or any requirements) and fails to rectify any such failure within 30 days of receiving written notice from the GLA (or such other timescale specified in the notice) detailing the failure and requiring it to rectify the failure;
- 38.11 A right to withhold, suspend and / or require repayment of the Funding is set out in other provisions in this Agreement.
- 38.12 If under Clause 39.6 some or all of the GLA's concerns about the completeness, accuracy or promptness of data relate to data submitted under an agreement other than this Agreement, then such concerns are relevant to the extent that they undermine the GLA's confidence in the Body's ability to comply with its obligations to submit complete or accurate or prompt data in relation to this Agreement.
- 38.13 The right to suspend Funding in accordance with Clause 39.1 includes the right to:
- 38.14 suspend the payment of Funding to the Body in relation to current Learners for a specified period; and / or
- 38.15 not consider any applications or pay any Funding for new Learners for a specified period.
- 38.16 Where the GLA suspends Funding in accordance with the terms of this Agreement, it shall notify the Body in writing of the suspension and its duration as well as the intervals at which the suspension will be reviewed to see whether the suspension should be withdrawn or extended.

The GLA reserves the right to recover from the Body any Funding paid to a Body where the payment of Funding , breaches the Funding Rules or the entitlement to Funding was based on wrong, inaccurate or misleading information.

39. **Termination**

- 39.1 Without prejudice to any other remedy, on the occurrence of a Serious Breach that is not capable of being remedied the GLA shall be entitled to terminate this Agreement, in respect of that part of the Provision to which the Serious Breach relates, by notice to the Body with immediate effect.
- 39.2 The GLA shall be entitled to terminate this Agreement on written notice in the circumstances as detailed in clause 10 above (Quality Assurance and Raising

Standards). The period of notice shall be that which, in all the circumstances, the GLA deems reasonable.

- 39.3 The GLA may terminate this Agreement with immediate effect in the event that in its reasonable opinion the conduct of the Body in performing its obligations under this Agreement amounts to a Serious Breach of the Agreement, which is incapable of remedy. For the avoidance of doubt this will include but not be limited to:

- 39.3.1 an Insolvency Event affecting the Body occurs; or
- 39.3.2 Regulation 73(1) (b) of The Public Contracts Regulations 2015 applies to the Body; or
- 39.3.3 the Body commits one or more Prohibited Acts; or
- 39.3.4 any other Body breach has occurred that is incapable of remedy.

- 39.4 The GLA reserves the right to terminate this Agreement with immediate effect by giving notice in writing if the Body:

- 39.4.1 the outcome of any financial health and/or control assessment undertaken in relation to the Body is inadequate; and/or
- 39.4.2 the Body fails to comply with requirements imposed under Clauses 10.14.1 and/10.14.2; and/or
- 39.4.3 the Body fails to comply with requirements imposed under Clause 11 (Support and Intervention); and/or
- 39.4.4 an inspection results in the Provision in part or overall thereof being assessed as inadequate; and/or
- 39.4.5 in accordance with Clause 13.1.5 an Inspectorate monitoring visit results in the Provision being assessed as having made “insufficient progress” and in the reasonable view of the GLA Learners may be at immediate risk on safeguarding grounds, and/or the quality of leadership and/or training provision is such that one or more Learner has no reasonable prospect of achieving his or her training objective; and/or
- 39.4.6 receives a “qualified” rating in two consecutive full funding audits; and/or
- 39.4.7 the Body commits a Serious Breach of Clause 6; and/or
- 39.4.8 The Body commits a Serious Breach of Clause 35.4.

- 39.5 The GLA shall be entitled to terminate this Agreement on written notice if the Body does not recruit or data returns reveal that no Learners have been enrolled for the academic year to which this Agreement relates. Where the

GLA terminates the Agreement under this Clause 39.4, the GLA will withdraw the allocation of Funding for the academic year and will take action to recover Funds where payments have already occurred.

