

Conditions of Funding (Grant) (Colleges)

Section	Change	Clause Reference
Entire Agreement	All references to “UK GDPR and Data Protection Act 2018” and “UK GDPR and DPA 2018” have been deleted and replaced with “Data Protection Legislation” throughout the Agreement	Entire Agreement
Entire Agreement	All references to “Minor Breach” and “Serious Breach” have been deleted and replaced with “breach of agreement” or “material breach” throughout the Agreement	Entire Agreement
Entire Agreement	All references to “He”, “Him”, “His” & “Her” have been deleted and replaced with “They”, “Them” & “Their” throughout the Agreement	Entire Agreement
“Accountability Framework”	Definition has been added	1 Definitions
“Data Protection Laws”	Definition has been deleted and all references to “Data Protection Laws” have been replaced with “Data Protection Legislation” throughout the Agreement	1 Definitions
“Data Protection Legislation”	Definition has been added	1 Definitions
“Department”	Definition has been amended means the Secretary of State for Education acting through the Department for Education and / or Education and Skills Funding Agency (ESFA);	1 Definitions
“Department Policies”	Definition has been amended the policies of the Department referred to in Schedule 7 (Security & Department Policies) and any other policies of the Department including but not limited to the Department’s policy on funding higher risk organisations and Sub-Contractors in force as at the Agreement Date and amended from time to time;	1 Definitions
“Early Intervention”	Definition has been deleted	1 Definitions

Section	Change	Clause Reference
“Financial Notice to Improve”	Definition has been renamed “ Notice to Improve ” and amended to remove the word “Formal” from “Formal Intervention”	1 Definitions
“Formal Intervention”	Definition has been renamed “ Intervention ”	1 Definitions
“High Needs Learner”	Definition has been amended 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;	1 Definitions
“ILR”	Definition has been renamed and amended “ILR” or “ Individualised Learner Record ” means the on-going collection of Learner data undertaken by training providers including the College in the Further Education (FE) and Skills sector as set out at Individualised Learner Record (ILR) - GOV.UK (www.gov.uk) ;	1 Definitions
“Law”	Definition has been amended 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 College is bound to comply;	1 Definitions
“LED”	Definition has been deleted	1 Definitions
“Minor Breach”	Definition has been deleted	1 Definitions
“New Provider Monitoring Visits”	Definition has been renamed and amended “ 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	1 Definitions

Section	Change	Clause Reference
	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)	
“Office for Students (OfS)”	Definition has been amended means the non-departmental public body of the Department that acts as the regulator and competition authority for the Higher Education sector in England;	1 Definitions
“Office of the Independent Adjudicator”	Definition has been added	1 Definitions
“OIA Rules and Guidance”	Definition has been added	1 Definitions
“Restricted Transfer”	Definition has been added	1 Definitions
“Serious Breach”	Definition has been deleted	1 Definitions
“Single Improvement Plan” or “SIP”	Definition has been added	1 Definitions
“Skills Advisory Panel” or “SAP”	Definition has been deleted	1 Definitions
“Subsidy Control”	Definition has been added	1 Definitions
“UK GDPR”	Definition has been amended the General Data Protection Regulation (Regulation (EU) 2016/679) as transposed into United Kingdom national law by operation of section 3 of the European Union (Withdrawal) Act 2018, together with the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019;	1 Definitions

Section	Change	Clause Reference
Clause 3.6	<p>Clause 3.6 has been added</p> <p>3.6 The Department will monitor the performance of the College in accordance with the Accountability Framework. An outline of the Accountability Framework is set out in Annex 1 of the Apprenticeship Carry-in Specification & Monitoring Schedule of this Agreement.</p>	3 Service Delivery
Clause 12	<p>As the amendments to Clause 12 are extensive, please refer to your revised Clause 12 which details the full requirements for delivery from 1 August 2022.</p>	12 Intervention
Clause 15.2.4	<p>Clause 15.2.4 has been amended</p> <p>15.2.4 Where the College fails to comply with the additional conditions imposed under Clause 15.2.3, within such time as the Department deems reasonable, the Department may take such actions as it deems appropriate which may include, but is not limited to terminating the Agreement in accordance with Clause 35 (Termination).</p>	15 Relationships
Clause 15.3.4	<p>Clause 15.3.4 has been added</p> <p>15.3.4 Where the College is a “Qualifying Institution” under Part 2 of the Higher Education Act 2004 and therefore a member of the independent complaints Scheme run by the OIA, the College should follow the OIA Rules and Guidance for higher education registered student complaints (defined by the OIA as a complaint from a student studying at Level 4 and above no matter how funded).</p>	15 Relationships
Clauses 16.1.1 and 16.1.2	<p>Clauses 16.1.1 and 16.1.2 have been moved from Clause 16 Representative, re-numbered as Clauses 1.5 and 1.6 and added to Clause 1 Definitions. No other amendments have been made to these clauses.</p>	16 Representative
Clause 20.4.4 and 20.4.4(a)	<p>Clause 20.4.4 and 20.4.4(a) have been amended</p> <p>20.4.4 not make a Restricted Transfer unless the prior written consent of the Data Controller has been obtained and the following conditions are fulfilled:</p>	20 Data Protection and Protection of Personal Data

Section	Change	Clause Reference
	(a) the Data Controller or the Data Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with Data Protection Legislation) as determined by the Data Controller;	
Clause 20.8.2	Clause 20.8.2 has been amended 20.8.2 the Data Controller determines the processing includes special categories of data as referred to in the Data Protection Legislation or Personal Data relating to criminal convictions and offences referred to in the Data Protection Legislation ; or	20 Data Protection and Protection of Personal Data
Clause 21.1.5	Clause 21.1.5 has been amended 21.1.5 The Department reserves the right to suspend payments to the College under the Agreement where data quality gives rise to concern about the accuracy of the data provided by the College and take any action under the Accountability Framework.	21 Submission of Learner Data
Clause 21.1.6	Clause 21.1.6 has been amended 21.1.6 Where the College is providing the Services to Learners claiming out of work benefits, it must provide data to the Secretary of State with responsibility for unemployment or their nominated representative in accordance with the requirements notified to the College. Failure to transmit complete and accurate data under this Clause 21 will constitute a breach of agreement and may result in payments for this part of the Services being suspended and / or withdrawn in accordance with Clause 34 (Withholding, Suspension and Repayment of Funding) and / or termination under Clause 35 (Termination).	21 Submission of Learner Data
Clause 21.1.7	Clause 21.1.7 has been amended 21.1.7 The College 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)). The College must regularly review this information and keep it updated.	21 Submission of Learner Data

Section	Change	Clause Reference
Clause 21.1.10	<p>Clause 21.1.10 has been amended to remove the words “delivering GCSE English and Maths”</p> <p>21.1.10 The College must submit data about any member of its workforce in the format and to the timescales as required by the Department.</p>	21 Submission of Learner Data
Clause 24	As the amendments to Clause 24 are extensive, please refer to your revised Clause 24 which details the full requirements for delivery from 1 August 2022.	24 Employees
Clause 26.1.4	<p>Clause 26.1.4 has been amended</p> <p>26.1.4 The Department 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 College, or to ensure that the resources provided by the Department are being used effectively and efficiently or to require the College to address concerns about its financial viability or to ensure that the College complies with requests made by the Department under the Accountability Framework.</p>	26 Payment, Funding and Audit
Clause 30.4	<p>Clause 30.4 has been amended</p> <p>30.4 Failure to comply with any of the requirements under Clauses 30.1 to 30.3 may result in the Department taking such actions as it deems appropriate, which may include, but is not limited to, action under Clause 34 (Withholding, Suspension and Repayment of Funding) and / or termination under Clause 35 (Termination).</p>	30 Sub-Contracting
Clause 33.3	<p>Clause 33.3 has been amended</p> <p>33.3 The College must not use any Funding provided by the Department under this Agreement for any of the purposes set out in paragraph 16 of the Cabinet Office: Guidance for General Grants Grants-Standard-SIX-Grant-Agreements.pdf (publishing.service.gov.uk) regardless of whether the Funding consists of a general grant or any other type of grant. For the avoidance of doubt, the College’s costs of</p>	33 Prohibited Acts

Section	Change	Clause Reference
	memberships for their Associations are deemed eligible under the terms of the Agreement.	
Clause 34	Clause 34 Minor and Serious Breach has been deleted and replaced with Clause 34 Withholding, Suspension and Repayment of Funding	34 Minor and Serious Breach
Clauses 35.3.6 and 35.3.7	<p>Clauses 35.3.6 and 35.3.7 have been deleted and replaced with new Clauses 35.3.6 and 35.3.7</p> <p>35.3.6 In accordance with Clause 12.3.10 the College meets any of the triggers for intervention; and/or</p> <p>35.3.7 In accordance with Clause 12.4 the College fails to comply with any action required by the Department under Clause 12.3; and/or</p>	35 Termination
Clause 35.3.13	<p>Clause 35.3.13 has been added</p> <p>35.3.13 where any of the circumstances set out in Clause 34 (Withholding, Suspension and Repayment of Funding) occur which amount to a material breach of this Agreement; and/or</p>	35 Termination
Clause 35.3.14	<p>Clause 35.3.14 has been added</p> <p>35.3.14 if the Services delivered under this Agreement, are below any performance expectations set out in the Accountability Framework to the extent to which it amounts to a material breach.</p>	35 Termination
Clause 35.4	<p>Clause 35.4 has been amended</p> <p>35.4 The Department will be entitled to terminate this Agreement immediately on the grounds set out in Clause 31.10. In the event of any termination in accordance with Clause 31.10, the Exit Arrangements set out in Clause 37 (Exit Arrangements) and Schedule 8 (Exit Arrangements) will apply.</p>	35 Termination
Clause 35.7	<p>Clause 35.7 has been amended</p> <p>35.7 If the Department terminates another Agreement with the College on fault grounds where a similar right of termination also exists in this</p>	35 Termination

Section	Change	Clause Reference
	<p>Agreement in relation to similar provisions, the Department, acting reasonably, may immediately give notice of termination of this Agreement in writing to the College.</p>	
<p>Nature and Purposes of the Processing</p>	<p>Details have been amended</p> <p>The College will be required to submit the data to the Department for the purposes as set out in Clause 21 (Submission of Learner Data) of this Agreement.</p> <p>The processing of data in the agreement refers to the submission of ILR data to the Department only. The processing does not include the processing of Personal Data collected from the Learners by the body for the purposes of enrolling Learners onto programmes or delivering education or training.</p>	<p>Schedule 6: UK GDPR and Data Protection</p>
<p>Retention and destruction of the data once the processing is complete UNLESS requirement by (UK) Law to preserve that type of data</p>	<p>Details have been amended</p> <p>The College is required to retain ILR data for 3 years for business operational purposes.</p> <p>For the purposes of the Department as a Data Controller of the data, the College is required to retain the Learner Records data for the funding and audit purposes set out in this Agreement for six (6) years from the end of the Financial Year in which the last payment is made under this Agreement.</p> <p>For the purposes of the Department for Work & Pensions as a Data Controller, where Learner Records data is used as match on the 2014-20 ESF programme, the data must be retained securely until 31st December 2034.</p> <p>The College (and any other Data Controller) is responsible for determining any further need to process the data, including its retention, prior to secure destruction.</p> <p>The College shall comply with Clause 36 (Consequences of Termination and Expiry) which sets out provisions that will apply to Learner Records after this Agreement has been terminated or has expired.</p>	<p>Schedule 6: UK GDPR and Data Protection</p>

Section	Change	Clause Reference
Paragraph 1.2	<p>Paragraph 1.2 has been amended</p> <p>1.2 In the collection and processing of the data set out in Schedule 6, UK GDPR and Data Protection, the requirements of Cabinet Office Procurement Policy Note 09/14: Cyber Essentials scheme certification - GOV.UK (www.gov.uk) dated 25 May 2016, or any subsequent updated document, are mandated, and the College will work towards meeting the requirements of Cyber Essentials during the 2022/23 Funding Year and present the evidence to the Department on request. The scope must be relevant to the submission of data to the Department, including an allowance for a sub-set scope if appropriate.</p>	Schedule 7: Security & Department Policies
Paragraph 1.15	<p>Paragraph 1.15 has been amended</p> <p>1.15 Notwithstanding any other provisions as to business continuity and disaster recovery in the Agreement, the College will, as a minimum, have in place robust Business Continuity arrangements and processes including IT disaster recovery plans and procedures that conform to ISO 22301 to ensure that the delivery of the Agreement is not adversely affected in the event of an incident. An incident will be defined as any situation that might, or could lead to, a disruption, loss, emergency or crisis to the Services delivered. If an ISO 22301 certificate is not available, the College will provide evidence of the effectiveness of their ISO 22301 conformant Business Continuity arrangements and processes including IT disaster recovery plans and procedures. This should include evidence that the College has tested or exercised these plans within the last twelve (12) months and produced a written report of the outcome, including required actions.</p>	Schedule 7: Security & Department Policies
Various paragraphs	All references to “clerk/head of governance” have been deleted and replaced with “governance professional” throughout Schedule 9	Schedule 9: College Governance
Paragraph 2.3	<p>Paragraph 2.3 has been amended</p> <p>2.3 The Governing Body will appoint an accounting officer with an appropriate separation of duties between executive and non-executive</p>	Schedule 9: College Governance

