

## Contract for Services

| Section                                   | Change   | Clause Reference |
|---|--|------------------|
| <b>“Background Intellectual Property”</b> | Definition has been moved from Clause 19 to the table of definitions in Clause 1   | 1 Definitions    |
| <b>“Barred List“</b>                      | Definition has been added  | 1 Definitions    |
| <b>“Brokerage”</b>                        | Definition has been added  | 1 Definitions    |
| <b>“Confidential Information”</b>         | Definition has been amended<br><br>means any information, including Personal Data as defined by the Data Protection <b>Laws</b> , and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Parties including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked "confidential");  | 1 Definitions    |
| <b>“Data Protection Laws”</b>             | Definition has been amended<br><br>means the Data Protection Act 2018 and <b>Privacy and</b> Electronic Communications (EC Directive) Regulations 2003 and any other data protection laws and regulations applicable in the UK (or in any relevant part thereof), including the General Data Protection Regulation (EU) 2016/679 or similar and any codes of practice, guidelines and recommendations issued by the Information Commissioner, any replacement body or other relevant supervisory authority, all of which are current at the time of any Data processing by the Contractor (and in the event of any conflict between the Data Protection Laws and Law, Data Protection Laws shall take precedence); | 1 Definitions    |
| <b>“Department Data“</b>                  | Definition has been amended  | 1 Definitions    |

| Section                                   | Change   | Clause Reference |
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|   | <p>means any data (including metadata), record, document or information howsoever stored which is either:</p> <p>(a) communicated by the Department, its staff, sub-contractors and agents to the Contractor in writing, orally, electronically or by any other means relating to the Learners and/or Services provided to the Learners; or</p> <p>(b) is obtained, gleaned, compiled or processed by the Contractor during the course of the Contractor providing the Services relating to or provided to the Learners, <b>including Personal Data for which the Department is the data controller</b></p> <p>including but not limited to ILR Data and e-portfolios;</p> |                  |
| <b>“Department Related Party”</b>         | Definition has been added  | 1 Definitions    |
| <b>“Foreground Intellectual Property“</b> | Definition has been moved from Clause 19 to the table of definitions in Clause 1   | 1 Definitions    |
| <b>“Serious Breach“</b>                   | <p>Definition has been amended</p> <p>shall mean any breach defined as a Serious Breach in the Contract or any breach or breaches which adversely, materially or substantially affect the performance or delivery of the Services or compliance with the terms and conditions of the Contract or the provision of a safe, healthy and supportive learning environment <b>or a breach of security that adversely affects the Personal Data or privacy of an individual.</b> Failure to comply with Law, or actions or omissions by the Contractor that endanger the Health or Safety of</p>   | 1 Definitions    |

| Section    | Change  | Clause Reference |
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|            | Learners, <b>Contractor Personnel, and all other persons including members of the public</b> would constitute a Serious Breach;   |                  |
| "Work"     | <p>Definition has been moved from Clause 19 to the table of definitions in Clause 1 and amended</p> <p>Means all materials created by the Contractor as a result of the provision of the Services including Confidential Information <b>and all designs, drawings, data, specifications and all other technical business and similar information relating to the Services including all readable or computer or other machine readable data or material and any material relating to or comprising software which may be part of the provision of the Services;</b></p>                             | 1 Definitions    |
| Clause 1.4 | <p>Clause 1.4 has been amended</p> <p>1.4 Precedence of Documentation</p> <p>In the event of any inconsistency between the provisions of the Terms and Conditions and the Schedules, or between any of the Schedules, the conflict will be resolved according to the following descending order of priority:</p> <p>1.4.1 the Terms and Conditions,<br/> 1.4.2 Schedule 1 (the Specification);<br/> 1.4.3 the remaining Schedules,</p> <p>for the avoidance of doubt, in the event of any inconsistency between this Contract and the Funding <b>Rules</b>, this Contract will take precedence.</p> | 1 Definitions    |

| Section                | Change  | Clause Reference                |
|------------------------|---|---------------------------------|
| <b>Clause 13.3 (a)</b> | <p>Clause 13.3 sub clause (a) has been amended to remove the reference to “additional Funding conditions”</p> <p>(a) require the Contractor to accept and comply with additional Contract obligations relating to the improvement of the Services assessed as inadequate; and/or</p>  | 13 Inspections                  |
| <b>Clause 13.9.1</b>   | <p>Clause 13.9.1 has been amended to remove the reference to “additional conditions of Funding”</p> <p>13.9.1 require the Contractor to, and the Contractor shall, accept and comply with additional Contract obligations relating to the improvement of the overall Provision. Such conditions will include complying with the published recommendations of Ofsted. These conditions will apply until a full Ofsted inspection of the Contractor has taken place; and/or</p> | 13 Inspections                  |
| <b>Clause 13.9.6</b>   | <p>Clause 13.9.6 has been added</p> <p>13.9.6 terminate this Contract in accordance with Clause 40.4.7 if the Contractor has two consecutive New Provider Monitoring visits each resulting in one or more “insufficient progress” judgements in relation to one or more themes.</p>   | 13 Inspections                  |
| <b>Clause 19.1</b>     | <p>Definitions of “<b>Background Intellectual Property</b>”, “<b>Foreground Intellectual Property</b>” and “<b>Work</b>” have been moved to Clause 1 Definitions</p> <p>Definition of “<b>Confidential Information</b>” text has been added to the definition of “<b>Work</b>” in Clause 1 Definitions</p> <p>Definition of “<b>Intellectual Property</b>” has been deleted because this definition is replicated in Clause 1 Definitions</p>                                 | 19 Intellectual Property Rights |

| Section                        | Change  | Clause Reference                                   |
|--------------------------------|---|--|
| <b>Clause 21.2</b>             | <p>Clause 21.2 has been amended to clarify how back-ups of Department Data should be stored and to remove the requirement to deliver back-ups to the Department at monthly intervals when requested.</p> <p>21.2 The Contractor must perform secure back-ups of all the Department Data and must ensure that up-to-date back-ups, <b>where not in the cloud</b>, are stored off-site in accordance with the Business Continuity Plan. <b>Back-ups stored in the cloud must comply with Data Protection Laws.</b> The Contractor must ensure that such back-ups are available to the Department at all times upon request.</p> | 21 Department Data                                 |
| <b>Clause 21.3</b>             | <p>Clause 21.3 has been amended</p> <p>21.3 The Contractor must take all necessary steps to ensure that any Department Data which comes into its possession or control is protected in accordance with the DPA 2018 and appropriate security procedures <b>as set out in Schedule 7 (Security &amp; Department Policies)</b> and in compliance with Good Industry Practice (having regard to the nature of its other obligations under this Contract and under the DPA 2018).</p>   | 21 Department Data                                 |
| <b>Clause 22.4.4 to 22.4.7</b> | <p>Clauses 22.4.4 to 22.4.7 have been renumbered (i) to (iv) as subclauses of Clause 22.4.3 (b)</p>   | 22 Data Protection and Protection of Personal Data |
| <b>Clause 22.5.2</b>           | <p>Clause 22.5.2 has been amended</p> <p>22.5.2 receives a request to rectify, block or erase any Personal Data processed through the submission of learner data. Notification in such cases should be given <b>via the Contract Manager</b></p>  | 22 Data Protection and Protection of Personal Data |

| Section                     | Change   | Clause Reference  |
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| <p><b>Clause 22.18</b></p>  | <p>Clause 22.18 has been added</p> <p>22.18 The Processor will comply with any further written instructions or additional conditions from the Department's Controller in relation to the data processing.</p>  | <p>22 Data Protection and Protection of Personal Data</p> |
| <p><b>Clause 23.1.8</b></p> | <p>Clause 23.1.8 has been amended to include the requirement to maintain data on GIAS</p> <p>23.1.8 The Contractor must register with UKRLP (<a href="http://www.ukrlp.co.uk/">http://www.ukrlp.co.uk/</a>) and <b>Get Information About Schools</b> (<a href="https://get-information-schools.service.gov.uk/">https://get-information-schools.service.gov.uk/</a>) and maintain contact details on an on-going basis.</p>  | <p>23 Submission of Learner Data</p>                      |
| <p><b>Clause 25.2.2</b></p> | <p>Clause 25.2.2 has been amended</p> <p>25.2.2 The Contractor must take all necessary precautions to ensure that all Confidential Information obtained from the Department is treated as confidential and not disclosed (without prior approval <b>from the Department's Contract Manager</b>) or used other than for the purposes of this Contract by any of its employees, servants, agents or sub-contractors.</p>   | <p>25 Freedom of Information and Confidentiality</p>      |
| <p><b>Clause 26.13</b></p>  | <p>Clause 26.13 has been amended</p> <p>26.13 The Contractor will ensure that it has in place and complies with an effective whistleblowing procedure, <b>approved by the body responsible for the management of the Contractor</b>, whereby staff may raise in confidence concerns about possible malpractice without fear of victimisation, subsequent discrimination or disadvantage. <b>The procedure must be published on the Contractor's public-facing website. The Contractor will regularly review the procedure,</b></p> | <p>26 Employees</p>                                       |