- 39.6 The GLA shall be entitled to terminate this Agreement on written notice in the event that any of the Funding is deemed to be unlawful subsidy.
- 39.7 In addition to the rights of termination under any other clauses of this Agreement, either party shall be entitled to terminate this Agreement in respect of all or part of the Provision delivered under this Agreement by giving to the other not less than six months' notice, in writing, to that effect without the need to give a reason for termination. Where this right is exercised by the Body it shall be implemented at no cost to the GLA.
- 39.8 The Body must notify the GLA in writing if there is a change in its name and/or ownership at least twelve weeks prior to the change taking effect. The GLA reserves the right to terminate the Agreement if it considers in its absolute discretion that the change in ownership would prejudice the Body's ability to deliver the Provision.
- 39.9 Termination under this Clause 38 shall not prejudice or affect any right of action or remedy, which shall have accrued or shall thereupon accrue to the Parties under this Agreement.
- 39.10 On termination or expiry of this Agreement for any reason, the Body shall do its utmost to minimise disruption caused to Learners and to assist the implementation of any contingency plan proposed by the GLA either prior to or after the termination or expiry of this Agreement, to deal with the effects of such termination or expiry in so far as it is practicable to do so. The GLA will not be liable for any costs incurred by the Body in complying with this Clause 39.10.

40. Consequences of Termination and Expiry

- 40.1 The termination of this Agreement howsoever arising is without prejudice to the rights, duties and liabilities of either Party accrued prior to termination. The clauses of this Agreement which expressly or impliedly have effect after termination or expiry will continue to be enforceable notwithstanding termination in accordance with Clause 52 (Continuing Obligations).
- 40.2 On or before the Expiry Date (except where the Body will be responsible for delivering the Provision in the subsequent Funding year) or Termination Date, the Body must ensure that all documents or computer records in its possession, custody or control including but not limited to e-portfolios, which contain information relating to the Provision including any documents in the possession, custody or control of a Subcontractor are made available upon request to the GLA.
- 40.3 For the avoidance of doubt, after notice of termination and/or an Insolvency Event affecting the Body, the Body must not share any information about Learners, including but not limited to GLA's Data, with another organisation

unless the GLA provides written authorisation for the Body to do so. In addition, the Body shall not recruit Learners from another body that has been issued with a notice of termination and/or in relation to whom an Insolvency Event has occurred, without the permission of the GLA.

- 40.4 The Body hereby grants the GLA a non-exclusive licence to access the Body's Premises from the date of a notice of termination for such periods as may be reasonably necessary to enable the GLA to retrieve the information referred to in Clause 40.2. The GLA will exercise the rights provided under this clause where the Body has failed to comply with Clause 40.2.
- 40.5 The termination or expiry of this Agreement shall be without prejudice to rights of either Party accrued prior to the Termination Date or Expiry Date and shall not affect the continuing rights of the Parties under any provision of the Agreement that either expressly or by implication has effect after the Termination Date or the Expiry Date.
- 40.6 The GLA reserves the right to retain Funding that would otherwise be paid to the Body prior to the Expiry Date or Termination Date and/or to demand repayment of Funding, as relevant, in order to reconcile what has already been paid to the Body under this Agreement with the amount the Body is entitled to under this Agreement (including the Funding Rules).
- 40.7 Where this Agreement is terminated or expires, the GLA may elect to take the role of Data Controller to secure and protect Learner Files, including e-portfolios until the Learner information can be transferred to a new Provider, the Learner, or destroyed in accordance with defined retention periods. If the Body elects to assume this role, the Body shall co-operate fully to facilitate this.

41. Exit Arrangements

- 41.1 The Body must create and update an Exit Plan in a form required by the GLA from time to time.
- 41.2 The GLA and the Body must, unless the Body will be responsible for delivering the Provision in the following Funding Year, comply with the exit arrangements set out in any current Exit Plan.
- 41.3 On expiry or termination of this Agreement for any reason, the Body shall do its utmost to minimise any disruption to Learners and shall cooperate fully with any reasonable requests made by the GLA relating to this. For the avoidance of doubt the GLA will be entitled to request that where the Body cannot complete Learners that it will co-operate in transferring the Learners to a new provider even if this is prior to the Termination Date or Expiry Date of this Agreement and the Body's Exit Plan should reflect this. The GLA will not be liable for any costs prior to or after the Termination Date or Expiry Date incurred by the Body in complying with this Clause 41.3.
- 41.4 Unless the GLA otherwise requires, during the time between service of a notice of termination of this Agreement in whole or in part and such termination taking

effect, the Body must take all steps, which are necessary and consistent with its continuing obligations, to mitigate any losses, costs, liabilities and expenses which the Body may incur as a result of the termination, including to:

- 41.4.1 cancel all capital and recurring cost commitments in connection with the Provision on the most cost effective terms without fettering the GLA's access to GLA's Data;
 - 41.4.2 terminate all relevant Agreements or the relevant parts of relevant Agreements with its Subcontractors in connection with the Provision on the most favourable terms as can be achieved in the particular circumstances, having first ascertained from the GLA whether such Agreements are required to be transferred to the GLA or any Successor Body instead; and
 - 41.4.3 reduce labour costs by the redeployment or release of Body's Personnel to the extent possible in the circumstances.
- 41.5 If the Body does not fulfil its obligations in accordance with Clause 41.4, the GLA will not pay any sums in excess of those which the GLA would have paid had such action been taken.
- 41.6 If the Body does not co-operate with the GLA in relation to exit in accordance with this Clause 41 and the GLA incurs additional expenditure of any description as a result, the GLA reserves the right to require the Body to reimburse the GLA for this additional expenditure.