Section	Change	Clause Reference
	<p>roles and responsibilities. The expectation is that the accounting officer will be the Principal or most senior executive leader of the College. The Governing Body will inform the Department in writing of the name and position of the accounting officer, and if the accounting officer is absent from the College for an extended period, as determined by the corporation, the name of the person who will discharge the accounting officer's responsibilities during the absence.</p>	
<p>Paragraph 4.3</p>	<p>Paragraph 4.3 has been amended</p> <p>4.3 The College must receive approval from the Secretary of State before making a change to its legal entity name. The process for seeking approval is set out in the college name change guidance, which can be found at: Changing the name of a further education institution - GOV.UK (www.gov.uk).</p>	<p>Schedule 9: College Governance</p>
<p>Paragraph 5.3</p>	<p>Paragraph 5.3 has been amended</p> <p>5.3 The Governing Body must conduct an annual governance self-assessment (except in the year of an external governance review) and must have an external governance review at least once every three years, based on the governance code(s) used by the Governing Body. In accordance with the obligation to supply information to the Secretary of State (see Clause 38 Provision of Information), the Governing Body must supply the Department with details of the outcomes of governance reviews, and of progress in meeting review recommendations, when so requested.</p>	<p>Schedule 9: College Governance</p>
<p>Paragraph 8.6</p>	<p>Paragraph 8.6 has been amended</p> <p>8.6 Where, in the Department's view, information obtained in respect of the College, either as a result of an assessment undertaken by the Department in line with the approach set out in the Financial Planning Handbook or audited accounts, indicates that there is, or in the foreseeable future there is likely to be, a risk to the solvency or financial viability of the College, the Department may take such action as it deems appropriate, which may include, but is not limited to, requiring the</p>	<p>Schedule 9: College Governance</p>

Section	Change	Clause Reference
	College to comply with additional conditions of funding imposed under Clause 12 (Intervention) .	
Various paragraphs	Paragraphs 1.4, 1.8.1, 1.12, 1.21, 1.22, 1.23 and 1.28 of Schedule 10: Sub-Contracting have been amended to include the relevant reference to the contents section of the Sub-Contracting Funding Rules.	Schedule 10: Sub-Contracting
Paragraph 1.26	Paragraph 1.26 has been amended 1.26 If the College considers that it cannot reduce the value of its sub-contracted Services to the Sub-Contracting Threshold by 31 July 2023 it must submit an Exemption Case to the Department by 31 March 2023 and each year thereafter .	Schedule 10: Sub-Contracting

Conditions of Funding (Grant) (Employers)

Section	Change	Clause Reference
Entire Agreement	All references to “UK GDPR and Data Protection Act 2018” and “UK GDPR and DPA 2018” have been deleted and replaced with “Data Protection Legislation” throughout the Agreement	Entire Agreement
Entire Agreement	All references to “Minor Breach” and “Serious Breach” have been deleted and replaced with “breach of agreement” or “material breach” throughout the Agreement	Entire Agreement
Entire Agreement	All references to “He”, “His” & “Her” have been deleted and replaced with “They” & “Their” throughout the Agreement	Entire Agreement
“Accountability Framework”	Definition has been added	1 Definitions
“Data Protection Laws”	Definition has been deleted and all references to “Data Protection Laws” have been replaced with “Data Protection Legislation” throughout the Agreement	1 Definitions
“Data Protection Legislation”	Definition has been added	1 Definitions
“Department”	Definition has been amended means the Secretary of State for Education acting through the Department for Education and / or Education and Skills Funding Agency (ESFA);	1 Definitions
“Department Policies”	Definition has been amended the policies of the Department referred to in Schedule 7 (Security & Department Policies) and any other policies of the Department including but not limited to the Department's policy on funding higher risk organisations and Sub-Contractors in force as at the Agreement Date and amended from time to time;	1 Definitions
“High Needs Learner”	Definition has been amended	1 Definitions

Section	Change	Clause Reference
	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;	
“ILR”	Definition has been renamed and amended “ILR” or “ Individualised Learner Record ” means the on-going collection of Learner data undertaken by training providers including the Employer in the Further Education (FE) and Skills sector as set out at Individualised Learner Record (ILR) - GOV.UK (www.gov.uk) ;	1 Definitions
“Law”	Definition has been amended 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 Employer is bound to comply;	1 Definitions
“LED”	Definition has been deleted	1 Definitions
“Minor Breach”	Definition has been deleted	1 Definitions
“Restricted Transfer”	Definition has been added	1 Definitions
“Serious Breach”	Definition has been deleted	1 Definitions
“Skills Advisory Panel” or “SAP”	Definition has been deleted	1 Definitions
“Subsidy Control”	Definition has been added	1 Definitions
“UK GDPR”	Definition has been amended the General Data Protection Regulation (Regulation (EU) 2016/679) as transposed into United Kingdom national law by operation of section 3 of	1 Definitions

Section	Change	Clause Reference
	the European Union (Withdrawal) Act 2018, together with the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019;	
Clause 3.5	Clause 3.5 has been added 3.5 The Department will monitor the performance of the Employer in accordance with the Accountability Framework. An outline of the Accountability Framework is set out in Annex 1 of the Apprenticeship Carry-in Specification & Monitoring Schedule of this Agreement.	3 Service Delivery
Clause 12.4	Clause 12.4 has been amended 12.4 Where the Department is made aware that Ofsted has provisionally assessed the Services to be inadequate overall, the Department may, in its absolute discretion commence discussions with the Employer and other relevant co-funding regulatory bodies where appropriate as part of considering what actions as specified in Clauses 12.5.1 to 12.5.5 inclusive may be taken.	12 Inspections
Clauses 12.4.1 and 12.4.2	Clauses 12.4.1 and 12.4.2 have been deleted	12 Inspections
Clause 12.5	Clause 12.5 has been amended 12.5 Where Ofsted has published its assessment that the Services are inadequate overall, the Department may, in its absolute discretion take one or more of the following actions:	12 Inspections
Clause 12.9	Clause 12.9 has been amended 12.9 Where Ofsted has published its assessment that the Employer is making “insufficient progress” on any of the Monitoring Visit inspection themes, the Department may, in its absolute discretion take the following actions:	12 Inspections
Clause 15.2.4	Clause 15.2.4 has been amended 15.2.4 Where the Employer fails to comply with the additional conditions imposed under Clause 15.2.3, within such time as the Department	15 Relationships

Section	Change	Clause Reference
	deems reasonable, the Department may take such actions as it deems appropriate which may include, but is not limited to terminating the Agreement in accordance with Clause 35 (Termination) .	
Clauses 16.1.1 and 16.1.2	Clauses 16.1.1 and 16.1.2 have been moved from Clause 16 Representative, re-numbered as Clauses 1.5 and 1.6 and added to Clause 1 Definitions. No other amendments have been made to these clauses.	16 Representative
Clause 20.4.4 and 20.4.4(a)	<p>Clause 20.4.4 and 20.4.4(a) have been amended</p> <p>20.4.4 not make a Restricted Transfer unless the prior written consent of the Data Controller has been obtained and the following conditions are fulfilled:</p> <p>(a) the Data Controller or the Data Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with Data Protection Legislation) as determined by the Data Controller;</p>	20 Data Protection and Protection of Personal Data
Clause 20.8.2	<p>Clause 20.8.2 has been amended</p> <p>20.8.2 the Data Controller determines the processing includes special categories of data as referred to in the Data Protection Legislation or Personal Data relating to criminal convictions and offences referred to in the Data Protection Legislation; or</p>	20 Data Protection and Protection of Personal Data
Clause 21.1.5	<p>Clause 21.1.5 has been amended</p> <p>21.1.5 The Department reserves the right to suspend payments to the Employer under the Agreement where data quality gives rise to concern about the accuracy of the data provided by the Employer and take any action under the Accountability Framework.</p>	21 Submission of Learner Data
Clause 21.1.6	<p>Clause 21.1.6 has been amended</p> <p>21.1.6 Where the Employer is providing the Services to Learners claiming out of work benefits, it must provide data to the Secretary of State with responsibility for unemployment or their nominated representative in accordance with the requirements notified to the Employer. Failure to</p>	21 Submission of Learner Data

Section	Change	Clause Reference
	transmit complete and accurate data under this Clause 21 will constitute a breach of agreement and may result in payments for this part of the Services being suspended and / or withdrawn in accordance with Clause 34 (Withholding, Suspension and Repayment of Funding) and / or termination under Clause 35 (Termination).	
Clause 21.1.7	Clause 21.1.7 has been amended 21.1.7 The Employer 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)). The Employer must regularly review this information and keep it updated.	21 Submission of Learner Data
Clause 21.1.10	Clause 21.1.10 has been amended to remove the words “delivering GCSE English and Maths” 21.1.10 The Employer must submit data about any member of its workforce in the format and to the timescales as required by the Department.	21 Submission of Learner Data
Clause 24	As the amendments to Clause 24 are extensive, please refer to your revised Clause 24 which details the full requirements for delivery from 1 August 2022.	24 Employees
Clause 26.1.4	Clause 26.1.4 has been amended 26.1.4 The Department 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 Employer, or to ensure that the resources provided by the Department are being used effectively and efficiently or to require the Employer to address concerns about its financial viability or to ensure that the Employer complies with requests made by the Department under the Accountability Framework.	26 Payment, Funding and Audit
Clause 30.4	Clause 30.4 has been amended 30.4 Failure to comply with any of the requirements under Clauses 30.1 to 30.3 may result in the Department taking such actions as it deems	30 Sub-Contracting

Section	Change	Clause Reference
	appropriate, which may include, but is not limited to, action under Clause 34 (Withholding, Suspension and Repayment of Funding) and / or termination under Clause 35 (Termination).	
Clause 33.3	<p>Clause 33.3 has been amended</p> <p>33.3 The Employer must not use any Funding provided by the Department under this Agreement for any of the purposes set out in paragraph 16 of the Cabinet Office: Guidance for General Grants Grants-Standard-SIX-Grant-Agreements.pdf (publishing.service.gov.uk) regardless of whether the Funding consists of a general grant or any other type of grant. For the avoidance of doubt, the Employer's costs of memberships for their Associations are deemed eligible under the terms of the Agreement.</p>	33 Prohibited Acts
Clause 34	Clause 34 Minor and Serious Breach has been deleted and replaced with Clause 34 Withholding, Suspension and Repayment of Funding	34 Minor and Serious Breach
Clause 35.3.12	<p>Clause 35.3.12 has been added</p> <p>35.3.12 where any of the circumstances set out in Clause 34 (Withholding, Suspension and Repayment of Funding) occur which amount to a material breach of this Agreement; and/or</p>	35 Termination
Clause 35.3.13	<p>Clause 35.3.13 has been added</p> <p>35.3.13 if the Services delivered under this Agreement, are below any performance expectations set out in the Accountability Framework to the extent to which it amounts to a material breach.</p>	35 Termination
Clause 35.4	<p>Clause 35.4 has been amended</p> <p>35.4 The Department will be entitled to terminate this Agreement immediately on the grounds set out in Clause 31.10. In the event of any termination in accordance with Clause 31.10, the Exit Arrangements set out in Clause 37 (Exit Arrangements) and Schedule 8 (Exit Arrangements) will apply.</p>	35 Termination