| Section              | Change  | Clause Reference     |
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|                      | <b>including securing approval from the body responsible for the management of the Contractor of any amended procedure.</b>   |                      |
| <b>Clause 30.1.4</b> | <p>Clause 30.1.4 has been amended to replace conditions of funding with Contract obligations</p> <p>30.1.4 The Department reserves the right to impose additional <b>Contract obligations</b> where it considers it is necessary to do so to secure the delivery of education and training of a reasonable quality by the Contractor, or to ensure that the resources provided by the Department are being used effectively and efficiently or to require the Contractor to address concerns about its financial viability</p>  | 30 Payment and Audit |
| <b>Clause 30.1.5</b> | <p>Clause 30.1.5 has been re-drafted for clarity</p> <p>30.1.5 The payment of Funding by the Department will be without prejudice to any claims or rights, which the Department may have against the Contractor and will not constitute any admission by the Department as to the performance by the Contractor of its obligations under this Contract. Prior to any such payment of Funding, the Department shall be entitled to make deductions or deferments in respect of any disputes or claims whatsoever with or against the Contractor, arising from this Contract or any other agreement between the Contractor and the Department</p> | 30 Payment and Audit |
| <b>Clause 30.1.7</b> | <p>Clause 30.1.7 has been re-drafted for clarity and split into Clauses 30.1.7 &amp; 30.1.8</p> <p>30.1.7 Where the Department identifies errors which it deems to be material in the data that the Contractor is required to provide under the Contract to support the payment of Funding, the Department reserves the right at its absolute discretion to require the Contractor at the Contractor's cost</p>   | 30 Payment and Audit |

| Section                     | Change  | Clause Reference                         |
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|                             | <p>to carry out a 100% audit of all or part of the Services by a deadline specified by the Department and / or to recover from the Contractor Funding equivalent to an amount based on the error rate identified and the total value of the Funding paid to the Contractor under this Contract.</p> <p>30.1.8 Without prejudice to any other provisions in this Contract, such amounts as are identified as being recoverable under Clause 30.1.7, may be recovered by making adjustments to data submitted by the Contractor under the Contract, or by raising an invoice for payment by the Contractor, or by making deductions from future payments due to the Contractor under the Contract. Failure to settle such amounts by the Contractor will constitute a Serious Breach under Clause 39 (Minor and Serious Breach) of this Contract. The decision of the Department as to the amount of recovery under this Clause is final.</p> |  |
| <p><b>Clause 32.1.1</b></p> | <p>Clause 32.1.1 has been amended</p> <p>32.1.1 The Contractor must, and will procure that any Contractor Related Parties, maintain a full record of all incidents relating to <b>data protection</b>, health, safety and security, including CCTV, which occur during the Contract Period. The Contractor will make the aforementioned records available for inspection by the Department upon reasonable notice, and will present a report of them to the Department as and when requested</p>  | <p>32 Contractor's Records and Audit</p> |
| <p><b>Clause 32.2.1</b></p> | <p>Clause 32.2.1 sub-clause (e) has been added to sub-clause (d)</p> <p>(d) to review the Contractor's and/or a Contractor Related Party's compliance with the DPA 2018, the FOIA in accordance with Clauses 21 (Department Data) and 0 (Freedom of Information and Confidentiality) and <b>any other Law applicable to the Services;</b></p>   | <p>32 Contractor's Records and Audit</p> |



| Section              | Change  | Clause Reference                  |
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| <b>Clause 32.2.1</b> | <p>Clause 32.2.1 sub-clause (i) has been added to the renumbered sub-clause (g)</p> <p>(g) to ensure that the Contractor and/or a Contractor Related Party is complying with the Department Policies and any British or equivalent European standards and <b>any other audit that may be required by any Relevant Authority</b></p> | 32 Contractor's Records and Audit |
| <b>Clause 34.5</b>   | <p>Clause 34.5 has been added</p> <p>34.5 The Contractor will not enter into any agreement for Brokerage in relation to the Services under this Contract.</p>   | 34 Assignment and Subcontracting  |
| <b>Clause 34.12</b>  | <p>Clause 34.12 has been added</p> <p>34.12 The Contractor will review annually its sub-contracts, including the rationale for entering into those sub-contracts, and will publish by 31 October 2020 a statement on its public facing website setting out a high level summary of its sub-contracts and the rationale.</p>         | 34 Assignment and Subcontracting  |
| <b>Clause 34.15</b>  | <p>Clause 34.15 has been added</p> <p>34.15 Failure to comply with any of the requirements under Clauses 34.1 to 34.14 may result in the Department taking such actions as it deems appropriate, which may include, but is not limited to, action under Clause 39 (Minor and Serious Breach)</p>                                    | 34 Assignment and Subcontracting  |
| <b>Clause 35.8</b>   | <p>Clauses 35.8.2 to 35.8.7 have been renumbered (a) to (f) as subclauses of Clause 35.8.1</p>  | 35 Indemnities and Liability      |
| <b>Clause 40.4.7</b> | <p>Clause 40.4.7 has been added</p>   | 40 Termination                    |

| Section   | Change  | Clause Reference                          |
|---|---|---|
|   | 40.4.7 In accordance with 13.9.6 the Contractor has had two consecutive Ofsted New Provider Monitoring Visits resulting in one or more “insufficient progress” judgements; and/or   |   |
| <b>Clause 41.1.2</b>                                      | <p>Clause 41.1.2 has been amended to correct the text</p> <p>41.1.2 On or before the Expiry Date (except where the Contractor will be responsible for delivering the Services in the subsequent Funding Year) or Termination Date, the Contractor must ensure that all documents or computer records in its possession, <b>custody or control</b> including but not limited to e-portfolios, which contain information relating to the Services including any documents in the possession, custody or control of a sub-contractor are made available upon request to the Department.</p>  | 41 Consequences of Termination and Expiry |
| <b>Clause 42.2</b>  | <p>Clause 42.2 has been added</p> <p>42.2 On expiry or termination of this Contract for any reason, the Contractor shall do its utmost to minimise any disruption to Learners and shall co-operate fully with any reasonable requests made by the Department relating to this. For the avoidance of doubt the Department will be entitled to request that where the Contractor cannot complete Learners that it will co-operate in transferring the Learners to a new provider even if this is prior to the Termination Date or Expiry Date of this Contract and the Contractor’s Exit Plan should reflect this. The Department will not be liable for any costs prior to or after incurred by the Contractor in complying with this Clause 42.2.</p> | 42 Exit Arrangements                      |
| <b>“Department’s Data”<br/>“Department’s Information”</b> | Definition has been amended to <b>“Department Data”</b> as defined in Clause 1 Definitions of the Contract  | Schedule 7: Security & Department         |

| Section   | Change   | Clause Reference   |
|---|--|--|
|   |  | Policies<br>Part A Security  |
| <b>“Good Industry Practice”</b><br><b>“Industry Good Practice”</b>                                      | Definition has been amended to <b>“Good Industry Practice”</b>                         | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>“Good Industry Standard”</b><br><b>“Industry Good Standard”</b>                                      | Definition has been amended to <b>“Good Industry Standard”</b>                         | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>“GSC”</b><br><b>“GSCP”</b>   | Definition has been amended to add <b>“Government Security Classifications Policy”</b> | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>“Tailored Assurance”</b><br><b>(formally called “CTAS”,</b><br><b>or, “CESG Tailored Assurance”)</b> | Definition has been deleted  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.1</b>   | Clause 1.1 has been deleted  | Schedule 7:<br>Security &<br>Department                                |

| Section           | Change  | Clause Reference   |
|-------------------|---|--|
|                   |   | Policies<br>Part A Security  |
| <b>Clause 1.2</b> | <p>Clause 1.2 has been renumbered Clause 1.1 and has been amended</p> <p>1.1 Where the Contractor will handle information at OFFICIAL on behalf of the Department, the requirements under Cabinet Office Procurement Policy <a href="#">Note 09/14</a> – Use of Cyber Essentials Scheme certification, or any subsequent updated document, are mandated; the Contractor will endeavour to meet the requirements of Cyber Essentials for the 2020/21 Funding Year and present the results to the Department on request. The scope must be relevant to the Services supplied to, or on behalf of, the Department.</p> | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.3</b> | Clause 1.3 has been deleted   | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.4</b> | <p>Clause 1.4 has been renumbered Clause 1.2 and has been amended</p> <p>1.2 The Contractor will follow the <b>Cabinet Office guidance on</b> Government Security Classifications in respect of any Department Data being handled in the course of providing this Service, and will handle this data in accordance with its security classification. (In the event where the Contractor has an existing Protective Marking Scheme then the Contractor may continue to use this but must map the HMG security classifications against it to ensure the correct controls are applied to the Department Data).</p>     | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |

| Section            | Change  | Clause Reference  |
|--------------------|---|---|
| <b>Clause 1.5</b>  | <p>Clause 1.5 has been renumbered 1.3 and has been amended</p> <p>1.3 Processing of Department Data must be segregated from all other data on the Contractor's or sub-contractor's own IT equipment to protect the Department Data and enable the data to be identified and securely deleted when required. In the event that it is not possible to segregate any Department Data then the Contractor and any sub-contractor will be required to ensure that it is stored in such a way that it is possible to securely delete the data in line with Clause 1.13.</p> | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |
| <b>Clause 1.16</b> | <p>Clause 1.16 has been re-numbered Clause 1.14 and has been amended</p> <p>1.14 Access by Contractor or sub-contractor staff to Department Data will be confined to those individuals who have a "need-to-know" in order to carry out their role; and have undergone mandatory pre-employment screening, to a minimum of HMG Baseline Personnel Security Standard (BPSS). All Contractor or sub-contractor staff must complete this process before access to Department Data is permitted</p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |
| <b>Clause 1.19</b> | <p>Clause 1.19 has been renumbered Clause 1.17 and has been amended</p> <p>1.17 Any suspected or actual breach of the confidentiality, integrity or availability of Department Data being handled in the course of providing this Service, or any non-compliance with these Departmental Security Standards for Contractors, or other Security Standards pertaining to the solution, will be investigated immediately and escalated to the Department. The Contractor will inform their Contract Manager in writing as soon a breach is identified</p>                | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |

| Section            | Change   | Clause Reference  |
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| <b>Clause 1.23</b> | <p>Clause 1.23 has been renumbered Clause 1.21 and amended</p> <p>1.21 The Contractor will contractually enforce all the clauses in this Schedule onto any third-party suppliers, sub-contractors or partners who could potentially access Department Data in the course of providing this Service.</p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |
| <b>Clause 1.24</b> | <p>Clause 1.24 has been renumbered Clause 1.22 and has been amended</p> <p>1.22 The Contractor and sub-contractors will undergo appropriate security assurance activities as determined by the Department. Contractor and sub-contractors will support the provision of appropriate evidence of assurance and the production of the necessary security documentation on request.</p> | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |

### Conditions of Funding Grant (Colleges)

| Section                             | Change   | Clause Reference |
|-------------------------------------|--|------------------|
| “ <b>Barred List</b> “              | Definition has been added  | 1 Definitions    |
| “ <b>Brokerage</b> ”                | Definition has been added  | 1 Definitions    |
| “ <b>Confidential Information</b> ” | <p>Definition has been amended</p> <p>means any information, including Personal Data as defined by the Data Protection <b>Laws</b>, and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Parties including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked "confidential");</p>  | 1 Definitions    |
| “ <b>Data Protection Laws</b> ”     | <p>Definition has been amended</p> <p>means the Data Protection Act 2018 and <b>Privacy and</b> Electronic Communications (EC Directive) Regulations 2003 and any other data protection laws and regulations applicable in the UK (or in any relevant part thereof), including the General Data Protection Regulation (EU) 2016/679 or similar and any codes of practice, guidelines and recommendations issued by the Information Commissioner, any replacement body or other relevant supervisory authority, all of which are current at the time of any Data processing by the College (and in the event of any conflict between the Data Protection Laws and Law, Data Protection Laws shall take precedence);</p> | 1 Definitions    |
| “ <b>Department Data</b> “          | <p>Definition has been amended</p> <p>means any data (including metadata), record, document or information howsoever stored which is either:</p>   | 1 Definitions    |

| Section                           | Change   | Clause Reference |
|-----------------------------------|--|------------------|
|                                   | <p>(a) communicated by the Department, its staff, sub-contractors and agents to the College in writing, orally, electronically or by any other means relating to the Learners and/or Services provided to the Learners; or</p> <p>(b) is obtained, gleaned, compiled or processed by the College during the course of the College providing the Services relating to or provided to the Learners, <b>including Personal Data for which the Department is the data controller</b></p> <p>including but not limited to ILR Data and e-portfolios;</p>  |                  |
| <b>“Department Related Party”</b> | Definition has been added  | 1 Definitions    |
| <b>“Serious Breach“</b>           | <p>Definition has been amended</p> <p>shall mean any breach defined as a Serious Breach in the Agreement or any breach or breaches which adversely, materially or substantially affect the performance or delivery of the Services or compliance with the terms and conditions of the Agreement or the provision of a safe, healthy and supportive learning environment <b>or a breach of security that adversely affects the Personal Data or privacy of an individual.</b> Failure to comply with Law, or actions or omissions by the College that endanger the Health or Safety of Learners, <b>College Personnel, and all other persons including members of the public</b> would constitute a Serious Breach;</p> | 1 Definitions    |
| <b>Clause 1.4</b>                 | Clause 1.4 has been amended  | 1 Definitions    |



| Section               | Change   | Clause Reference |
|-----------------------|--|------------------|
|                       | <p>1.4 Precedence of Documentation</p> <p>In the event of any inconsistency between the provisions of the Terms and Conditions and the Schedules, or between any of the Schedules, the conflict will be resolved according to the following descending order of priority:</p> <p>1.4.1 the Terms and Conditions,<br/> 1.4.2 Schedule 1 (the Specification);<br/> 1.4.3 the remaining Schedules,</p> <p>for the avoidance of doubt, in the event of any inconsistency between this Agreement and the Funding <b>Rules</b>, this Agreement will take precedence.</p> |                  |
| <b>Clause 12.18.5</b> | <p>Clause 12.18.5 has been added</p> <p>12.18.5 terminate the agreement in accordance with 35.3.5.</p>   | 12 Inspections   |
| <b>Clause 12.19.2</b> | <p>Clause 12.19.2 has been amended to refer to Clause 12.20.4</p> <p>12.19.2 commence discussions with the College and the Local Authority and Combined Authority within whose area the College is located, either with Ofsted or not, as part of considering what actions as specified in Clauses 12.20.1 to 12.20.4 inclusive may be taken.</p>  | 12 Inspections   |
| <b>Clause 12.23.6</b> | <p>Clause 12.23.6 has been added</p> <p>12.23.6 terminate this Agreement in accordance with Clause 35.3.7 if the College has two consecutive New Provider Monitoring visits each resulting in one or more “insufficient progress” judgements in relation to one or more themes.</p>  | 12 Inspections   |

| Section                     | Change  | Clause Reference          |
|-----------------------------|---|---------------------------|
| <p><b>Clause 15.2.3</b></p> | <p>Clause 15.2.3 has been amended to remove the reference to “contractual obligations” and replace with “conditions of funding”</p> <p>15.2.3 Where the Department has undertaken an investigation or received a report from an independent accountant or otherwise, in relation to the College it may, as a consequence of that investigation or report, require the College to, and the College will, accept and comply with <b>additional conditions of funding</b> and will meet the cost of such investigation.</p>  | <p>15 Relationships</p>   |
| <p><b>Clause 15.2.4</b></p> | <p>Clause 15.2.4 has been amended to remove the reference to “contractual obligations” and replace with “conditions of funding”</p> <p>15.2.4 Where the College fails to comply with the <b>additional conditions of funding</b> 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, under Clause 34 (Minor and Serious Breach).</p>   | <p>15 Relationships</p>   |
| <p><b>Clause 19.2</b></p>   | <p>Clause 19.2 has been amended to clarify how back-ups of Department Data should be stored and to remove the requirement to deliver back-ups to the Department at monthly intervals when requested.</p> <p>19.2 The College must perform secure back-ups of all the Department Data and must ensure that up-to-date back-ups, <b>where not in the cloud</b>, are stored off-site in accordance with the Business Continuity Plan. <b>Back-ups stored in the cloud must comply with Data Protection Laws.</b> The College must ensure that such back-ups are available to the Department at all times upon request.</p> | <p>19 Department Data</p> |

| Section                        | Change  | Clause Reference                                   |
|--------------------------------|---|--|
| <b>Clause 19.3</b>             | <p>Clause 19.3 has been amended</p> <p>19.3 The College must take all necessary steps to ensure that any Department Data which comes into its possession or control is protected in accordance with the DPA 2018 and appropriate security procedures <b>as set out in Schedule 7 (Security &amp; Department Policies)</b> and in compliance with Good Industry Practice (having regard to the nature of its other obligations under this Agreement and under the DPA 2018).</p> | 19 Department Data                                 |
| <b>Clause 20.4.4 to 20.4.7</b> | <p>Clauses 20.4.4 to 20.4.7 have been renumbered (i) to (iv) as subclauses of Clause 20.4.3 (b)</p>   | 20 Data Protection and Protection of Personal Data |
| <b>Clause 20.5.2</b>           | <p>Clause 20.5.2 has been amended</p> <p>20.5.2 receives a request to rectify, block or erase any Personal Data processed through the submission of learner data. Notification in such cases should be given <b>via the Agreement Manager;</b></p>  | 20 Data Protection and Protection of Personal Data |
| <b>Clause 20.18</b>            | <p>Clause 20.18 has been added</p> <p>20.18 The Processor will comply with any further written instructions or additional conditions from the Department's Controller in relation to the data processing.</p>   | 20 Data Protection and Protection of Personal Data |
| <b>Clause 21.1.8</b>           | <p>Clause 21.1.8 has been amended to include the requirement to maintain data on GIAS</p> <p>21.1.8 The College must register with UKRLP (<a href="http://www.ukrlp.co.uk/">http://www.ukrlp.co.uk/</a>) and <b>Get Information About Schools</b> (<a href="https://get-information-">https://get-information-</a></p>  | 21 Submission of Learner Data                      |