42. **Recovery of Funds**

- 42.1 The GLA reserves the right to require the Body to repay all or part of the funds provided by it in the event of a breach of the terms and Conditions of Funding set out in this Agreement or any previous Agreement between the GLA or any predecessor body.
- 42.2 The GLA shall be entitled to recover any sums repayable by the Body by deducting them from payments due to the Body under this Agreement.

43. **Provision of Information**

- 43.1 In addition to the other requirements to provide information set out in this Agreement the GLA reserves the right to request information from the Body in order to exercise GLA's responsibilities and/or to fulfil requirements to provide information to another body. On occasion, the GLA will require urgent information from the Body.
- 43.2 The Body shall provide the GLA or agents acting on its behalf with the information it requires under Clause 43.1 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.

43.3 Failure to comply with any request for information under Clause 43.1, at all or in the required timescales, will constitute a Minor / Serious Breach of this Agreement

44. **The Agreement and its Acceptance and Execution**

44.1 This Agreement:

40.1.1 constitutes the entire agreement between the parties and shall not be varied except by an instrument in writing signed by the parties;

40.1.2 may be executed validly by and on behalf of the Parties by the:

40.1.2.1 GLA's electronic application of a duly authorised officer's signature to it and uploading of this signed Agreement to GLA OPS; and

40.1.2.2 Body's irrevocable and absolute acceptance of the offer (that offer made by the GLA's signature and uploading of this signed Agreement as per Clause 40.1.2.1) such acceptance being made by an officer of the Body clicking the "accept" button on the "Contracts" section of the "Organisation Profile" page on OPS.

40.2 The Body represents and warrants and acknowledges and agrees that it is a condition of this Agreement that the Body, has read and understood this Agreement, agrees to be bound legally by it and that the officer clicking the "accept" button on the "Contracts" section of the "Organisation Profile" page on OPS (as per Clause 40.1.2.2) is duly authorised to do so for and on behalf of and can legally bind the Body.

40.3 Any breach by the Body of this Clause 40 shall constitute a Serious Breach of this Agreement.

45. **Effective Date**

45.1 The terms and conditions set out in this document will take effect from 1 August 2023 and will be reviewed on or before 31 July 2025 ("the Term").

46. **Severability**

46.1 If any term, condition or provision contained in this Agreement is held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will not affect the validity, legality or enforceability of the remaining parts of this Agreement.

47. **Law and Jurisdiction**

47.1 This Agreement is governed by the Laws of England and Wales and, subject to Disputes which are properly referred to and resolved in accordance with the Dispute Resolution Procedure, the Parties submit to the exclusive jurisdiction of the courts of England and Wales.

48. Interest on late payments

48.1 The Parties will pay interest on any amount payable under this Agreement not paid by the required date, from that date to the date of payment at the rate of 4% above the base lending rate published by the Bank of England. The Parties agree that this clause constitutes a substantial remedy for the purposes of the Late Payments of Commercial Debts (Interest) Act 1998. For the avoidance of doubt, the Body will have no right to claim interest on corrections issued by the GLA.

49. Mitigation

49.1 The GLA and the Body will at all times take all reasonable steps to minimise and mitigate any loss for which the relevant Party is entitled to bring a claim against the other Party pursuant to this Agreement and to take all reasonable steps to minimise and mitigate any effects or circumstances and/or events adversely affecting the performance of its obligations under this Agreement which would otherwise entitle that Party to relief and/or to claim compensation hereunder.

50. Further Assistance

50.1 Each Party must do all things and execute all further documents necessary to give full effect to this Agreement.

51. Third party rights

51.1 No term of this Agreement is enforceable under the Agreements (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

52. Continuing obligations

52.1 Save as otherwise expressly provided in this Agreement:

52.1.1 the termination or expiry of this Agreement will be without prejudice to any accrued rights and obligations under this Agreement as at the Expiry Date or the Termination Date; and Agreement as at the Expiry Date or the Termination Date; and

52.1.2 the termination or expiry of this Agreement will not affect the continuing rights or obligations of the GLA and the Body under any provision of this Agreement which is expressed to survive expiry or termination or which is required to give effect to such expiry or termination or the consequences of such expiry or termination for a period of six (6) years, after such expiry or termination.