Section	Change	Clause Reference
<p>Clause 35.7</p>	<p>Clause 35.7 has been amended</p> <p>35.7 If the Department terminates another Agreement with the Employer on fault grounds where a similar right of termination also exists in this Agreement in relation to similar provisions, the Department, acting reasonably, may immediately give notice of termination of this Agreement in writing to the Employer.</p>	<p>35 Termination</p>
<p>Nature and purposes of the Processing</p>	<p>Details have been amended</p> <p>The Employer will be required to submit the data to the Department for the purposes as set out in Clause 21 (Submission of Learner Data) of this Agreement.</p> <p>The processing of data in the Agreement refers to the submission of ILR data to the Department only. The processing does not include the processing of Personal Data collected from the Learners by the body for the purposes of enrolling Learners onto programmes or delivering education or training.</p>	<p>Schedule 6: UK GDPR and Data Protection</p>
<p>Retention and destruction of the data once the processing is complete</p> <p>UNLESS requirement by (UK) Law to preserve that type of data</p>	<p>Details have been amended</p> <p>The Employer is required to retain ILR data for 3 years for business operational purposes.</p> <p>For the purposes of the Department as a Data Controller of the data, the Employer is required to retain the Learner Records data for the funding and audit purposes set out in this Agreement for six (6) years from the end of the Financial Year in which the last payment is made under this Agreement.</p> <p>For the purposes of the Department for Work & Pensions as a Data Controller, where Learner Records data is used as match on the 2014-20 ESF programme, the data must be retained securely until 31st December 2034.</p> <p>The Employer (and any other Data Controller) is responsible for determining any further need to process the data, including its retention, prior to secure destruction.</p>	<p>Schedule 6: UK GDPR and Data Protection</p>

Section	Change	Clause Reference
	The Employer shall comply with Clause 36 (Consequences of Termination and Expiry) which sets out provisions that will apply to Learner Records after this Agreement has been terminated or has expired.	
Paragraph 1.2	Paragraph 1.2 has been amended 1.2 In the collection and processing of the data set out in Schedule 6, UK GDPR and Data Protection , the requirements of Cabinet Office Procurement Policy Note 09/14: Cyber Essentials scheme certification - GOV.UK (www.gov.uk) dated 25 May 2016, or any subsequent updated document, are mandated, and the Employer will work towards meeting the requirements of Cyber Essentials during the 2022/23 Funding Year and present the evidence to the Department on request. The scope must be relevant to the submission of data to the Department, including an allowance for a sub-set scope if appropriate .	Schedule 7: Security & Department Policies
Paragraph 1.15	Paragraph 1.15 has been amended 1.15 Notwithstanding any other provisions as to business continuity and disaster recovery in the Agreement , the Employer will, as a minimum, have in place robust Business Continuity arrangements and processes including IT disaster recovery plans and procedures that conform to ISO 22301 to ensure that the delivery of the Agreement is not adversely affected in the event of an incident. An incident will be defined as any situation that might, or could lead to, a disruption, loss, emergency or crisis to the Services delivered. If an ISO 22301 certificate is not available, the Employer will provide evidence of the effectiveness of their ISO 22301 conformant Business Continuity arrangements and processes including IT disaster recovery plans and procedures. This should include evidence that the Employer has tested or exercised these plans within the last twelve (12) months and produced a written report of the outcome, including required actions.	Schedule 7: Security & Department Policies
Various paragraphs	Paragraphs 1.4, 1.8.1, 1.12, 1.21, 1.22, 1.23 and 1.28 of Schedule 9: Sub-Contracting have been amended to include the relevant reference to the contents section of the Sub-Contracting Funding Rules.	Schedule 9: Sub-Contracting

Section	Change	Clause Reference
Paragraph 1.26	Paragraph 1.26 has been amended 1.26 If the Employer considers that it cannot reduce the value of its sub-contracted Services to the Sub-Contracting Threshold by 31 July 2023 it must submit an Exemption Case to the Department by 31 March 2023 and each year thereafter.	Schedule 9: Sub-Contracting

Conditions of Funding (Grant) (HEI)

Section	Change	Clause Reference
Entire Agreement	All references to “UK GDPR and Data Protection Act 2018” and “UK GDPR and DPA 2018” have been deleted and replaced with “Data Protection Legislation” throughout the Agreement	Entire Agreement
Entire Agreement	All references to “Minor Breach” and “Serious Breach” have been deleted and replaced with “breach of agreement” or “material breach” throughout the Agreement	Entire Agreement
Entire Agreement	All references to “He”, “His” & “Her” have been deleted and replaced with “They” & “Their” throughout the Agreement	Entire Agreement
“Accountability Framework”	Definition has been added	1 Definitions
“Data Protection Laws”	Definition has been deleted and all references to “Data Protection Laws” have been replaced with “Data Protection Legislation” throughout the Agreement	1 Definitions
“Data Protection Legislation”	Definition has been added	1 Definitions
“Department”	Definition has been amended means the Secretary of State for Education acting through the Department for Education and / or Education and Skills Funding Agency (ESFA);	1 Definitions
“Department Policies”	Definition has been amended the policies of the Department referred to in Schedule 7 (Security & Department Policies) and any other policies of the Department including but not limited to the Department's policy on funding higher risk organisations and Sub-Contractors in force as at the Agreement Date and amended from time to time;	1 Definitions
“High Needs Learner”	Definition has been amended	1 Definitions

Section	Change	Clause Reference
	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;	
“ILR”	Definition has been renamed and amended “ILR” or “ Individualised Learner Record ” means the on-going collection of Learner data undertaken by training providers including the Provider in the Further Education (FE) and Skills sector as set out at Individualised Learner Record (ILR) - GOV.UK (www.gov.uk) ;	1 Definitions
“Law”	Definition has been amended 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 Provider is bound to comply;	1 Definitions
“LED”	Definition has been deleted	1 Definitions
“Minimum Standards”	Definition has been amended means the quality standards set by the Department up to the academic year 2018-19 to which the Provider had to adhere ;	1 Definitions
“Minor Breach”	Definition has been deleted	1 Definitions
“Office for Students” or “OfS”	Definition has been amended means the non-departmental public body of the Department that acts as the regulator and competition authority for the Higher Education sector in England ;	1 Definitions

Section	Change	Clause Reference
“Office of the Independent Adjudicator”	Definition has been added	1 Definitions
“OIA Rules and Guidance”	Definition has been added	1 Definitions
“Restricted Transfer”	Definition has been added	1 Definitions
“Serious Breach”	Definition has been deleted	1 Definitions
“Skills Advisory Panel” or “SAP”	Definition has been deleted	1 Definitions
“Subsidy Control”	Definition has been added	1 Definitions
“UK GDPR”	Definition has been amended the General Data Protection Regulation (Regulation (EU) 2016/679) as transposed into United Kingdom national law by operation of section 3 of the European Union (Withdrawal) Act 2018, together with the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019;	1 Definitions
Clause 3.5	Clause 3.5 has been added 3.5 The Department will monitor the performance of the Provider in accordance with the Accountability Framework. An outline of the Accountability Framework is set out in Annex 1 of the Apprenticeship Carry-in Specification & Monitoring Schedule of this Agreement.	3 Service Delivery
Clause 12.5	Clause 12.5 has been amended 12.5 Where the Department is made aware that Ofsted has provisionally assessed the Services to be inadequate overall, the Department may, in its absolute discretion commence discussions with the Provider and other relevant co-funding regulatory bodies where appropriate as	12 Inspections

Section	Change	Clause Reference
	part of considering what actions as specified in Clauses 12.6(a) to 12.6(f) inclusive may be taken.	
Clauses 12.5(a) and 12.5(b)	Clauses 12.5(a) and 12.5(b) have been deleted	12 Inspections
Clause 12.6	<p>Clause 12.6 has been amended</p> <p>12.6 Where Ofsted has published its assessment that the Services are inadequate overall, the Department may, in its absolute discretion take one or more of the following actions:</p>	12 Inspections
Clause 12.9	<p>Clause 12.9 has been amended</p> <p>12.9 Where Ofsted has published its assessment that the Provider is making “insufficient progress” on any of the Monitoring Visit inspection themes, the Department may, in its absolute discretion take the following actions:</p>	12 Inspections
Clause 15.2.4	<p>Clause 15.2.4 has been amended</p> <p>15.2.4 Where the Provider fails to comply with the additional conditions imposed under Clause 15.2.3, within such time as the Department deems reasonable, the Department may take such actions as it deems appropriate which may include, but is not limited to, terminating the Agreement in accordance with Clause 35 (Termination).</p>	15 Relationships
Clause 15.3.4	<p>Clause 15.3.4 has been deleted and replaced with a new Clause 15.3.4</p> <p>15.3.4 All Higher Education Institutions are “Qualifying Institutions” under Part 2 of the Higher Education Act 2004 and therefore a member of the independent complaints Scheme run by the OIA, HEIs should follow the OIA Rules and Guidance for all registered student complaints.</p>	15 Relationships
Clauses 16.1.1 and 16.1.2	Clauses 16.1.1 and 16.1.2 have been moved from Clause 16 Representative, re-numbered as Clauses 1.5 and 1.6 and added to Clause 1 Definitions. No other amendments have been made to these clauses.	16 Representative

Section	Change	Clause Reference
<p>Clause 20.4.4 and 20.4.4(a)</p>	<p>Clause 20.4.4 and 20.4.4(a) has been amended</p> <p>20.4.4 not make a Restricted Transfer unless the prior written consent of the Data Controller has been obtained and the following conditions are fulfilled:</p> <p>(a) the Data Controller or the Data Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with Data Protection Legislation) as determined by the Data Controller;</p>	<p>20 Data Protection and Protection of Personal Data</p>
<p>Clause 20.8.2</p>	<p>Clause 20.8.2 has been amended</p> <p>20.8.2 the Data Controller determines the processing includes special categories of data as referred to in the Data Protection Legislation or Personal Data relating to criminal convictions and offences referred to in the Data Protection Legislation; or</p>	<p>20 Data Protection and Protection of Personal Data</p>
<p>Clause 21.1.5</p>	<p>Clause 21.1.5 has been amended</p> <p>21.1.5 The Department reserves the right to suspend payments to the Provider under the Agreement where data quality gives rise to concern about the accuracy of the data provided by the Provider and take any action under the Accountability Framework.</p>	<p>21 Submission of Learner Data</p>
<p>Clause 21.1.6</p>	<p>Clause 21.1.6 has been amended</p> <p>21.1.6 Where the Provider is providing the Services to Learners claiming out of work benefits, it must provide data to the Secretary of State with responsibility for unemployment or their nominated representative in accordance with the requirements notified to the Provider. Failure to transmit complete and accurate data under this Clause 21 will constitute a breach of agreement and may result in payments for this part of the Services being suspended and / or withdrawn in accordance with Clause 34 (Withholding, Suspension and Repayment of Funding) and / or termination under Clause 35 (Termination).</p>	<p>21 Submission of Learner Data</p>
<p>Clause 21.1.7</p>	<p>Clause 21.1.7 has been amended</p>	<p>21 Submission of Learner Data</p>

Section	Change	Clause Reference
	<p>21.1.7 The Provider 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)). The Provider must regularly review this information and keep it updated.</p>	
<p>Clause 21.1.10</p>	<p>Clause 21.1.10 has been amended to remove the words “delivering GCSE English and Maths”</p> <p>21.1.10 The Provider must submit data about any member of its workforce in the format and to the timescales as required by the Department.</p>	<p>21 Submission of Learner Data</p>
<p>Clause 24</p>	<p>As the amendments to Clause 24 are extensive, please refer to your revised Clause 24 which details the full requirements for delivery from 1 August 2022.</p>	<p>24 Employees</p>
<p>Clause 26.1.4</p>	<p>Clause 26.1.4 has been amended</p> <p>26.1.4 The Department 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 Provider, or to ensure that the resources provided by the Department are being used effectively and efficiently or to require the Provider to address concerns about its financial viability or to ensure that the Provider complies with requests made by the Department under the Accountability Framework.</p>	<p>26 Payment, Funding and Audit</p>
<p>Clause 30.4</p>	<p>Clause 30.4 has been amended</p> <p>30.4 Failure to comply with any of the requirements under Clauses 30.1 to 30.3 may result in the Department taking such actions as it deems appropriate, which may include, but is not limited to, action under Clause 34 (Withholding, Suspension and Repayment of Funding) and / or termination under Clause 35 (Termination).</p>	<p>30 Sub-Contracting</p>
<p>Clause 33.3</p>	<p>Clause 33.3 has been amended</p> <p>33.3 The Provider must not use any Funding provided by the Department under this Agreement for any of the purposes set out in paragraph 16 of</p>	<p>33 Prohibited Acts</p>