| Section                                | Change   | Clause Reference                                     |
|--|--|--|
|  | <p><a href="https://schools.service.gov.uk/">schools.service.gov.uk/</a>) and maintain contact details on an on-going basis.</p>   |  |
| <p><b>Clause 23.2.2</b></p>            | <p>Clause 23.2.2 has been amended</p> <p>23.2.2 The College must take all necessary precautions to ensure that all Confidential Information obtained from the Department is treated as confidential and not disclosed (without prior approval <b>from the Department's Agreement Manager</b>) or used other than for the purposes of this Agreement by any of its employees, servants, agents or sub-contractors.</p>  | <p>23 Freedom of Information and Confidentiality</p> |
| <p><b>Clause 24.13</b></p>             | <p>Clause 24.13 has been amended</p> <p>24.13 The College will ensure that it has in place and complies with an effective whistleblowing procedure, approved by the body responsible for the management of the College, whereby staff may raise in confidence concerns about possible malpractice without fear of victimisation, subsequent discrimination or disadvantage. The procedure must be published on the College's public-facing website. The College will regularly review the procedure, including securing approval from the body responsible for the management of the College of any amended procedure.</p> | <p>24 Employees</p>                                  |
| <p><b>Clause 25.10 &amp; 25.11</b></p> | <p>Clauses 25.10 &amp; 25.11 have been renumbered 25.9.1 &amp; 25.9.2 as subclauses of Clause 25.9</p>   | <p>25 Re-Provision of the Services</p>               |
| <p><b>Clause 26.1.5</b></p>            | <p>Clause 26.1.5 has been re-drafted for clarity</p> <p>26.1.5 The payment of Funding by the Department will be without prejudice to any claims or rights, which the Department may have against the</p>   | <p>26 Payment and Audit</p>                          |

| Section                     | Change  | Clause Reference                      |
|-----------------------------|---|---------------------------------------|
|                             | <p>College and will not constitute any admission by the Department as to the performance by the College of its obligations under this Agreement. Prior to any such payment of Funding, the Department will be entitled to make deductions or deferments in respect of any disputes or claims whatsoever with or against the College, arising from this Agreement or any other agreement between the College and the Department.</p>   |                                       |
| <p><b>Clause 26.1.7</b></p> | <p>Clause 26.1.7 has been re-drafted for clarity and split into Clauses 26.1.7 &amp; 26.1.8</p> <p>26.1.7 Where the Department identifies errors which it deems material in the data that the College is required to provide under the Agreement to support the payment of Funding, the Department reserves the right at its absolute discretion to require the College at the College's cost to carry out a 100% audit of all or part of the Services by a deadline specified by the Department and / or to recover from the College Funding equivalent to an amount based on the error rate identified and the total value of the Funding paid to the College under this Agreement.</p> <p>26.1.8 Without prejudice to any other provisions in this Agreement, such amounts as are identified as being recoverable under Clause 26.1.7, may be recovered by making adjustments to data submitted by the College under the Agreement, or by raising an invoice for payment by the College, or by making deductions from future payments due to the College under the Agreement. Failure to settle such amounts by the College will constitute a Serious Breach under Clause 34 (Minor and Serious Breach) of this Agreement. The decision of the Department as to the amount of recovery under this clause is final.</p> | <p>26 Payment and Audit</p>           |
| <p><b>Clause 28.1.1</b></p> | <p>Clause 28.1.1 has been amended</p>   | <p>28 College's Records and Audit</p> |

| Section                     | Change  | Clause Reference                      |
|-----------------------------|---|---------------------------------------|
|                             | <p>28.1.1 The College must, and will procure that any College Related Parties, maintain a full record of all incidents relating to <b>data protection</b>, health, safety and security, including CCTV, which occur during the Agreement Period. The College will make the aforementioned records available for inspection by the Department upon reasonable notice, and will present a report of them to the Department as and when requested.</p>             |                                       |
| <p><b>Clause 28.2.1</b></p> | <p>Clause 28.2.1 sub-clause (e) has been added to sub-clause (d)</p> <p>(d) to review the College's and/or a College Related Party's compliance with the DPA 2018, the FOIA in accordance with Clauses 19 (Department Data) and 23 (Freedom of Information and Confidentiality) <b>and any other Law applicable to the Services;</b></p>  | <p>28 College's Records and Audit</p> |
| <p><b>Clause 28.2.1</b></p> | <p>Clause 28.2.1 sub-clause (i) has been added to the renumbered sub-clause (g)</p> <p>(g) to ensure that the College and/or a College Related Party is complying with the Department Policies and any British or equivalent European standards <b>and any other audit that may be required by any Relevant Authority</b></p>   | <p>28 College's Records and Audit</p> |
| <p><b>Clause 28.2.7</b></p> | <p>The cross reference to Clause 32 and Clause 23 have been corrected within Clause 28.2.7</p> <p>28.2.7 If the findings of an audit conducted pursuant to this Clause <b>28</b> results in the requirement for ILR data to be corrected and re-submitted the College must re-submit the data to the Department, as set out in Clause <b>21 (Submission of Learner Data)</b>, within two months. Failure to do so will be a Minor Breach of this Agreement.</p> | <p>28 College's Records and Audit</p> |

| Section               | Change   | Clause Reference                 |
|-----------------------|--|----------------------------------|
| <b>Clause 30.5</b>    | <p>Clause 30.5 has been added</p> <p>30.5 The College will not enter into any agreement for Brokerage in relation to the Services under this Agreement.</p>  | 30 Assignment and Subcontracting |
| <b>Clause 30.12</b>   | <p>Clause 30.12 has been added</p> <p>30.12 The College will review annually its sub-contracts, including the rationale for entering into those sub-contracts, and will publish by 31 October 2020 a statement on its public facing website setting out a high level summary of its sub-contracts and the rationale.</p>                 | 30 Assignment and Subcontracting |
| <b>Clause 30.15</b>   | <p>Clause 30.15 has been added</p> <p>30.15 Failure to comply with any of the requirements under Clauses 30.1 to 30.14 may result in the Department taking such actions as it deems appropriate, which may include, but is not limited to, action under Clause <b>Error! Reference source not found.</b> (Minor and Serious Breach).</p> | 30 Assignment and Subcontracting |
| <b>Clause 31.8</b>    | <p>Clauses 31.8.2 to 31.8.5 have been renumbered (a) to (d) as subclauses of Clause 31.8.1</p>   | 31 Indemnities and Liability     |
| <b>Clause 31.11.1</b> | <p>Clause 31.11.1 has been amended to remove the aggregate liability of £1,000,000</p> <p>31.11.1 With regard to the Department the total aggregate liability will be limited to its obligation to pay the Funding as and when it falls due in accordance with this Agreement.</p>   | 31 Indemnities and Liability     |
| <b>Clause 35.3.7</b>  | <p>Clause 35.3.7 has been added</p> <p>35.3.7 In accordance with 12.23.6 the College has had two consecutive Ofsted New Provider Monitoring Visits resulting in one or more “insufficient progress” judgements; and/or</p>   | 35 Termination                   |

| Section   | Change  | Clause Reference  |
|---|---|---|
| <b>Clause 36.1.2</b>                                      | <p>Clause 36.1.2 has been amended to correct the text</p> <p>36.1.2 On or before the Expiry Date (except where the College will be responsible for delivering the Services in the subsequent Funding Year) or Termination Date, the College must ensure that all documents or computer records in its possession, <b>custody or control</b> including but not limited to e-portfolios, which contain information relating to the Services including any documents in the possession, custody or control of a sub-contractor are made available upon request to the Department.</p>  | 36 Consequences of Termination and Expiry                     |
| <b>Clause 37.2</b>  | <p>Clause 37.2 has been added</p> <p>37.2 On expiry or termination of this Agreement for any reason, the College shall do its utmost to minimise any disruption to Learners and shall co-operate fully with any reasonable requests made by the Department relating to this. For the avoidance of doubt the Department will be entitled to request that where the College cannot complete Learners that it will co-operate in transferring the Learners to a new provider even if this is prior to the Termination Date or Expiry Date of this Agreement and the College's Exit Plan should reflect this. The Department will not be liable for any costs prior to or after incurred by the College in complying with this Clause 37.2.</p> | 37 Exit Arrangements  |
| <b>Clause 48</b>  | The condition relating to payment of interest has been removed from the Agreement. Clause 48 has been marked "Not Used"   | 48 Interest on Late Payments                                  |
| <b>"Department's Data"<br/>"Department's Information"</b> | Definition has been amended to <b>"Department Data"</b> as defined in Clause 1 (Definitions) of the Agreement   | Schedule 7: Security & Department Policies<br>Part A Security |