IN WITNESS of which this Agreement has been duly executed by the Parties as per Clause 41: a GLA officer applying their signature electronically below:

SIGNED for and on behalf of **the Greater London Authority** by:

Signature.....

Name..... Michelle Cuomo Boorer

Position.....Assistant Director, Skills & Employment Unit

Date..... (INSERT DATE)

; **and**

an officer of the **Body** clicking the “accept” button on the “Contracts” section of the “Organisation Profile” page on OPS.

Schedule 1 Summary of Skills & Jobs for Londoners Funding 2023-2025

Provider name:	«GA_Provider_Name» UKPRN	
Academic Years:	2023-2025	
Allocation – Maximum Agreement Value £:	Total Allocation	Payment profile set out in Table 1.
Allocation – 2023-2024 Value £:	2023-2024 Value £:	Payment profile set out in Table 1.
Allocation – 2024-2025 Value £:	2024-2025 Value £:	Payment profile set out in Table 1 – Subject to Budget being made available by the GLA

Table 1

Funding and Contract year	Funding Year periods	Months and Financial Year	Funding Cap for Period
2023 to 2024 Funding year (Grant year 1)	Periods 1 to 9	August 2023 to March 2024, 2023-2024 financial year	Adult Education Budget (AEB): £0 Future Courses for Jobs (FCFJ): £0 Learner Support: £0
2023 to 2024 Funding year (Grant year 1)	Periods 9 to 12	April 2024 to July 2024, 2023-2024 financial year	Adult Education Budget (AEB): £0 Future Courses for Jobs (FCFJ): £0 Learner Support: £0

Conditions of Funding (Grant)

2023 to 2024 Funding Year Total	Periods 12 months	August 2023 to July 2024	Adult Education Budget (AEB): £0 Future Courses for Jobs (FCFJ): £0 Learner Support: £0 Total 2023-2024 Funding: £0
2024 to 2025 Funding year (Grant year 2)	Periods 1 to 9	July 2024 to March 2025, 2024-2025 financial year	Adult Education Budget (AEB): £0 Future Courses for Jobs (FCFJ): £0 Learner Support: £0
2024 to 2025 Funding year (Grant year 2)	Periods 9 to 12	April 2025 to July 2025, 2024 - 2025 financial year	Adult Education Budget (AEB): £0 Future Courses for Jobs (FCFJ): £0 Learner Support: £0
2024 to 2025 Funding Year Total	Periods 12 months	August 2024 to July 2025	Adult Education Budget (AEB): £0 Future Courses for Jobs (FCFJ): £0 Learner Support: £0 Total 2022-23 Funding: £0

Schedule 2 – Funding volumes

Delivery Values – 2021/2023 Academic Year		Learners	Learning Aims	Learning Aims	Funding
Reference	Description	Starts	Starts	Achievements	(£)
Academic Year Total (2021/21)					
T.1	Adult Education Budget (AEB)				
T.2	Learner Support (AEB) (ringfenced)				
T.3	Total AEB				
T.4	National Skills Fund Level 3 Adult Offer (NSF)				
T.5	Learner Support (NSF)				
T.6	Total NSF (ringfenced)				
T.7	Application Total (2021/22 Academic Year)				
Academic Year Total (2022/23)					
T.1	Adult Education Budget (AEB)				
T.2	Learner Support (AEB) (ringfenced)				
T.3	Total AEB				
T.4	National Skills Fund Level 3 Adult Offer (NSF)				
T.5	Learner Support (NSF)				
T.6	Total NSF (ringfenced)				
T.7	Application Total (2022/23 Academic Year)				

Note: The original Delivery Values Template (submitted as part of the bid) is saved under the Expected Outcomes and Outputs block for your project (AEB Good Work for All) on GLA OPS. Your AEB targets have been reduced on a proportionate basis in line with the reduced amount of AEB funding awarded (44.1%). Your NSF targets remain as specified in the original Delivery Values Template submitted. The targets set out in the Learner/Aim Summary of the Delivery Values Template have been adjusted to reflect the reduced amount of total funding awarded. These values are available on request from the GLA.

Other formats and languages

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

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City Hall
Kamal Chunchie Way
London
E16 1ZE

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

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