Section	Change	Clause Reference
	<p>the Cabinet Office: Guidance for General Grants Grants-Standard-SIX-Grant-Agreements.pdf (publishing.service.gov.uk) regardless of whether the Funding consists of a general grant or any other type of grant. For the avoidance of doubt, the Provider's costs of memberships for their Associations are deemed eligible under the terms of the Agreement.</p>	
Clause 34	<p>Clause 34 Minor and Serious Breach has been deleted and replaced with Clause 34 Withholding, Suspension and Repayment of Funding</p>	<p>34 Minor and Serious Breach</p>
Clause 35.3.13	<p>Clause 35.3.13 has been added</p> <p>35.3.13 where any of the circumstances set out in Clause 34 (Withholding, Suspension and Repayment of Funding) occur which amount to a material breach of this Agreement; and/or</p>	<p>35 Termination</p>
Clause 35.3.14	<p>Clause 35.3.14 has been added</p> <p>35.3.14 if the Services delivered under this Agreement, are below any performance expectations set out in the Accountability Framework to the extent to which it amounts to a material breach.</p>	<p>35 Termination</p>
Clause 35.4	<p>Clause 35.4 has been amended</p> <p>35.4 The Department will be entitled to terminate this Agreement immediately on the grounds set out in Clause 31.10. In the event of any termination in accordance with Clause 31.10, the Exit Arrangements set out in Clause 37 (Exit Arrangements) and Schedule 8 (Exit Arrangements) will apply.</p>	<p>35 Termination</p>
Clause 35.7	<p>Clause 35.7 has been amended</p> <p>35.7 If the Department terminates another Agreement with the Provider on fault grounds where a similar right of termination also exists in this Agreement in relation to similar provisions, the Department, acting reasonably, may immediately give notice of termination of this Agreement in writing to the Provider.</p>	<p>35 Termination</p>

Section	Change	Clause Reference
<p>Nature and Purposes of the Processing</p>	<p>Details have been amended</p> <p>The Provider will be required to submit the data to the Department for the purposes as set out in Clause 21 (Submission of Learner Data) of this Agreement.</p> <p>The processing of data in the Agreement refers to the submission of ILR data to the Department only. The processing does not include the processing of Personal Data collected from the Learners by the body for the purposes of enrolling Learners onto programmes or delivering education or training.</p>	<p>Schedule 6: UK GDPR and Data Protection</p>
<p>Retention and destruction of the data once the processing is complete UNLESS requirement by UK Law to preserve that type of data</p>	<p>Details have been amended</p> <p>The Provider is required to retain ILR data for 3 years for business operational purposes.</p> <p>For the purposes of the Department as a Data Controller of the data, the Provider is required to retain the Learner Records data for the funding and audit purposes set out in this Agreement for six (6) years from the end of the Financial Year in which the last payment is made under this Agreement.</p> <p>For the purposes of the Department for Work & Pensions as a Data Controller, where Learner Records data is used as match on the 2014-20 ESF programme, the data must be retained securely until 31st December 2034.</p> <p>The Provider (and any other Data Controller) is responsible for determining any further need to process the data, including its retention, prior to secure destruction.</p> <p>The Provider shall comply with Clause 36 (Consequences of Termination and Expiry) which sets out provisions that will apply to Learner Records after this Agreement has been terminated or has expired.</p>	<p>Schedule 6: UK GDPR and Data Protection</p>
<p>Paragraph 1.2</p>	<p>Paragraph 1.2 has been amended</p> <p>1.2 In the collection and processing of the data set out in Schedule 6, UK GDPR and Data Protection, the requirements of Cabinet Office</p>	<p>Schedule 7: Security and</p>

Section	Change	Clause Reference
	<p>Procurement Policy Note 09/14: Cyber Essentials scheme certification - GOV.UK (www.gov.uk) dated 25 May 2016, or any subsequent updated document, are mandated, and the Provider will work towards meeting the requirements of Cyber Essentials during the 2022/23 Funding Year and present the evidence to the Department on request. The scope must be relevant to the submission of data to the Department, including an allowance for a sub-set scope if appropriate.</p>	Department Policies
Paragraph 1.15	<p>Paragraph 1.15 has been amended</p> <p>1.15 Notwithstanding any other provisions as to business continuity and disaster recovery in the Agreement, the Provider will, as a minimum, have in place robust Business Continuity arrangements and processes including IT disaster recovery plans and procedures that conform to ISO 22301 to ensure that the delivery of the Agreement is not adversely affected in the event of an incident. An incident will be defined as any situation that might, or could lead to, a disruption, loss, emergency or crisis to the Services delivered. If an ISO 22301 certificate is not available, the Provider will provide evidence of the effectiveness of their ISO 22301 conformant Business Continuity arrangements and processes including IT disaster recovery plans and procedures. This should include evidence that the Provider has tested or exercised these plans within the last twelve (12) months and produced a written report of the outcome, including required actions.</p>	Schedule 7: Security and Department Policies
Various paragraphs	<p>Paragraphs 1.4, 1.8.1, 1.12, 1.21, 1.22, 1.23 and 1.28 of Schedule 9: Sub-Contracting have been amended to include the relevant reference to the contents section of the Sub-Contracting Funding Rules.</p>	Schedule 9: Sub-Contracting
Paragraph 1.26	<p>Paragraph 1.26 has been amended</p> <p>1.26 If the Provider considers that it cannot reduce the value of its sub-contracted Services to the Sub-Contracting Threshold by 31 July 2023 it must submit an Exemption Case to the Department by 31 March 2023 and each year thereafter.</p>	Schedule 9: Sub-Contracting

Contract for Services

Section	Change	Clause Reference
Entire Contract	All references to “UK GDPR and Data Protection Act 2018” and “UK GDPR and DPA 2018” have been deleted and replaced with “Data Protection Legislation” throughout the Contract	Entire Contract
Entire Contract	All references to “Minor Breach” and “Serious Breach” have been deleted and replaced with “breach of contract” or “material breach” throughout the Contract	Entire Contract
Entire Contract	All references to “He”, “She”, “His” & “Her” have been deleted and replaced with “They” & “Their” throughout the Contract	Entire Contract
“Accountability Framework”	Definition has been added	1 Definitions
“Change in Control”	Definition has been amended means (1) any event where any single person or group of persons acting in concert (within the meaning of the City Code on Takeovers and Mergers) acquires any direct or indirect legal and/or beneficial interest in the share capital (as defined in Section 545 of the Companies Act 2006) of the Contractor as a result of which that person or group of persons has a direct or indirect interest in more than 25% of the share capital of the Contractor; and/or (2) A change in the top two tiers of the management team of the Contractor .	1 Definitions
“Data Protection Laws”	Definition has been deleted and all references to “Data Protection Laws” have been replaced with “Data Protection Legislation” throughout the Contract	1 Definitions
“Data Protection Legislation”	Definition has been added	1 Definitions
“Department”	Definition has been amended means the Secretary of State for Education acting through the Department for Education and / or Education and Skills Funding Agency (ESFA);	1 Definitions

Section	Change	Clause Reference
<p>“Department Policies”</p>	<p>Definition has been amended</p> <p>the policies of the Department referred to in Schedule 7 (Security & Department Policies) and any other policies of the Department including but not limited to the Department’s policy on funding higher risk organisations and Sub-Contractors in force as at the Agreement Date and amended from time to time;</p>	<p>1 Definitions</p>
<p>“High Needs Learner”</p>	<p>Definition has been amended</p> <p>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;</p>	<p>1 Definitions</p>
<p>“ILR”</p>	<p>Definition has been renamed and amended</p> <p>“ILR” or “Individualised Learner Record” means the on-going collection of Learner data undertaken by training providers including the Contractor in the Further Education (FE) and Skills sector as set out at Individualised Learner Record (ILR) - GOV.UK (www.gov.uk);</p>	<p>1 Definitions</p>
<p>“Law”</p>	<p>Definition has been amended</p> <p>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 Contractor is bound to comply;</p>	<p>1 Definitions</p>
<p>“LED”</p>	<p>Definition has been deleted</p>	<p>1 Definitions</p>
<p>“Minimum Standards”</p>	<p>Definition has been amended</p> <p>means the quality standards set by the Department up to the academic year 2018-19 to which the Contractor had to adhere;</p>	<p>1 Definitions</p>
<p>“Minor Breach”</p>	<p>Definition has been deleted</p>	<p>1 Definitions</p>

Section	Change	Clause Reference
“Restricted Transfer”	Definition has been added	1 Definitions
“Serious Breach”	Definition has been deleted	1 Definitions
“Skills Advisory Panel” or “SAP”	Definition has been deleted	1 Definitions
“Subsidy Control”	Definition has been added	1 Definitions
“UK GDPR”	Definition has been amended the General Data Protection Regulation (Regulation (EU) 2016/679) as transposed into United Kingdom national law by operation of section 3 of the European Union (Withdrawal) Act 2018, together with the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019;	1 Definitions
Clause 13.4	Clause 13.4 has been amended 13.4 Where the Department is made aware that Ofsted has provisionally assessed the Services to be inadequate overall, the Department may, in its absolute discretion commence discussions with the Contractor and other relevant co-funding regulatory bodies where appropriate as part of considering what actions as specified in Clauses 13.5(a) to 13.5(e) inclusive may be taken.	13 Inspections
Clauses 13.4(a) and 13.4(b)	Clauses 13.4(a) and 13.4(b) have been deleted	13 Inspections
Clause 13.5	Clause 13.5 has been amended 13.5 Where Ofsted has published its assessment that the Services are inadequate overall, the Department may, in its absolute discretion take one or more of the following actions:	13 Inspections
Clause 13.9	Clause 13.9 has been amended	13 Inspections

Section	Change	Clause Reference
	13.9 Where Ofsted has published its assessment that the Contractor is making “insufficient progress” on any of the Monitoring Visit inspection themes , the Department may, in its absolute discretion take the following actions:	
Clause 16.3.4	Clause 16.3.4 has been amended 16.3.4 Where the Contractor fails to comply with the contractual obligations imposed under Clause 16.3.3, within such time as the Department deems reasonable, the Department may take such actions as it deems appropriate which may include, but is not limited to terminating the Contract in accordance with Clause 40 (Termination) .	16 Relationships
Clauses 17.1.1 and 17.1.2	Clauses 17.1.1 and 17.1.2 have been moved from Clause 17 Representative, re-numbered as Clauses 1.5 and 1.6 and added to Clause 1 Definitions. No other amendments have been made to these clauses.	17 Representative
Clause 22.4.4 and 22.4.4(a)	Clause 22.4.4 and 22.4.4(a) have been amended 22.4.4 not make a Restricted Transfer unless the prior written consent of the Data Controller has been obtained and the following conditions are fulfilled: (a) the Data Controller or the Data Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with Data Protection Legislation) as determined by the Data Controller;	22 Data Protection and Protection of Personal Data
Clause 22.8.2	Clause 22.8.2 has been amended 22.8.2 the Data Controller determines the processing includes special categories of data as referred to in the Data Protection Legislation or Personal Data relating to criminal convictions and offences referred to in the Data Protection Legislation ; or	22 Data Protection and Protection of Personal Data
Clause 23.1.6	Clause 23.1.6 has been amended 23.1.6 Where the Contractor is providing the Services to Learners claiming out of work benefits, it must provide data to the Secretary of State with	23 Submission of Learner Data

Section	Change	Clause Reference
	<p>responsibility for unemployment or their nominated representative in accordance with the requirements notified to the Contractor. Failure to transmit complete and accurate data under this Clause 23 will constitute a breach of contract and may result in payments for this part of the Services being suspended and / or withdrawn in accordance with Clause 39 (Withholding, Suspension and Repayment of Funding) and / or termination under Clause 40 (Termination).</p>	
Clause 23.1.7	<p>Clause 23.1.7 has been amended</p> <p>23.1.7 The Contractor 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)). The Contactor must regularly review this information and keep it updated.</p>	23 Submission of Learner Data
Clause 23.1.10	<p>Clause 23.1.10 has been amended to remove the words “delivering GCSE English and Maths”</p> <p>23.1.10 The Contractor must submit data about any member of its workforce in the format and to the timescales as required by the Department.</p>	23 Submission of Learner Data
Clause 26	<p>As the amendments made to Clause 26 are extensive, please refer to your revised Clause 26 which details the full requirements for delivery from 1 August 2022.</p>	26 Employees
Clause 34.4	<p>Clause 34.4 has been amended</p> <p>34.4 Failure to comply with any of the requirements under Clauses 34.1 to 34.3 may result in the Department taking such actions as it deems appropriate, which may include, but is not limited to, action under Clause 39 (Withholding, Suspension and Repayment of Funding) and / or termination under Clause 40 (Termination).</p>	34 Sub-Contracting
Clause 38.3	<p>Clause 38.3 has been amended</p> <p>38.3 The Contractor must not use any Funding provided by the Department under this Contract for any of the purposes set out in paragraph 16 of</p>	38 Prohibited Acts