| Section   | Change   | Clause Reference   |
|---|--|--|
| <b>“Good Industry Practice”</b><br><b>“Industry Good Practice”</b>                                      | Definition has been amended to <b>“Good Industry Practice”</b>                         | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>“Good Industry Standard”</b><br><b>“Industry Good Standard”</b>                                      | Definition has been amended to <b>“Good Industry Standard”</b>                         | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>“GSC”</b><br><b>“GSCP”</b>   | Definition has been amended to add <b>“Government Security Classifications Policy”</b> | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>“Tailored Assurance”</b><br><b>(formally called “CTAS”,</b><br><b>or, “CESG Tailored Assurance”)</b> | Definition has been deleted  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.1</b>   | Clause 1.1 has been deleted  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |

| Section           | Change  | Clause Reference  |
|-------------------|---|---|
| <b>Clause 1.2</b> | <p>Clause 1.2 has been renumbered Clause 1.1 and has been amended</p> <p>1.1 Where the College will handle information at OFFICIAL on behalf of the Department, the requirements under Cabinet Office Procurement Policy <a href="#">Note 09/14</a> – Use of Cyber Essentials Scheme certification, or any subsequent updated document, are mandated, the College will endeavour to meet the requirements of Cyber Essentials for the 2020/21 Funding Year and present the results to the Department on request. The scope must be relevant to the Services supplied to, or on behalf of, the Department.</p>       | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |
| <b>Clause 1.3</b> | <p>Clause 1.3 has been deleted</p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |
| <b>Clause 1.4</b> | <p>Clause 1.4 has been renumbered Clause 1.2 and has been amended</p> <p>1.2 The College will follow the <b>Cabinet Office guidance on</b> Government Security Classification Policy (GSCP) in respect of any Department Data being handled in the course of providing this Service, and will handle this data in accordance with its security classification. (In the event where the College has an existing Protective Marking Scheme then the College may continue to use this but must map the HMG security classifications against it to ensure the correct controls are applied to the Department Data).</p> | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |
| <b>Clause 1.5</b> | <p>Clause 1.5 has been renumbered 1.3 and has been amended</p> <p>1.3 Processing of Department Data must be segregated from all other data on the College's or sub-contractor's own IT equipment to protect the</p>   | <p>Schedule 7:<br/>Security &amp;<br/>Department</p>                                  |

| Section                   | Change   | Clause Reference  |
|---------------------------|--|---|
|                           | <p>Department Data and enable the data to be identified and securely deleted when required. In the event that it is not possible to segregate any Department Data then the College and any sub-contractor will be required to ensure that it is stored in such a way that it is possible to securely delete the data in line with Clause 1.13.</p>   | <p>Policies<br/>Part A Security</p>   |
| <p><b>Clause 1.16</b></p> | <p>Clause 1.16 has been re-numbered Clause 1.14 and has been amended</p> <p>1.14 Access by College or sub-contractor staff to Department Data will be confined to those individuals who have a “need-to-know” in order to carry out their role; and have undergone mandatory pre-employment screening, to a minimum of HMG Baseline Personnel Security Standard (BPSS). All College or sub-contractor staff must complete this process before access to Department Data is permitted.</p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |
| <p><b>Clause 1.19</b></p> | <p>Clause 1.19 has been renumbered Clause 1.17 and has been amended</p> <p>1.17 Any suspected or actual breach of the confidentiality, integrity or availability of Department Data being handled in the course of providing this Service, or any non-compliance with these Departmental Security Standards for Contractors, or other Security Standards pertaining to the solution, will be investigated immediately and escalated to the Department. The College will inform their Agreement Manager in writing as soon as a breach is identified.</p> | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |
| <p><b>Clause 1.23</b></p> | <p>Clause 1.23 has been renumbered Clause 1.21 and amended</p> <p>1.21 The College will contractually enforce all the clauses in this Schedule onto any third-party suppliers, sub-contractors or partners who could potentially access Department Data in the course of providing this Service.</p>   | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |

| Section             | Change  | Clause Reference  |
|---------------------|---|---|
| <b>Clause 1.24</b>  | <p>Clause 1.24 has been renumbered Clause 1.22 and has been amended</p> <p>1.22 The College and sub-contractors will undergo appropriate security assurance activities as determined by the Department. College and sub-contractors will support the provision of appropriate evidence of assurance and the production of the necessary security documentation on request.</p>                      | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |
| <b>Clause 5.2.2</b> | <p>The cross reference to Clause 29 has been corrected within Clause 5.2.2</p> <p>5.2.2 set out procedures to deal with requests made by the Department and/or a Successor College for staffing information pursuant to <b>Clause 25</b> (Re-Provision of the Services) of the Agreement</p>  | <p>Schedule 8: Exit<br/>Arrangements</p>  |
| <b>Clause 7.5</b>   | <p>Clause 7.5 has been amended to refer to Clause 7.4</p> <p>7.5 Failure to comply with any of the requirements under paragraph 7.3 <b>and 7.4</b> of this Schedule within such time as the Department deems reasonable, may result in the Department taking such actions as it deems appropriate, which may include, but is not limited to, action under Clause 34 (Minor and Serious Breach).</p> | <p>Schedule 9:<br/>College<br/>Governance</p>   |
| <b>Clause 7.7</b>   | <p>Clause 7.7 has been amended to refer to Clause 7.6</p> <p>7.7 The College must comply with any action taken or any additional conditions of funding imposed under paragraph <b>7.6</b> of this Schedule.</p>   | <p>Schedule 9:<br/>College<br/>Governance</p>   |
| <b>Clause 7.8</b>   | <p>Clause 7.8 has been amended to refer to Clause 7.6</p> <p>7.8 If the Department assesses that the College has failed to comply with any action taken or additional conditions of funding imposed under Clause <b>7.6</b> of this Schedule within such time as the Department deems reasonable,</p>   | <p>Schedule 9:<br/>College<br/>Governance</p>   |

| Section | Change   | Clause Reference |
|---------|--|------------------|
|         | the Department may take such actions as it deems appropriate which may include, but is not limited to, under Clause 34 (Minor and Serious Breach). |                  |

### Conditions of Funding (Grant) (Employers)

| Section                    | Change   | Clause Reference |
|----------------------------|--|------------------|
| “Barred List“              | Definition has been added  | 1 Definitions    |
| “Brokerage”                | Definition has been added  | 1 Definitions    |
| “Confidential Information” | Definition has been amended<br>means any information, including Personal Data as defined by the Data Protection <b>Laws</b> , and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Parties including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked "confidential");  | 1 Definitions    |
| “Data Protection Laws”     | Definition has been amended<br>means the Data Protection Act 2018 and <b>Privacy and Electronic Communications (EC Directive) Regulations 2003</b> and any other data protection laws and regulations applicable in the UK (or in any relevant part thereof), including the General Data Protection Regulation (EU) 2016/679 or similar and any codes of practice, guidelines and recommendations issued by the Information Commissioner, any replacement body or other relevant supervisory authority, all of which are current at the time of any Data processing by the Employer (and in the event of any conflict between the Data Protection Laws and Law, Data Protection Laws shall take precedence); | 1 Definitions    |
| “Department Data“          | Definition has been amended<br>means any data (including metadata), record, document or information howsoever stored which is either:  | 1 Definitions    |

| Section                           | Change   | Clause Reference |
|-----------------------------------|--|------------------|
|                                   | <p>(a) communicated by the Department, its staff, sub-contractors and agents to the Employer in writing, orally, electronically or by any other means relating to the Learners and/or Services provided to the Learners; or</p> <p>(b) is obtained, gleaned, compiled or processed by the Employer during the course of the Employer providing the Services relating to or provided to the Learners, <b>including Personal Data for which the Department is the data controller</b></p> <p>including but not limited to ILR Data and e-portfolios;</p>   |                  |
| <b>“Department Related Party”</b> | Definition has been added  | 1 Definitions    |
| <b>“Serious Breach“</b>           | <p>Definition has been amended</p> <p>shall mean any breach defined as a Serious Breach in the Agreement or any breach or breaches which adversely, materially or substantially affect the performance or delivery of the Services or compliance with the terms and conditions of the Agreement or the provision of a safe, healthy and supportive learning environment <b>or a breach of security that adversely affects the Personal Data or privacy of an individual.</b> Failure to comply with Law, or actions or omissions by the Employer that endanger the Health or Safety of Learners, <b>Employer Personnel, and all other persons including members of the public</b> would constitute a Serious Breach;</p> | 1 Definitions    |
| <b>Clause 1.4</b>                 | Clause 1.4 has been amended  | 1 Definitions    |