Section	Change	Clause Reference
	<p>the Cabinet Office: Guidance for General Grants Grants-Standard-SIX-Grant-Agreements.pdf (publishing.service.gov.uk) regardless of whether the Funding consists of a general grant or any other type of grant. For the avoidance of doubt, the Contractor's costs of memberships for their Associations are deemed eligible under the terms of the Contract.</p>	
Clause 39	<p>Clause 39 Minor and Serious Breach has been deleted and replaced with Clause 39 Withholding, Suspension and Repayment of Funding</p>	<p>39 Minor and Serious Breach</p>
Clause 40.4.14	<p>Clause 40.4.14 has been added</p> <p>40.4.14 Where any of the circumstances set out in Clause 39 (Withholding, Suspension and Repayment of Funding) occur which amount to a material breach of this Contract.</p>	<p>40 Termination</p>
Clause 40.5	<p>Clause 40.5 has been amended</p> <p>40.5 The Department will be entitled to terminate this Contract immediately on the grounds set out in Clause 35.10. In the event of any termination in accordance with Clause 35.10, the Exit Arrangements set out in Clause 42 (Exit Arrangements) and Schedule 8 (Exit Arrangements) will apply.</p>	<p>40 Termination</p>
Clause 40.8	<p>Clause 40.8 has been amended</p> <p>40.8 If the Department terminates another contract with the Contractor on fault grounds where a similar right of termination also exists in this Contract in relation to similar provisions, the Department, acting reasonably, may immediately give notice of termination of this Contract in writing to the Contractor.</p>	<p>40 Termination</p>
1 Definitions	<p>"New Fair Deal" definition has been added</p>	<p>Schedule 5: TUPE</p>
1 Definitions	<p>"Old Fair Deal" definition has been added</p>	<p>Schedule 5: TUPE</p>
1 Definitions	<p>"Relevant Transfer Date" definition has been amended</p>	<p>Schedule 5: TUPE</p>

Section	Change	Clause Reference
	<p>“Relevant Transfer Date” in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place. For the purposes of Part D and its Annexes, where the Supplier or a Sub-contractor was the Former Supplier and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Sub-contractor), references to the Relevant Transfer Date shall become references to the Operational Service Commencement Date;</p>	
<p>8 Employer Obligation</p>	<p>Paragraph has been amended</p> <p>The Contractor will and will procure that each Sub-Contractor will comply with:</p> <p>(a) the requirements of the Pensions Act 2008, section 258 of the Pensions Act 2004, Regulation 10 of the Employment Regulations and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; and</p> <p>(b) Part D (and its Annexes) to this Schedule.</p>	<p>Schedule 5: TUPE</p>
<p>Nature and purposes of the Processing</p>	<p>Details has been amended</p> <p>The Contractor will be required to submit the data to the Department for the purposes as set out in Clause 23 (Submission of Learner Data) of this Contract.</p> <p>The processing of data in the agreement refers to the submission of ILR data to the Department only. The processing does not include the processing of Personal Data collected from the Learners by the body for the purposes of enrolling Learners onto programmes or delivering education or training.</p>	<p>Schedule 6: UK GDPR and Data Protection</p>
<p>Retention and destruction of the data once the processing is complete UNLESS requirement by (UK) Law to preserve that type of</p>	<p>Details has been amended</p> <p>The Contractor is required to retain ILR data for 3 years for business operational purposes.</p> <p>For the purposes of the Department as a Data Controller of the data, the</p>	<p>Schedule 6: UK GDPR and Data Protection</p>

Section	Change	Clause Reference
data	<p>Contractor is required to retain the Learner Records data for the funding and audit purposes set out in this Contract for six (6) years from the end of the Financial Year in which the last payment is made under this Contract.</p> <p>For the purposes of the Department for Work & Pensions as a Data Controller, where Learner Records data is used as match on the 2014-20 ESF programme, the data must be retained securely until 31st December 2034.</p> <p>The Contractor (and any other Data Controller) is responsible for determining any further need to process the data, including its retention, prior to secure destruction.</p> <p>The Contractor shall comply with Clause 41 (Consequences of Termination and Expiry) which sets out provisions that will apply to Learner Records after this Contract has been terminated or has expired.</p>	
Paragraph 1.2	<p>Paragraph 1.2 has been amended</p> <p>1.2 In the collection and processing of the data set out in Schedule 6: UK GDPR and Data Protection, the requirements of Cabinet Office Procurement Policy Note 09/14: Cyber Essentials scheme certification - GOV.UK (www.gov.uk) dated 25 May 2016, or any subsequent updated document, are mandated, and the Contractor will work towards meeting the requirements of Cyber Essentials during the 2022/23 Funding Year and present the evidence to the Department on request. The scope must be relevant to the submission of data to the Department, including an allowance for a sub-set scope if appropriate.</p>	Schedule 7: Security & Department Policies
Paragraph 1.15	Paragraph 1.15 has been amended	Schedule 7: Security & Department Policies

Section	Change	Clause Reference
	<p>1.15 Notwithstanding any other provisions as to business continuity and disaster recovery in the Contract, the Contractor will, as a minimum, have in place robust Business Continuity arrangements and processes including IT disaster recovery plans and procedures that conform to ISO 22301 to ensure that the delivery of the Contract is not adversely affected in the event of an incident. An incident will be defined as any situation that might, or could lead to, a disruption, loss, emergency or crisis to the Services delivered. If an ISO 22301 certificate is not available, the Contractor will provide evidence of the effectiveness of their ISO 22301 conformant Business Continuity arrangements and processes including IT disaster recovery plans and procedures. This should include evidence that the Contractor has tested or exercised these plans within the last twelve (12) months and produced a written report of the outcome, including required actions.</p>	
<p>Various paragraphs</p>	<p>Paragraphs 1.4, 1.8.1, 1.12, 1.21, 1.22, 1.23 and 1.28 of Schedule 9: Sub-Contracting have been amended to include the relevant reference to the contents section of the Sub-Contracting Funding Rules.</p>	<p>Schedule 9: Sub-Contracting</p>
<p>Paragraph 1.26</p>	<p>Paragraph 1.26 has been amended</p> <p>1.26 If the Contractor considers that it cannot reduce the value of its sub-contracted Services to the Sub-Contracting Threshold by 31 July 2023 it must submit an Exemption Case to the Department by 31 March 2023 and each year thereafter.</p>	<p>Schedule 9: Sub-Contracting</p>

Conditions of Funding (Grant) (Local Authorities)

Section	Change	Clause Reference
Entire Agreement	All references to “UK GDPR and Data Protection Act 2018” and “UK GDPR and DPA 2018” have been deleted and replaced with “Data Protection Legislation” throughout the Agreement	Entire Agreement
Entire Agreement	All references to “Minor Breach” and “Serious Breach” have been deleted and replaced with “breach of agreement” or “material breach” throughout the Agreement	Entire Agreement
Entire Agreement	All references to “He”, “His” & “Her” have been deleted and replaced with “They” & “Their” throughout the Agreement	Entire Agreement
“Accountability Framework”	Definition has been added	1 Definitions
“Data Protection Laws”	Definition has been deleted and all references to “Data Protection Laws” have been replaced with “Data Protection Legislation” throughout the Agreement	1 Definitions
“Data Protection Legislation”	Definition has been added	1 Definitions
“Department”	Definition has been amended means the Secretary of State for Education acting through the Department for Education and / or Education and Skills Funding Agency (ESFA);	1 Definitions
“Department Policies”	Definition has been amended the policies of the Department referred to in Schedule 7 (Security & Department Policies) and any other policies of the Department including but not limited to the Department's policy on funding higher risk organisations and Sub-Contractors in force as at the Agreement Date and amended from time to time;	1 Definitions
“High Needs Learner”	Definition has been amended	1 Definitions

Section	Change	Clause Reference
	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;	
“ILR”	Definition has been renamed and amended “ILR” or “ Individualised Learner Record ” means the on-going collection of Learner data undertaken by training providers including the Provider in the Further Education (FE) and Skills sector as set out at Individualised Learner Record (ILR) - GOV.UK (www.gov.uk) ;	1 Definitions
“Law”	Definition has been amended 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 Provider is bound to comply;	1 Definitions
“LED”	Definition has been deleted	1 Definitions
“Minor Breach”	Definition has been deleted	1 Definitions
“Restricted Transfer”	Definition has been added	1 Definitions
“Serious Breach”	Definition has been deleted	1 Definitions
“Skills Advisory Panel” or “SAP”	Definition has been deleted	1 Definitions
“Subsidy Control”	Definition has been added	1 Definitions
“UK GDPR”	Definition has been amended the General Data Protection Regulation (Regulation (EU) 2016/679) as transposed into United Kingdom national law by operation of section 3 of	1 Definitions

Section	Change	Clause Reference
	the European Union (Withdrawal) Act 2018, together with the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019;	
Clause 3.5	Clause 3.5 has been added 3.5 The Department will monitor the performance of the Provider in accordance with the Accountability Framework. An outline of the Accountability Framework is set out in Annex 1 of the Apprenticeship Carry-in Specification & Monitoring Schedule of this Agreement.	3 Service Delivery
Clause 12.5	Clause 12.5 has been amended 12.5 Where the Department is made aware that Ofsted has provisionally assessed the Services to be inadequate overall, the Department may, in its absolute discretion commence discussions with the Provider and other relevant co-funding regulatory bodies where appropriate as part of considering what actions as specified in Clauses 12.6.1 to 12.6.6 inclusive may be taken.	12 Inspections
Clauses 12.5.1 and 12.5.2	Clauses 12.5.1 and 12.5.2 have been deleted	12 Inspections
Clause 12.6	Clause 12.6 has been amended 12.6 Where Ofsted has published its assessment that the Services are inadequate overall, the Department may, in its absolute discretion take one or more of the following actions:	12 Inspections
Clause 12.6.1	Clause 12.6.1 has been added 12.6.1 refer the Provider to the FE Commissioner for an assessment of the capacity and capability of the current education provision leadership and management to lead improvement and make recommendations to the minister about appropriate intervention action; and/or	12 Inspections
Clause 12.10	Clause 12.10 has been amended 12.10 Where Ofsted has published its assessment that the Provider is making “insufficient progress” on any of the Monitoring Visit	12 Inspections

Section	Change	Clause Reference
	inspection themes , the Department may, in its absolute discretion take the following actions:	
Clause 15.2.4	Clause 15.2.4 has been added 15.2.4 Where the Provider fails to comply with the additional conditions imposed under Clause 15.2.3, within such time as the Department deems reasonable, the Department may take such actions as it deems appropriate which may include, but is not limited to, terminating the Agreement in accordance with Clause 35 (Termination) .	15 Relationships
Clauses 16.1.1 and 16.1.2	Clauses 16.1.1 and 16.1.2 have been moved from Clause 16 Representative, re-numbered as Clauses 1.5 and 1.6 and added to Clause 1 Definitions. No other amendments have been made to these clauses.	16 Representative
Clause 20.5.4 and 20.5.4(a)	Clause 20.5.4 and 20.5.4(a) have been amended 20.5.4 not make a Restricted Transfer unless the prior written consent of the Data Controller has been obtained and the following conditions are fulfilled: (a) the Data Controller or the Data Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with Data Protection Legislation) as determined by the Data Controller;	20 Data Protection and Protection of Personal Data
Clause 20.9.2	Clause 20.9.2 has been amended 20.9.2 the Data Controller determines the processing includes special categories of data as referred to in the Data Protection Legislation or Personal Data relating to criminal convictions and offences referred to in the Data Protection Legislation ; or	20 Data Protection and Protection of Personal Data
Clause 21.2.5	Clause 21.2.5 has been amended 21.2.5 The Department reserves the right to suspend payments to the Provider under the Agreement where data quality gives rise to concern about the	21 Submission of Learner Data

Section	Change	Clause Reference
	accuracy of the data provided by the Provider and take any action under the Accountability Framework.	
Clause 21.2.6	<p>Clause 21.2.6 has been amended</p> <p>21.2.6 Where the Provider is providing the Services to Learners claiming out of work benefits, it must provide data to the Secretary of State with responsibility for unemployment or their nominated representative in accordance with the requirements notified to the Provider. Failure to transmit complete and accurate data under this Clause 21 will constitute a breach of agreement and may result in payments for this part of the Services being suspended and / or withdrawn in accordance with Clause 34 (Withholding, Suspension and Repayment of Funding) and / or termination under Clause 35 (Termination).</p>	21 Submission of Learner Data
Clause 21.2.7	<p>Clause 21.2.7 has been amended</p> <p>21.2.7 The Provider 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)). The Provider must regularly review this information and keep it updated.</p>	21 Submission of Learner Data
Clause 21.2.10	<p>Clause 21.2.10 has been amended to remove the words “delivering GCSE English and Maths”</p> <p>21.2.10 The Provider must submit data about any member of its workforce in the format and to the timescales as required by the Department.</p>	21 Submission of Learner Data
Clause 24	As the amendments to Clause 24 are extensive, please refer to your revised Clause 24 which details the full requirements for delivery from 1 August 2022.	24 Employees
Clause 26.1.4	<p>Clause 26.1.4 has been amended</p> <p>26.1.4 The Department 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 Provider, or to ensure that the resources provided by the Department are being used</p>	26 Payment, Funding and Audit

Section	Change	Clause Reference
	effectively and efficiently or to require the Provider to address concerns about its financial viability or to ensure that the Provider complies with requests made by the Department under the Accountability Framework.	
Clause 30.4	Clause 30.4 has been amended 30.4 Failure to comply with any of the requirements under Clauses 30.1 to 30.3 may result in the Department taking such actions as it deems appropriate, which may include, but is not limited to, action under Clause 34 (Withholding, Suspension and Repayment of Funding) and / or termination under Clause 35 (Termination).	30 Sub-Contracting
Clause 33.3	Clause 33.3 has been amended 33.3 The Provider must not use any Funding provided by the Department under this Agreement for any of the purposes set out in paragraph 16 of the Cabinet Office: Guidance for General Grants Grants-Standard-SIX-Grant-Agreements.pdf (publishing.service.gov.uk) regardless of whether the Funding consists of a general grant or any other type of grant. For the avoidance of doubt, the Provider's costs of memberships for their Associations are deemed eligible under the terms of the Agreement.	33 Prohibited Acts
Clause 34	Clause 34 Minor and Serious Breach has been deleted and replaced with Clause 34 Withholding, Suspension and Repayment of Funding	34 Minor and Serious Breach
Clause 35.3.12	Clause 35.3.12 has been added 35.3.12 where any of the circumstances set out in Clause 34 (Withholding, Suspension and Repayment of Funding) occur which amount to a material breach of this Agreement; and/or	35 Termination
Clause 35.3.13	Clause 35.3.13 has been added 35.3.13 if the Services delivered under this Agreement, are below any performance expectations set out in the Accountability Framework to the extent to which it amounts to a material breach.	35 Termination

Section	Change	Clause Reference
Clause 35.4	<p>Clause 35.4 has been amended</p> <p>35.4 The Department will be entitled to terminate this Agreement immediately on the grounds set out in Clause 31.10. In the event of any termination in accordance with Clause 31.10, the Exit Arrangements set out in Clause 37 (Exit Arrangements) and Schedule 8 (Exit Arrangements) will apply.</p>	35 Termination
Clause 35.7	<p>Clause 35.7 has been amended</p> <p>35.7 If the Department terminates another Agreement with the Provider on fault grounds where a similar right of termination also exists in this Agreement in relation to similar provisions, the Department, acting reasonably, may immediately give notice of termination of this Agreement in writing to the Provider.</p>	35 Termination
Nature and Purposes of the Processing	<p>Details have been amended</p> <p>The Provider will be required to submit the data to the Department for the purposes as set out in Clause 21 (Submission of Learner Data) of this Agreement.</p> <p>The processing of data in the Agreement refers to the submission of ILR data to the Department only. The processing does not include the processing of Personal Data collected from the Learners by the body for the purposes of enrolling Learners onto programmes or delivering education or training.</p>	Schedule 6: UK GDPR and Data Protection
Retention and destruction of the data once the processing is complete UNLESS requirement by UK Law to preserve that type of data	<p>Details have been amended</p> <p>The Provider is required to retain ILR data for 3 years for business operational purposes.</p> <p>For the purposes of the Department as a Data Controller of the data, the Provider is required to retain the Learner Records data for the funding and audit purposes set out in this Agreement for six (6) years from the end of the Financial Year in which the last payment is made under this Agreement.</p>	Schedule 6: UK GDPR and Data Protection

Section	Change	Clause Reference
	<p>For the purposes of the Department for Work & Pensions as a Data Controller, where Learner Records data is used as match on the 2014-20 ESF programme, the data must be retained securely until 31st December 2034.</p> <p>The Provider (and any other Data Controller) is responsible for determining any further need to process the data, including its retention, prior to secure destruction.</p> <p>The Provider shall comply with Clause 36 (Consequences of Termination and Expiry) which sets out provisions that will apply to Learner Records after this Agreement has been terminated or has expired.</p>	
<p>Paragraph 1.2</p>	<p>Paragraph 1.2 has been amended</p> <p>1.2 In the collection and processing of the data set out in Schedule 6, UK GDPR and Data Protection, the requirements of Cabinet Office Procurement Policy Note 09/14: Cyber Essentials scheme certification - GOV.UK (www.gov.uk) dated 25 May 2016, or any subsequent updated document, are mandated, and the Provider will work towards meeting the requirements of Cyber Essentials during the 2022/23 Funding Year and present the evidence to the Department on request. The scope must be relevant to the submission of data to the Department, including an allowance for a sub-set scope if appropriate.</p>	<p>Schedule 7: Security and Department Policies</p>
<p>Paragraph 1.15</p>	<p>Paragraph 1.15 has been amended</p> <p>1.15 Notwithstanding any other provisions as to business continuity and disaster recovery in the Agreement, the Provider will, as a minimum, have in place robust Business Continuity arrangements and processes including IT disaster recovery plans and procedures that conform to ISO 22301 to ensure that the delivery of the Agreement is not adversely affected in the event of an incident. An incident will be defined as any situation that might, or could lead to, a disruption, loss, emergency or crisis to the Services delivered. If an ISO 22301 certificate is not available, the Provider will provide evidence of the effectiveness of their ISO 22301 conformant Business Continuity arrangements and processes including IT disaster recovery plans and procedures. This should include evidence that</p>	<p>Schedule 7: Security and Department Policies</p>

Section	Change	Clause Reference
	the Provider has tested or exercised these plans within the last twelve (12) months and produced a written report of the outcome, including required actions.	
Various paragraphs	Paragraphs 1.4, 1.8.1, 1.12, 1.21, 1.22, 1.23 and 1.28 of Schedule 9: Sub-Contracting have been amended to include the relevant reference to the contents section of the Sub-Contracting Funding Rules.	Schedule 9: Sub-Contracting
Paragraph 1.26	Paragraph 1.26 has been amended 1.26 If the Provider considers that it cannot reduce the value of its sub-contracted Services to the Sub-Contracting Threshold by 31 July 2023 it must submit an Exemption Case to the Department by 31 March 2023 and each year thereafter.	Schedule 9: Sub-Contracting

Conditions of Funding (Grant) (Trusts)

Section	Change	Clause Reference
Entire Agreement	All references to “UK GDPR and Data Protection Act 2018” and “UK GDPR and DPA 2018” have been deleted and replaced with “Data Protection Legislation” throughout the Agreement	Entire Agreement
Entire Agreement	All references to “Minor Breach” and “Serious Breach” have been deleted and replaced with “breach of agreement” or “material breach” throughout the Agreement	Entire Agreement
Entire Agreement	All references to “He”, “His” & “Her” have been deleted and replaced with “They” & “Their” throughout the Agreement	Entire Agreement
“Accountability Framework”	Definition has been added	1 Definitions
“Data Protection Laws”	Definition has been deleted and all references to “Data Protection Laws” have been replaced with “Data Protection Legislation” throughout the Agreement	1 Definitions
“Data Protection Legislation”	Definition has been added	1 Definitions
“Department”	Definition has been amended means the Secretary of State for Education acting through the Department for Education and / or Education and Skills Funding Agency (ESFA);	1 Definitions
“Department Policies”	Definition has been amended the policies of the Department referred to in Schedule 7 (Security & Department Policies) and any other policies of the Department including but not limited to the Department’s policy on funding higher risk organisations and Sub-Contractors in force as at the Agreement Date and amended from time to time;	1 Definitions
“High Needs Learner”	Definition has been amended	1 Definitions

Section	Change	Clause Reference
	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;	
“ILR”	Definition has been renamed and amended “ILR” or “ Individualised Learner Record ” means the on-going collection of Learner data undertaken by training providers including the Provider in the Further Education (FE) and Skills sector as set out at Individualised Learner Record (ILR) - GOV.UK (www.gov.uk) ;	1 Definitions
“Law”	Definition has been amended 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 Provider is bound to comply;	1 Definitions
“LED”	Definition has been deleted	1 Definitions
“Minor Breach”	Definition has been deleted	1 Definitions
“Restricted Transfer”	Definition has been added	1 Definitions
“Serious Breach”	Definition has been deleted	1 Definitions
“Skills Advisory Panel” or “SAP”	Definition has been deleted	1 Definitions
“Subsidy Control”	Definition has been added	1 Definitions
“UK GDPR”	Definition has been amended the General Data Protection Regulation (Regulation (EU) 2016/679) as transposed into United Kingdom national law by operation of section 3 of	1 Definitions

Section	Change	Clause Reference
	the European Union (Withdrawal) Act 2018, together with the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019;	
Clause 12.4	<p>Clause 12.4 has been amended</p> <p>12.4 Where the Department is made aware that Ofsted has provisionally assessed the Services to be inadequate overall, the Department may, in its absolute discretion commence discussions with the Provider and other relevant co-funding regulatory bodies where appropriate as part of considering what actions as specified in Clauses 12.5.1 to 12.5.5 inclusive may be taken.</p>	12 Inspections
Clauses 12.4.1 and 12.4.2	Clauses 12.4.1 and 12.4.2 have been deleted	12 Inspections
Clause 12.5	<p>Clause 12.5 has been amended</p> <p>12.5 Where Ofsted has published its assessment that the Services are inadequate overall, the Department may, in its absolute discretion take one or more of the following actions:</p>	12 Inspections
Clause 12.9	<p>Clause 12.9 has been amended</p> <p>12.9 Where Ofsted has published its assessment that the Provider is making “insufficient progress” on any of the Monitoring Visit inspection themes, the Department may, in its absolute discretion take the following actions:</p>	12 Inspections
Clause 15.2.4	<p>Clause 15.2.4 has been amended</p> <p>15.2.4 Where the Provider fails to comply with the additional conditions imposed under Clause 15.2.3, within such time as the Department deems reasonable, the Department may take such actions as it deems appropriate which may include, but is not limited to terminating the Agreement in accordance with Clause 35 (Termination).</p>	15 Relationships

Section	Change	Clause Reference
Clauses 16.1.1 and 16.1.2	Clauses 16.1.1 and 16.1.2 have been moved from Clause 16 Representative, re-numbered as Clauses 1.5 and 1.6 and added to Clause 1 Definitions. No other amendments have been made to these clauses.	16 Representative
Clause 20.4.4 and 20.4.4(a)	<p>Clause 20.4.4 and 20.4.4(a) have been amended</p> <p>20.4.4 not make a Restricted Transfer unless the prior written consent of the Data Controller has been obtained and the following conditions are fulfilled:</p> <p>(a) the Data Controller or the Data Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with Data Protection Legislation) as determined by the Data Controller;</p>	20 Data Protection and Protection of Personal Data
Clause 20.8.2	<p>Clause 20.8.2 has been amended</p> <p>20.8.2 the Data Controller determines the processing includes special categories of data as referred to in the Data Protection Legislation or Personal Data relating to criminal convictions and offences referred to in the Data Protection Legislation; or</p>	20 Data Protection and Protection of Personal Data
Clause 21.1.6	<p>Clause 21.1.6 has been amended</p> <p>21.1.6 Where the Provider is providing the Services to Learners claiming out of work benefits, it must provide data to the Secretary of State with responsibility for unemployment or their nominated representative in accordance with the requirements notified to the Provider. Failure to transmit complete and accurate data under this Clause 21 will constitute a breach of agreement and may result in payments for this part of the Services being suspended and / or withdrawn in accordance with Clause 34 (Withholding, Suspension and Repayment of Funding) and / or termination under Clause 35 (Termination).</p>	21 Submission of Learner Data
Clause 21.1.7	<p>Clause 21.1.7 has been amended</p> <p>21.1.7 The Provider 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)).</p>	21 Submission of Learner Data