| Section                     | Change   | Clause Reference      |
|-----------------------------|--|-----------------------|
|                             | <p>1.4 Precedence of Documentation</p> <p>In the event of any inconsistency between the provisions of the Terms and Conditions and the Schedules, or between any of the Schedules, the conflict will be resolved according to the following descending order of priority:</p> <p>1.4.1 the Terms and Conditions,<br/> 1.4.2 Schedule 1 (the Specification);<br/> 1.4.3 the remaining Schedules,</p> <p>for the avoidance of doubt, in the event of any inconsistency between this Agreement and the Funding <b>Rules</b>, this Agreement will take precedence.</p> |                       |
| <p><b>Clause 12.3.1</b></p> | <p>Clause 12.3.1 has been amended to remove the reference to “additional Agreement obligations” and replace with “additional conditions of Funding”</p> <p>12.3.1 require the Employer to accept and comply with additional conditions of funding relating to the improvement of the Services assessed as inadequate; and/or</p>   | <p>12 Inspections</p> |
| <p><b>Clause 12.4.1</b></p> | <p>Clause 12.4.1 has been amended to remove the reference to “Agreement obligations” and replace with “conditions of funding”</p> <p>12.4.1 require the Employer to accept and comply with temporary additional conditions of funding relating to the improvement of the overall Services, including but not limited to, requiring the Employer to temporarily suspend the recruitment of Learning and/or temporarily cap any growth in those Learning Programmes which are assessed as inadequate;</p>  | <p>12 Inspections</p> |



| Section              | Change   | Clause Reference |
|----------------------|--|------------------|
| <b>Clause 12.5.1</b> | <p>Clause 12.5.1 has been amended to remove the reference to “Agreement obligations” and replace with “conditions of funding”</p> <p>12.5.1 require the Employer to accept and comply with additional conditions of funding relating to the improvement of the overall Services; and/or</p>  | 12 Inspections   |
| <b>Clause 12.9.6</b> | <p>Clause 12.9.6 has been added</p> <p>12.9.6 terminate this Agreement in accordance with Clause 35.3.6 if the Employer has two consecutive New Provider Monitoring visits each resulting in one or more “insufficient progress” judgements in relation to one or more themes.</p>   | 12 Inspections   |
| <b>Clause 15.2.3</b> | <p>Clause 15.2.3 has been amended to remove the reference to “contractual obligations” and replace with “conditions of funding”</p> <p>15.2.3 Where the Department has undertaken an investigation or received a report from an independent accountant or otherwise, in relation to the Employer it may, as a consequence of that investigation or report, require the Employer to, and the Employer will, accept and comply with additional conditions of funding and will meet the cost of such investigation.</p> | 15 Relationships |
| <b>Clause 15.2.4</b> | <p>Clause 15.2.4 has been amended to remove the reference to “contractual obligations” and replace with “additional conditions”</p> <p>15.2.4 Where the Employer fails to comply with the <b>additional conditions</b> imposed under Clause 15.2.3, within such time as the Department deems reasonable, the Department may take such actions as it deems</p>  | 15 Relationships |

| Section                        | Change  | Clause Reference                                   |
|--------------------------------|---|--|
|                                | appropriate which may include, but is not limited to, under Clause 34 (Minor and Serious Breach).   |  |
| <b>Clause 19.2</b>             | <p>Clause 19.2 has been amended to clarify how back-ups of Department Data should be stored and to remove the requirement to deliver back-ups to the Department at monthly intervals when requested.</p> <p>19.2 The Employer must perform secure back-ups of all the Department Data and must ensure that up-to-date back-ups, <b>where not in the cloud</b>, are stored off-site in accordance with the Business Continuity Plan. <b>Back-ups stored in the cloud must comply with Data Protection Laws.</b> The Employer must ensure that such back-ups are available to the Department at all times upon request.</p> | 19 Department Data                                 |
| <b>Clause 19.3</b>             | <p>Clause 19.3 has been amended</p> <p>19.3 The Employer must take all necessary steps to ensure that any Department Data which comes into its possession or control is protected in accordance with the DPA 2018 and appropriate security procedures <b>as set out in Schedule 7 (Security &amp; Department Policies)</b> and in compliance with Good Industry Practice (having regard to the nature of its other obligations under this Agreement and under the DPA 2018).</p>  | 19 Department Data                                 |
| <b>Clause 20.4.4 to 20.4.7</b> | Clauses 20.4.4 to 20.4.7 have been renumbered (i) to (iv) as subclauses of Clause 20.4.3 (b)  | 20 Data Protection and Protection of Personal Data |
| <b>Clause 20.5.2</b>           | Clause 20.5.2 has been amended  | 20 Data Protection and                             |

| Section              | Change  | Clause Reference                                   |
|----------------------|---|--|
|                      | 20.5.2 receives a request to rectify, block or erase any Personal Data processed through the submission of learner data. Notification in such cases should be given <b>via the Agreement Manager</b> ;  | Protection of Personal Data                        |
| <b>Clause 20.18</b>  | <p>Clause 20.18 has been added</p> <p>20.18 The Processor will comply with any further written instructions or additional conditions from the Department's Controller in relation to the data processing.</p>   | 20 Data Protection and Protection of Personal Data |
| <b>Clause 21.1.8</b> | <p>Clause 21.1.8 has been amended to include the requirement to maintain data on GIAS</p> <p>21.1.8 The Employer must register with UKRLP (<a href="http://www.ukrlp.co.uk/">http://www.ukrlp.co.uk/</a>) and <b>Get Information About Schools</b> (<a href="https://get-information-schools.service.gov.uk/">https://get-information-schools.service.gov.uk/</a>) and maintain contact details on an on-going basis.</p> | 21 Submission of Learner Data                      |
| <b>Clause 23.2.2</b> | <p>Clause 23.2.2 has been amended</p> <p>23.2.2 The Employer must take all necessary precautions to ensure that all Confidential Information obtained from the Department is treated as confidential and not disclosed (without prior approval <b>from the Department's Agreement Manager</b>) or used other than for the purposes of this Agreement by any of its employees, servants, agents or sub-contractors.</p>    | 23 Freedom of Information and Confidentiality      |
| <b>Clause 24.13</b>  | <p>Clause 24.13 has been amended</p> <p>24.13 The Employer will ensure that it has in place and complies with an effective whistleblowing procedure, approved by the body responsible</p>   | 24 Employees                                       |

| Section                         | Change   | Clause Reference                |
|---------------------------------|--|---------------------------------|
|                                 | <p>for the management of the Employer, whereby staff may raise in confidence concerns about possible malpractice without fear of victimisation, subsequent discrimination or disadvantage. The procedure must be published on the Employer's public-facing website. The Employer will regularly review the procedure, including securing approval from the body responsible for the management of the Employer of any amended procedure.</p>   |                                 |
| <b>Clause 25.10 &amp; 25.11</b> | <p>Clauses 25.10 &amp; 25.11 have been renumbered 25.9.1 &amp; 25.9.2 as subclauses of Clause 25.9</p>   | 25 Re-Provision of the Services |
| <b>Clause 26.1.5</b>            | <p>Clause 26.1.5 has been re-drafted for clarity</p> <p>26.1.5 The payment of Funding by the Department will be without prejudice to any claims or rights, which the Department may have against the Employer and will not constitute any admission by the Department as to the performance by the Employer of its obligations under this Agreement. Prior to any such payment of Funding, the Department shall be entitled to make deductions or deferments in respect of any disputes or claims whatsoever with or against the Employer, arising from this Agreement or any other agreement between the Employer and the Department.</p> | 26 Payment and Audit            |
| <b>Clause 26.1.7</b>            | <p>Clause 26.1.7 has been re-drafted for clarity and split into Clauses 26.1.7 &amp; 26.1.8</p> <p>26.1.7 Where the Department identifies errors which it deems to be material in the data that the Employer is required to provide under the Agreement to support the payment of Funding, the Department reserves the right at its absolute discretion to require the Employer at the Employer's cost to carry out a 100% audit of all or part of the Services by a deadline specified by the Department and/or to recover from the Employer</p>  | 26 Payment and Audit            |