Section	Change	Clause Reference
	The Provider must regularly review this information and keep it updated.	
Clause 21.1.10	<p>Clause 21.1.10 has been amended to remove the words “delivering GCSE English and Maths”</p> <p>21.1.10 The Provider must submit data about any member of its workforce in the format and to the timescales as required by the Department.</p>	21 Submission of Learner Data
Clause 24	As the amendments made to Clause 24 are extensive, please refer to your revised Clause 24 which details the full requirements for delivery from 1 August 2022.	24 Employees
Clause 30.4	<p>Clause 30.4 has been amended</p> <p>30.4 Failure to comply with any of the requirements under Clauses 30.1 to 30.3 may result in the Department taking such actions as it deems appropriate, which may include, but is not limited to, action under Clause 34 (Withholding, Suspension and Repayment of Funding) and / or termination under Clause 35 (Termination).</p>	30 Sub-Contracting
Clause 33.3	<p>Clause 33.3 has been amended</p> <p>33.3 The Provider must not use any Funding provided by the Department under this Agreement for any of the purposes set out in paragraph 16 of the Cabinet Office: Guidance for General Grants Grants-Standard-SIX-Grant-Agreements.pdf (publishing.service.gov.uk) regardless of whether the Funding consists of a general grant or any other type of grant. For the avoidance of doubt, the Provider’s costs of memberships for their Associations are deemed eligible under the terms of the Agreement.</p>	33 Prohibited Acts
Clause 34	Clause 34 Minor and Serious Breach has been deleted and replaced with Clause 34 Withholding, Suspension and Repayment of Funding	34 Minor and Serious Breach
Clause 35.3.12	Clause 35.3.12 has been added	35 Termination

Section	Change	Clause Reference
	35.3.12 Where any of the circumstances set out in Clause 34 (Withholding, Suspension and Repayment of Funding) occur which amount to a material breach of this Agreement.	
Clause 35.4	<p>Clause 35.4 has been amended</p> <p>35.4 The Department will be entitled to terminate this Agreement immediately on the grounds set out in Clause 31.10. In the event of any termination in accordance with Clause 31.10, the Exit Arrangements set out in Clause 37 (Exit Arrangements) and Schedule 8 (Exit Arrangements) will apply.</p>	35 Termination
Clause 35.7	<p>Clause 35.7 has been amended</p> <p>35.7 If the Department terminates another Agreement with the Provider on fault grounds where a similar right of termination also exists in this Agreement in relation to similar provisions, the Department, acting reasonably, may immediately give notice of termination of this Agreement in writing to the Provider.</p>	35 Termination
Nature and purposes of the Processing	<p>Details has been amended</p> <p>The Provider will be required to submit the data to the Department for the purposes as set out in Clause 21 (Submission of Learner Data) of this Agreement.</p> <p>The processing of data in the Agreement refers to the submission of ILR data to the Department only. The processing does not include the processing of Personal Data collected from the Learners by the body for the purposes of enrolling Learners onto programmes or delivering education or training.</p>	Schedule 6: UK GDPR and Data Protection
Retention and destruction of the data once the processing is complete UNLESS requirement by UK Law	<p>Details has been amended</p> <p>The Provider is required to retain ILR data for 3 years for business operational purposes.</p> <p>For the purposes of the Department as a Data Controller of the data, the Provider is required to retain the Learner Records data for the funding and audit purposes</p>	Schedule 6: UK GDPR and Data Protection

Section	Change	Clause Reference
<p>to preserve that type of data</p>	<p>set out in this Agreement for six (6) years from the end of the Financial Year in which the last payment is made under this Agreement.</p> <p>For the purposes of the Department for Work & Pensions as a Data Controller, where Learner Records data is used as match on the 2014-20 ESF programme, the data must be retained securely until 31st December 2034.</p> <p>The Provider (and any other Data Controller) is responsible for determining any further need to process the data, including its retention, prior to secure destruction.</p> <p>The Provider shall comply with Clause 36 (Consequences of Termination and Expiry) which sets out provisions that will apply to Learner Records after this Agreement has been terminated or has expired.</p>	
<p>Paragraph 1.2</p>	<p>Paragraph 1.2 has been amended</p> <p>1.2 In the collection and processing of the data set out in Schedule 6: UK GDPR and Data Protection, the requirements of Cabinet Office Procurement Policy Note 09/14: Cyber Essentials scheme certification - GOV.UK (www.gov.uk) dated 25 May 2016, or any subsequent updated document, are mandated, and the Provider will work towards meeting the requirements of Cyber Essentials during the 2022/23 Funding Year and present the evidence to the Department on request. The scope must be relevant to the submission of data to the Department, including an allowance for a sub-set scope if appropriate.</p>	<p>Schedule 7: Security & Department Policies</p>
<p>Paragraph 1.15</p>	<p>Paragraph 1.15 has been amended</p>	<p>Schedule 7: Security & Department Policies</p>

Section	Change	Clause Reference
	<p>1.15 Notwithstanding any other provisions as to business continuity and disaster recovery in the Agreement, the Provider will, as a minimum, have in place robust Business Continuity arrangements and processes including IT disaster recovery plans and procedures that conform to ISO 22301 to ensure that the delivery of the Agreement is not adversely affected in the event of an incident. An incident will be defined as any situation that might, or could lead to, a disruption, loss, emergency or crisis to the Services delivered. If an ISO 22301 certificate is not available, the Provider will provide evidence of the effectiveness of their ISO 22301 conformant Business Continuity arrangements and processes including IT disaster recovery plans and procedures. This should include evidence that the Provider has tested or exercised these plans within the last twelve (12) months and produced a written report of the outcome, including required actions.</p>	
<p>Various paragraphs</p>	<p>Paragraphs 1.4, 1.8.1, 1.12, 1.21, 1.22, 1.23 and 1.28 of Schedule 9: Sub-Contracting have been amended to include the relevant reference to the contents section of the Sub-Contracting Funding Rules.</p>	<p>Schedule 9: Sub-Contracting</p>
<p>Paragraph 1.26</p>	<p>Paragraph 1.26 has been amended</p> <p>1.26 If the Provider considers that it cannot reduce the value of its sub-contracted Services to the Sub-Contracting Threshold by 31 July 2023 it must submit an Exemption Case to the Department by 31 March 2023 and each year thereafter.</p>	<p>Schedule 9: Sub-Contracting</p>

Specialist Post-16 Institution

Section	Change	Clause Reference
Entire Agreement	All references to “UK GDPR and Data Protection Act 2018” and “UK GDPR and DPA 2018” have been deleted and replaced with “Data Protection Legislation” throughout the Agreement	Entire Agreement
Entire Agreement	All references to “Minor Breach” and “Serious Breach” have been deleted and replaced with “breach of agreement” or “material breach” throughout the Agreement	Entire Agreement
Entire Agreement	All references to “He”, “His” & “Her” have been deleted and replaced with “They” & “Their” throughout the Agreement	Entire Agreement
“Change in Control”	Definition has been amended means (1) any event where any single person or group of persons acting in concert (within the meaning of the City Code on Takeovers and Mergers) acquires any direct or indirect legal and/or beneficial interest in the share capital (as defined in Section 545 of the Companies Act 2006) of the Provider as a result of which that person or group of persons has a direct or indirect interest in more than 25% of the share capital of the Provider; and/or (2) A change in the top two tiers of the management team of the Provider.	1 Definitions
“Data Protection Laws”	Definition has been deleted and all references to “Data Protection Laws” have been replaced with “Data Protection Legislation” throughout the Agreement	1 Definitions
“Data Protection Legislation”	Definition has been added	1 Definitions
“Department”	Definition has been amended means the Secretary of State for Education acting through the Department for Education and / or Education and Skills Funding Agency (ESFA);	1 Definitions
“Department Policies”	Definition has been amended	1 Definitions

Section	Change	Clause Reference
	the policies of the Department referred to in Schedule 7 (Security & Department Policies) and any other policies of the Department including but not limited to the Department’s policy on funding higher risk organisations and Sub-Contractors in force as at the Agreement Date and amended from time to time;	
“Funding”	Definition has been added	1 Definitions
“High Needs Learner”	Definition has been amended 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;	1 Definitions
“ILR”	Definition has been renamed and amended “ILR” or “ Individualised Learner Record ” means the on-going collection of Learner data undertaken by training providers including the Provider in the Further Education (FE) and Skills sector as set out at Individualised Learner Record (ILR) - GOV.UK (www.gov.uk) ;	1 Definitions
“Law”	Definition has been amended 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 Provider is bound to comply;	1 Definitions
“LED”	Definition has been deleted	1 Definitions
“Minor Breach”	Definition has been deleted	1 Definitions
“Restricted Transfer”	Definition has been added	1 Definitions
“Serious Breach”	Definition has been deleted	1 Definitions

Section	Change	Clause Reference
“Skills Advisory Panel” or “SAP”	Definition has been deleted	1 Definitions
“Subsidy Control”	Definition has been added	1 Definitions
“UK GDPR”	Definition has been amended the General Data Protection Regulation (Regulation (EU) 2016/679) as transposed into United Kingdom national law by operation of section 3 of the European Union (Withdrawal) Act 2018, together with the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019;	1 Definitions
Clause 12.4	Clause 12.4 has been amended 12.4 Where the Department is made aware that Ofsted has provisionally assessed the Services to be inadequate overall, the Department may, in its absolute discretion commence discussions with the Provider and other relevant co-funding regulatory bodies where appropriate as part of considering what actions as specified in Clauses 12.5.1 to 12.5.5 inclusive may be taken.	12 Inspections
Clauses 12.4.1 and 12.4.2	Clauses 12.4.1 and 12.4.2 have been deleted	12 Inspections
Clause 12.5	Clause 12.5 has been amended 12.5 Where Ofsted has published its assessment that the Services are inadequate overall, the Department may, in its absolute discretion take one or more of the following actions:	12 Inspections
Clause 12.10	Clause 12.10 has been amended 12.10 Where Ofsted has published its assessment that the Provider is making “insufficient progress” on any of the Monitoring Visit inspection themes , the Department may, in its absolute discretion take the following actions:	12 Inspections

Section	Change	Clause Reference
Clause 15.2.4	<p>Clause 15.2.4 has been amended</p> <p>15.2.4 Where the Provider fails to comply with the additional conditions imposed under Clause 15.2.3, within such time as the Department deems reasonable, the Department may take such actions as it deems appropriate which may include but is not limited to terminating the Agreement in accordance with Clause 36 (Termination).</p>	15 Relationships
Clauses 16.1.1 and 16.1.2	<p>Clauses 16.1.1 and 16.1.2 have been moved from Clause 16 Representative, re-numbered as Clauses 1.5 and 1.6 and added to Clause 1 Definitions. No other amendments have been made to these clauses.</p>	16 Representative
Clause 20.4.4 and 20.4.4(a)	<p>Clause 20.4.4 and 20.4.4(a) have been amended</p> <p>20.4.4 not make a Restricted Transfer unless the prior written consent of the Data Controller has been obtained and the following conditions are fulfilled:</p> <p>(a) the Data Controller or the Data Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with Data Protection Legislation) as determined by the Data Controller;</p>	20 Data Protection and Protection of Personal Data
Clause 20.8.2	<p>Clause 20.8.2 has been amended</p> <p>20.8.2 the Data Controller determines the processing includes special categories of data as referred to in the Data Protection Legislation or Personal Data relating to criminal convictions and offences referred to in the Data Protection Legislation; or</p>	20 Data Protection and Protection of Personal Data
Clause 21.1.6	<p>Clause 21.1.6 has been amended</p> <p>21.1.6 Where the Provider is providing the Services to Learners claiming out of work benefits, it must provide data to the Secretary of State with responsibility for unemployment or their nominated representative in accordance with the requirements notified to the Provider. Failure to transmit complete and accurate data under this Clause 21 will constitute a breach of agreement and may result in payments for this part of the</p>	21 Submission of Learner Data

Section	Change	Clause Reference
	<p>Services being suspended and / or withdrawn in accordance with Clause 35 (Withholding, Suspension and Repayment of Funding) and / or termination under Clause 36 (Termination).</p>	
<p>Clause 21.1.7</p>	<p>Clause 21.1.7 has been amended</p> <p>21.1.7 The Provider 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)). The Provider must regularly review this information and keep it updated.</p>	<p>21 Submission of Learner Data</p>
<p>Clause 21.1.10</p>	<p>Clause 21.1.10 has been amended to remove the words “delivering GCSE English and Maths”</p> <p>21.1.10 The Provider must submit data about any member of its workforce in the format and to the timescales as required by the Department.</p>	<p>21 Submission of Learner Data</p>
<p>Clause 24</p>	<p>As the amendments made to Clause 24 are extensive, please refer to your revised Clause 24 which details the full requirements for delivery from 1 August 2022.</p>	<p>24 Employees</p>
<p>Clause 30.4</p>	<p>Clause 30.4 has been amended</p> <p>30.4 Failure to comply with any of the requirements under Clauses 30.1 to 30.3 may result in the Department taking such actions as it deems appropriate, which may include, but is not limited to, action under Clause 35 (Withholding, Suspension and Repayment of Funding) and / or termination under Clause 36 (Termination).</p>	<p>30 Sub-Contracting</p>
<p>Clause 34.3</p>	<p>Clause 34.3 has been amended</p> <p>34.3 The Provider must not use any Funding provided by the Department under this Agreement for any of the purposes set out in paragraph 16 of the Cabinet Office: Guidance for General Grants Grants-Standard-SIX-Grant-Agreements.pdf (publishing.service.gov.uk) regardless of whether the Funding consists of a general grant or any other type of grant. For the avoidance of doubt, the Provider’s costs of</p>	<p>34 Prohibited Acts</p>

Section	Change	Clause Reference
	memberships for their Associations are deemed eligible under the terms of the Agreement.	
Clause 35	Clause 35 Minor and Serious Breach has been deleted and replaced with Clause 35 Withholding, Suspension and Repayment of Funding	35 Minor and Serious Breach
Clause 36.3.13	Clause 36.3.13 has been added 36.3.13 Where any of the circumstances set out in Clause 35 (Withholding, Suspension and Repayment of Funding) occur which amount to a material breach of this Agreement.	36 Termination
Clause 36.4	Clause 36.4 has been amended 36.4 The Department will be entitled to terminate this Agreement immediately on the grounds set out in Clause 31.10. In the event of any termination in accordance with Clause 31.10, the Exit Arrangements set out in Clause 38 (Exit Arrangements) and Schedule 8 (Exit Arrangements) will apply.	36 Termination
Clause 36.7	Clause 36.7 has been amended 36.7 If the Department terminates another Agreement with the Provider on fault grounds where a similar right of termination also exists in this Agreement in relation to similar provisions, the Department, acting reasonably, may immediately give notice of termination of this Agreement in writing to the Provider.	36 Termination
Clause 49	Clause 49 Not Used has been deleted and replaced with Clause 49 Disposal of Assets and Change of Use	49 Not Used
Clause 53.1.2	The reference to Clause 49 Disposal of Assets and Change of Use has been added to the table at Clause 53.1.2	53 Continuing Obligations
Nature and purposes of the Processing	Details has been amended	Schedule 6: UK GDPR and Data Protection

Section	Change	Clause Reference
	<p>The Provider will be required to submit the data to the Department for the purposes as set out in Clause 21 (Submission of Learner Data) of this Agreement.</p> <p>The processing of data in the Agreement refers to the submission of ILR data to the Department only. The processing does not include the processing of Personal Data collected from the Learners by the body for the purposes of enrolling Learners onto programmes or delivering education or training.</p>	
<p>Retention and destruction of the data once the processing is complete UNLESS requirement by UK Law to preserve that type of data</p>	<p>Details has been amended</p> <p>The Provider is required to retain ILR data for 3 years for business operational purposes.</p> <p>For the purposes of the Department as a Data Controller of the data, the Provider is required to retain the Learner Records data for the funding and audit purposes set out in this Agreement for six (6) years from the end of the Financial Year in which the last payment is made under this Agreement.</p> <p>For the purposes of the Department for Work & Pensions as a Data Controller, where Learner Records data is used as match on the 2014-20 ESF programme, the data must be retained securely until 31st December 2034.</p> <p>The Provider (and any other Data Controller) is responsible for determining any further need to process the data, including its retention, prior to secure destruction.</p> <p>The Provider shall comply with Clause 37 (Consequences of Termination and Expiry) which sets out provisions that will apply to Learner Records after this Agreement has been terminated or has expired.</p>	<p>Schedule 6: UK GDPR and Data Protection</p>
<p>Paragraph 1.2</p>	<p>Paragraph 1.2 has been amended</p> <p>1.2 In the collection and processing of the data set out in Schedule 6: UK GDPR and Data Protection, the requirements of Cabinet Office Procurement Policy Note 09/14: Cyber Essentials scheme certification - GOV.UK (www.gov.uk) dated 25 May 2016, or any subsequent updated</p>	<p>Schedule 7: Security & Department Policies</p>

Section	Change	Clause Reference
	document, are mandated, and the Provider will work towards meeting the requirements of Cyber Essentials during the 2022/23 Funding Year and present the evidence to the Department on request. The scope must be relevant to the submission of data to the Department, including an allowance for a sub-set scope if appropriate.	
Paragraph 1.15	Paragraph 1.15 has been amended 1.15 Notwithstanding any other provisions as to business continuity and disaster recovery in the Agreement, the Provider will, as a minimum, have in place robust Business Continuity arrangements and processes including IT disaster recovery plans and procedures that conform to ISO 22301 to ensure that the delivery of the Agreement is not adversely affected in the event of an incident. An incident will be defined as any situation that might, or could lead to, a disruption, loss, emergency or crisis to the Services delivered. If an ISO 22301 certificate is not available, the Provider will provide evidence of the effectiveness of their ISO 22301 conformant Business Continuity arrangements and processes including IT disaster recovery plans and procedures. This should include evidence that the Provider has tested or exercised these plans within the last twelve (12) months and produced a written report of the outcome, including required actions.	Schedule 7: Security & Department Policies
Various paragraphs	Paragraphs 1.4, 1.8.1, 1.12, 1.21, 1.22, 1.23 and 1.28 of Schedule 9: Sub-Contracting have been amended to include the relevant reference to the contents section of the Sub-Contracting Funding Rules.	Schedule 9: Sub-Contracting
Paragraph 1.26	Paragraph 1.26 has been amended 1.26 If the Provider considers that it cannot reduce the value of its sub-contracted Services to the Sub-Contracting Threshold by 31 July 2023 it must submit an Exemption Case to the Department by 31 March 2023 and each year thereafter.	Schedule 9: Sub-Contracting

Non-Maintained Special Schools (NMSS)

Section	Change	Clause Reference
Entire Agreement	All references to “UK GDPR and Data Protection Act 2018” and “UK GDPR and DPA 2018” have been deleted and replaced with “Data Protection Legislation” throughout the Agreement	Entire Agreement
Entire Agreement	All references to “Minor Breach” and “Serious Breach” have been deleted and replaced with “breach of agreement” or “material breach” throughout the Agreement	Entire Agreement
Entire Agreement	All references to “He”, “His” & “Her” have been deleted and replaced with “They” & “Their” throughout the Agreement	Entire Agreement
“Change in Control”	Definition has been amended means (1) any event where any single person or group of persons acting in concert (within the meaning of the City Code on Takeovers and Mergers) acquires any direct or indirect legal and/or beneficial interest in the share capital (as defined in Section 545 of the Companies Act 2006) of the NMSS as a result of which that person or group of persons has a direct or indirect interest in more than 25% of the share capital of the NMSS; and/or (2) A change in the top two tiers of the management team of the NMSS.	1 Definitions
“Data Protection Laws”	Definition has been deleted and all references to “Data Protection Laws” have been replaced with “Data Protection Legislation” throughout the Agreement	1 Definitions
“Data Protection Legislation”	Definition has been added	1 Definitions
“Department Policies”	Definition has been amended the policies of the Department referred to in Schedule 7 (Security & Department Policies) and any other policies of the Department including but not limited to the ESFA policy on funding higher risk organisations and Sub-Contractors in force as at the Agreement Date and amended from time to time;	1 Definitions

Section	Change	Clause Reference
“Law”	Definition has been amended 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 NMSS is bound to comply;	1 Definitions
“LED”	Definition has been deleted	1 Definitions
“Minor Breach”	Definition has been deleted	1 Definitions
“Serious Breach”	Definition has been deleted	1 Definitions
“UK GDPR”	Definition has been amended the General Data Protection Regulation (Regulation (EU) 2016/679) as transposed into United Kingdom national law by operation of section 3 of the European Union (Withdrawal) Act 2018, together with the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019;	1 Definitions
Clause 12.4	Clause 12.4 has been amended 12.4 Where the Department is made aware that Ofsted has provisionally assessed the Services to be inadequate overall, the Department may, in its absolute discretion commence discussions with the NMSS and other relevant co-funding regulatory bodies where appropriate as part of considering what actions as specified in Clauses 12.5.1 to 12.5.5 inclusive may be taken.	12 Inspections
Clauses 12.4.1 and 12.4.2	Clauses 12.4.1 and 12.4.2 have been deleted	12 Inspections
Clause 12.5	Clause 12.5 has been amended	12 Inspections

Section	Change	Clause Reference
	12.5 Where Ofsted has published its assessment that the Services are inadequate overall, the Department may, in its absolute discretion take one or more of the following actions:	
Clause 12.10	Clause 12.10 has been amended 12.10 Where Ofsted has published its assessment that the NMSS is making “insufficient progress” on any of the Monitoring Visit inspection themes , the Department may, in its absolute discretion take the following actions:	12 Inspections
Clause 15.2.4	Clause 15.2.4 has been amended 15.2.4 Where the NMSS fails to comply with the additional conditions imposed under Clause 15.2.3, within such time as the Department deems reasonable, the Department may take such actions as it deems appropriate which may include, but is not limited to terminating the Agreement in accordance with Clause 36 (Termination) .	15 Relationships
Clauses 16.1.1 and 16.1.2	Clauses 16.1.1 and 16.1.2 have been moved from Clause 16 Representative, re-numbered as Clauses 1.5 and 1.6 and added to Clause 1 Definitions. No other amendments have been made to these clauses.	16 Representative
Clause 21.1.10	Clause 21.1.10 has been amended to remove the words “delivering GCSE English and Maths” 21.1.10 The NMSS must submit data about any member of its workforce in the format and to the timescales as required by the Department.	21 Submission of Learner Data
Clause 24	As the amendments to Clause 24 are extensive, please refer to your revised Clause 24 which details the full requirements for delivery from 1 August 2022.	24 Employees
Clause 30.4	Clause 30.4 has been added 30.4 Failure to comply with any of the requirements under Clauses 30.1 to 30.1 may result in the Department taking such actions as it deems appropriate, which may include, but is not limited to, action under Clause	30 Sub-Contracting

Section	Change	Clause Reference
	35 (Withholding, Suspension and Repayment of Funding) and / or termination under Clause 36 (Termination).	
Clause 34.3	<p>Clause 34.3 has been amended</p> <p>34.3 The NMSS must not use any Funding provided by the Department under this Agreement for any of the purposes set out in paragraphs 16 of the Cabinet Office: Guidance for General Grants Grants-Standard-SIX-Grant-Agreements.pdf (publishing.service.gov.uk) regardless of whether the Funding consists of a general grant or any other type of grant. For the avoidance of doubt, the NMSS's costs of memberships for their Associations are deemed eligible under the terms of the Agreement.</p>	34 Prohibited Acts
Clause 35	Clause 35 Minor and Serious Breach has been deleted and replaced with Clause 35 Withholding, Suspension and Repayment of Funding	35 Minor and Serious Breach
Clause 36.3.13	<p>Clause 36.3.13 has been added</p> <p>36.3.13 Where any of the circumstances set out in Clause 35 (Withholding, Suspension and Repayment of Funding) occur which amount to a material breach of this Agreement.</p>	36 Termination
Clause 36.4	<p>Clause 36.4 has been amended</p> <p>36.4 The Department will be entitled to terminate this Agreement immediately on the grounds set out in Clause 31.10. In the event of any termination in accordance with Clause 31.10, the Exit Arrangements set out in Clause 38 (Exit Arrangements) and Schedule 8 (Exit Arrangements) will apply.</p>	36 Termination
Clause 36.7	<p>Clause 36.7 has been amended</p> <p>36.7 If the Department terminates another Agreement with the NMSS on fault grounds where a similar right of termination also exists in this Agreement in relation to similar provisions, the Department, acting reasonably, may immediately give notice of termination of this Agreement in writing to the NMSS.</p>	36 Termination

Section	Change	Clause Reference
Clause 49	Clause 49 Not Used has been deleted and replaced with Clause 49 Disposal of Assets and Change of Use	49 Not Used
Clause 53.1.2	The reference to Clause 49 Disposal of Assets and Change of Use has been added to the table at Clause 53.1.2	53 Continuing Obligations
Various paragraphs	Paragraphs 1.4, 1.8.1, 1.12, 1.21, 1.22, 1.23 and 1.28 of Schedule 10: Sub-Contracting have been amended to include the relevant reference to the contents section of the Sub-Contracting Funding Rules.	Schedule 9: Sub-Contracting
Paragraph 1.26	<p>Paragraph 1.26 has been amended</p> <p>1.26 If the NMSS considers that it cannot reduce the value of its sub-contracted Services to the Sub-Contracting Threshold by 31 July 2023 it must submit an Exemption Case to the Department by 31 March 2023 and each year thereafter.</p>	Schedule 9: Sub-Contracting