| Section                     | Change   | Clause Reference                       |
|-----------------------------|--|--|
|                             | <p>Funding equivalent to an amount based on the error rate identified and the total value of the Funding paid to the Employer under this Agreement.</p> <p>26.1.8 Without prejudice to any other provisions in this Agreement, such amounts as are identified as being recoverable under Clause 26.1.7, may be recovered by making adjustments to data submitted by the Employer under the Agreement, or by raising an invoice for payment by the Employer, or by making deductions from future payments due to the Employer under the Agreement. Failure to settle such amounts by the Employer will constitute a Serious Breach under Clause 34 (Minor and Serious Breach) of this Agreement. The decision of the Department as to the amount of recovery under this Clause is final</p> |  |
| <p><b>Clause 28.1.1</b></p> | <p>Clause 28.1.1 has been amended</p> <p>28.1.1 The Employer must, and will procure that any Employer Related Parties, maintain a full record of all incidents relating to <b>data protection</b>, health, safety and security, including CCTV, which occur during the Agreement Period. The Employer will make the aforementioned records available for inspection by the Department upon reasonable notice, and will present a report of them to the Department as and when requested.</p>   | <p>28 Employer's Records and Audit</p> |
| <p><b>Clause 28.2.1</b></p> | <p>Clause 28.2.1 sub-clause (e) has been added to sub-clause (d)</p> <p>(d) to review the Employer's and/or a Employer Related Party's compliance with the DPA 2018, the FOIA in accordance with Clauses 19 (Department Data) and 23 (Freedom of Information and Confidentiality) <b>and any other Law applicable to the Services;</b></p>   | <p>28 Employer's Records and Audit</p> |

| Section              | Change   | Clause Reference                 |
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| <b>Clause 28.2.1</b> | <p>Clause 28.2.1 sub-clause (i) has been added to the renumbered sub-clause (g)</p> <p>(g) to ensure that the Employer and/or a Employer Related Party is complying with the Department Policies and any British or equivalent European standards <b>and any other audit that may be required by any Relevant Authority</b></p>  | 28 Employer's Records and Audit  |
| <b>Clause 28.2.7</b> | <p>The cross reference to Clause 32 and Clause 23 have been corrected within Clause 28.2.7</p> <p>28.2.7 If the findings of an audit conducted pursuant to this Clause <b>28</b> results in the requirement for ILR data to be corrected and re-submitted the Employer must re-submit the data to the Department, as set out in Clause <b>21 (Submission of Learner Data)</b>, within two months. Failure to do so will be a Minor Breach of this Agreement.</p> | 28 Employer's Records and Audit  |
| <b>Clause 30.5</b>   | <p>Clause 30.5 has been added</p> <p>30.5 The Employer will not enter into any agreement for Brokerage in relation to the Services under this Agreement.</p>   | 30 Assignment and Subcontracting |
| <b>Clause 30.12</b>  | <p>Clause 30.12 has been added</p> <p>30.12 The Employer will review annually its sub-contracts, including the rationale for entering into those sub-contracts, and will publish by 31 October 2020 a statement on its public facing website setting out a high level summary of its sub-contracts and the rationale.</p>  | 30 Assignment and Subcontracting |
| <b>Clause 30.15</b>  | <p>Clause 30.15 has been added</p> <p>30.15 Failure to comply with any of the requirements under Clauses 30.1 to 30.14 may result in the Department taking such actions as it deems</p>  | 30 Assignment and Subcontracting |

| Section               | Change   | Clause Reference                          |
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|                       | appropriate, which may include, but is not limited to, action under Clause <b>Error! Reference source not found.</b> (Minor and Serious Breach).   |   |
| <b>Clause 31.8</b>    | Clauses 31.8.2 to 31.8.6 have been renumbered (a) to (e) as subclauses of Clause 31.8.1  | 31 Indemnities and Liability              |
| <b>Clause 31.11.1</b> | <p>Clause 31.11.1 has been amended to remove the aggregate liability of £1,000,000</p> <p>31.11.1 With regard to the Department the total aggregate liability will be limited to its obligation to pay the Funding as and when it falls due in accordance with this Agreement.</p>   | 31 Indemnities and Liability              |
| <b>Clause 35.3.6</b>  | <p>Clause 35.3.6 has been added</p> <p>35.3.6 In accordance with 12.9.6 the Employer has had two consecutive Ofsted New Provider Monitoring Visits resulting in one or more “insufficient progress” judgements; and/or</p>   | 35 Termination                            |
| <b>Clause 36.1.2</b>  | <p>Clause 36.1.2 has been amended to correct the text</p> <p>36.1.2 On or before the Expiry Date (except where the Employer will be responsible for delivering the Services in the subsequent Funding Year) or Termination Date, the Employer must ensure that all documents or computer records in its possession, <b>custody or control</b> including but not limited to e-portfolios, which contain information relating to the Services including any documents in the possession, custody or control of a sub-contractor are made available upon request to the Department.</p> | 36 Consequences of Termination and Expiry |
| <b>Clause 37.2</b>    | <p>Clause 37.2 has been added</p> <p>37.2 On expiry or termination of this Agreement for any reason, the Employer shall do its utmost to minimise any disruption to Learners and shall co-</p>   | 37 Exit Arrangements                      |

| Section  | Change   | Clause Reference  |
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|  | <p>operate fully with any reasonable requests made by the Department relating to this. For the avoidance of doubt the Department will be entitled to request that where the Employer cannot complete Learners that it will co-operate in transferring the Learners to a new provider even if this is prior to the Termination Date or Expiry Date of this Agreement and the Employer's Exit Plan should reflect this. The Department will not be liable for any costs prior to or after incurred by the Employer in complying with this Clause 37.2.</p> |   |
| <b>Clause 48</b>   | <p>The condition relating to payment of interest has been removed from the Agreement. Clause 48 has been marked "Not Used"</p>   | <p>48 Interest on Late Payments</p>   |
| <p><b>"Department's Data"</b><br/><b>"Department's Information"</b></p>    | <p>Definition has been amended to <b>"Department Data"</b> as defined in Clause 1 (Definitions) of the Agreement</p>   | <p>Schedule 7:<br/>Security &amp; Department Policies<br/>Part A Security</p> |
| <p><b>"Good Industry Practice"</b><br/><b>"Industry Good Practice"</b></p> | <p>Definition has been amended to <b>"Good Industry Practice"</b></p>  | <p>Schedule 7:<br/>Security &amp; Department Policies<br/>Part A Security</p> |
| <p><b>"Good Industry Standard"</b><br/><b>"Industry Good Standard"</b></p> | <p>Definition has been amended to <b>"Good Industry Standard"</b></p>  | <p>Schedule 7:<br/>Security &amp; Department Policies<br/>Part A Security</p> |



| Section   | Change   | Clause Reference  |
|---|--|---|
| <p><b>“GSC”</b><br/><b>“GSCP”</b></p>   | <p>Definition has been amended to add <b>“Government Security Classifications Policy”</b></p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |
| <p><b>“Tailored Assurance”</b><br/><b>(formally called “CTAS”,</b><br/><b>or, “CESG Tailored</b><br/><b>Assurance”)</b></p> | <p>Definition has been deleted</p>   | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |
| <p><b>Clause 1.1</b></p>  | <p>Clause 1.1 has been deleted</p>   | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |
| <p><b>Clause 1.2</b></p>  | <p>Clause 1.2 has been renumbered Clause 1.1 and has been amended</p> <p>1.1. Where the Employer will handle information at OFFICIAL on behalf of the Department, the requirements under Cabinet Office Procurement Policy Note 09/14 – Use of Cyber Essentials Scheme certification, or any subsequent updated document, are mandated; the Employer will endeavour to meet the requirements of Cyber Essentials for the 2020/21 Funding Year and present the results to the Department on request. . The scope must be relevant to the Services supplied to, or on behalf of, the Department.</p> | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |

| Section            | Change  | Clause Reference   |
|--------------------|---|--|
| <b>Clause 1.3</b>  | Clause 1.3 has been deleted   | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.4</b>  | <p>Clause 1.4 has been renumbered Clause 1.2 and has been amended</p> <p>1.2 The Employer will follow the <b>Cabinet Office guidance on</b> Government Security Classifications in respect of any Department Data being handled in the course of providing this Service, and will handle this data in accordance with its security classification. (In the event where the Employer has an existing Protective Marking Scheme then the Employer may continue to use this but must map the HMG security classifications against it to ensure the correct controls are applied to the Department Data).</p> | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.5</b>  | <p>Clause 1.5 has been renumbered 1.3 and has been amended</p> <p>1.3 Processing of Department Data must be segregated from all other data on the Employer's or sub-contractor's own IT equipment to protect the Department Data and enable the data to be identified and securely deleted when required. In the event that it is not possible to segregate any Department Data then the Employer and any sub-contractor will be required to ensure that it is stored in such a way that it is possible to securely delete the data in line with Clause 1.13.</p>   | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.16</b> | <p>Clause 1.16 has been re-numbered Clause 1.14 and has been amended</p> <p>1.14 Access by Employer or sub-contractor staff to Department Data will be confined to those individuals who have a "need-to-know" in order to carry</p>  | Schedule 7:<br>Security &<br>Department                                |

| Section                   | Change   | Clause Reference  |
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|                           | <p>out their role; and have undergone mandatory pre-employment screening, to a minimum of HMG Baseline Personnel Security Standard (BPSS);. All Employer or sub-contractor staff must complete this process before access to Department Data is permitted.</p>   | <p>Policies<br/>Part A Security</p>   |
| <p><b>Clause 1.19</b></p> | <p>Clause 1.19 has been renumbered Clause 1.17 and has been amended</p> <p>1.17 Any suspected or actual breach of the confidentiality, integrity or availability of Department Data being handled in the course of providing this Service, or any non-compliance with these Departmental Security Standards for Employers, or other Security Standards pertaining to the solution, will be investigated immediately and escalated to the Department. The Employer will inform their Agreement Manager in writing as soon a breach is identified.</p> | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |
| <p><b>Clause 1.23</b></p> | <p>Clause 1.23 has been renumbered Clause 1.21 and amended</p> <p>1.21 The Employer will contractually enforce all the clauses in this Schedule onto any third-party suppliers, sub-contractors or partners who could potentially access Department Data in the course of providing this Service.</p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |
| <p><b>Clause 1.24</b></p> | <p>Clause 1.24 has been renumbered Clause 1.22 and has been amended</p> <p>1.22 The Employer and sub-contractors will undergo appropriate security assurance activities as determined by the Department. Employer and sub-contractors will support the provision of appropriate evidence of assurance and the production of the necessary security documentation on request.</p>   | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |

### Conditions of Funding (Grant) (HEI)

| Section                             | Change   | Clause Reference |
|-------------------------------------|--|------------------|
| “ <b>Barred List</b> “              | Definition has been added  | 1 Definitions    |
| “ <b>Brokerage</b> ”                | Definition has been added  | 1 Definitions    |
| “ <b>Confidential Information</b> ” | Definition has been amended<br>means any information, including Personal Data as defined by the Data Protection <b>Laws</b> , and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Parties including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked "confidential");  | 1 Definitions    |
| “ <b>Data Protection Laws</b> ”     | Definition has been amended<br>means the Data Protection Act 2018 and <b>Privacy and</b> Electronic Communications (EC Directive) Regulations 2003 and any other data protection laws and regulations applicable in the UK (or in any relevant part thereof), including the General Data Protection Regulation (EU) 2016/679 or similar and any codes of practice, guidelines and recommendations issued by the Information Commissioner, any replacement body or other relevant supervisory authority, all of which are current at the time of any Data processing by the Provider (and in the event of any conflict between the Data Protection Laws and Law, Data Protection Laws shall take precedence); | 1 Definitions    |
| “ <b>Department Data</b> “          | Definition has been amended<br>means any data (including metadata), record, document or information howsoever stored which is either:  | 1 Definitions    |

| Section                                  | Change   | Clause Reference     |
|--|--|----------------------|
|  | <p>(a) communicated by the Department, its staff, sub-contractors and agents to the Provider in writing, orally, electronically or by any other means relating to the Learners and/or Services provided to the Learners; or</p> <p>(b) is obtained, gleaned, compiled or processed by the Provider during the course of the Provider providing the Services relating to or provided to the Learners, <b>including Personal Data for which the Department is the data controller</b></p> <p>including but not limited to ILR Data and e-portfolios;</p>   |                      |
| <p><b>“Department Related Party”</b></p> | <p>Definition has been added</p> <p>means any officer, agent, worker, employee of the Department acting in the course of his office, engagement or employment in relation to the Services;</p>   | <p>1 Definitions</p> |
| <p><b>“Serious Breach“</b></p>           | <p>Definition has been amended</p> <p>shall mean any breach defined as a Serious Breach in the Agreement or any breach or breaches which adversely, materially or substantially affect the performance or delivery of the Services or compliance with the terms and conditions of the Agreement or the provision of a safe, healthy and supportive learning environment <b>or a breach of security that adversely affects the Personal Data or privacy of an individual.</b> Failure to comply with Law, or actions or omissions by the Provider that endanger the Health or Safety of Learners, <b>Provider Personnel, and all other persons including members of the public</b> would constitute a Serious Breach;</p> | <p>1 Definitions</p> |
| <p><b>Clause 1.4</b></p>                 | <p>Clause 1.4 has been amended</p>   | <p>1 Definitions</p> |

| Section               | Change   | Clause Reference  |
|-----------------------|--|-------------------|
|                       | <p>1.4 Precedence of Documentation</p> <p>In the event of any inconsistency between the provisions of the Terms and Conditions and the Schedules, or between any of the Schedules, the conflict will be resolved according to the following descending order of priority:</p> <p>1.4.1 the Terms and Conditions,<br/> 1.4.2 Schedule 1 (the Specification);<br/> 1.4.3 the remaining Schedules,</p> <p>for the avoidance of doubt, in the event of any inconsistency between this Agreement and the Funding <b>Rules</b>, this Agreement will take precedence.</p>   |                   |
| <b>Clause 8.4</b>     | <p>Clause 8.4 has been redrafted for clarity and split into clauses 8.4 and 8.5</p> <p>8.4 In providing the Services, the Provider must comply with the general duty on specified authorities in section 26 of the Counter-Terrorism and Security Act 2015 (the Prevent duty) and must have regard to statutory guidance issued under section 29 of the Counter-Terrorism and Security Act 2015 (<a href="https://www.gov.uk/government/publications/prevent-duty-guidance/prevent-duty-guidance-for-further-education-institutions-in-england-and-wales">https://www.gov.uk/government/publications/prevent-duty-guidance/prevent-duty-guidance-for-further-education-institutions-in-england-and-wales</a>).</p> <p>8.5 In providing the Services, the Provider must comply with the duty on partners of a panel in section 38 of the Counter-Terrorism and Security Act 2015 (the Channel co-operation duty).</p> | 8 Learner Welfare |
| <b>Clause 12.4(b)</b> | <p>Clause 12.4(b) has been amended to remove the reference to “additional Agreement obligations” and replace with “additional conditions of Funding”</p>   | 12 Inspections    |

| Section               | Change  | Clause Reference |
|-----------------------|---|------------------|
|                       | 12.4(b) require the Provider to accept and comply with additional conditions of funding relating to the improvement of the Services assessed as inadequate; and/or  |                  |
| <b>Clause 12.5(a)</b> | <p>Clause 12.5(a) has been amended to remove the reference to “Agreement obligations” and replace with “conditions of funding”</p> <p>12.5(a) require the Provider to accept and comply with temporary additional conditions of funding relating to the improvement of the overall Services, including but not limited to, requiring the Provider to temporarily suspend the recruitment of Learning and/or temporarily cap any growth in those Learning Programmes which are assessed as inadequate;</p> | 12 Inspections   |
| <b>Clause 12.6(b)</b> | <p>Clause 12.6(b) has been amended to remove the reference to “Agreement obligations” and replace with “conditions of funding”</p> <p>12.6(b) require the Provider to accept and comply with additional conditions of funding relating to the improvement of the overall Services; and/or</p>   | 12 Inspections   |
| <b>Clause 12.9.6</b>  | <p>Clause 12.9.6 has been added</p> <p>12.9.6 terminate this Agreement in accordance with Clause 35.3.6 if the Provider has two consecutive New Provider Monitoring visits each resulting in one or more “insufficient progress” judgements in relation to one or more themes.</p>  | 12 Inspections   |
| <b>Clause 12.16.2</b> | Clause 12.16.2 has been amended to remove the reference to “Agreement conditions” and replace with “conditions of funding”  | 12 Inspections   |

| Section              | Change   | Clause Reference   |
|----------------------|--|--------------------|
|                      | 12.6.2 require the Provider to accept and comply with additional conditions of funding relating to the improvement of the overall Services; and/or   |                    |
| <b>Clause 15.2.3</b> | <p>Clause 15.2.3 has been amended to remove the reference to “contractual obligations” and replace with “conditions of funding”</p> <p>15.2.3 Where the Department has undertaken an investigation or received a report from an independent accountant or otherwise, in relation to the Provider it may, as a consequence of that investigation or report, require the Provider to, and the Provider will, accept and comply with additional conditions of funding and will meet the cost of such investigation.</p>   | 15 Relationships   |
| <b>Clause 15.2.4</b> | <p>Clause 15.2.4 has been amended to remove the reference to “Contractual obligations” and replace with “additional conditions”</p> <p>15.2.4 Where the Provider fails to comply with the <b>additional conditions</b> 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, under Clause 34 (Minor and Serious Breach).</p>  | 15 Relationships   |
| <b>Clause 19.2</b>   | <p>Clause 19.2 has been amended to clarify how back-ups of Department Data should be stored and to remove the requirement to deliver back-ups to the Department at monthly intervals when requested.</p> <p>19.2 The Provider must perform secure back-ups of all the Department Data and must ensure that up-to-date back-ups, <b>where not in the cloud</b>, are stored off-site in accordance with the Business Continuity Plan. <b>Back-ups stored in the cloud must comply with Data Protection Laws.</b> The</p> | 19 Department Data |



| Section                        | Change   | Clause Reference                                   |
|--------------------------------|--|--|
|                                | Provider must ensure that such back-ups are available to the Department at all times upon request.   |  |
| <b>Clause 19.3</b>             | <p>Clause 19.3 has been amended</p> <p>19.3 The Provider must take all necessary steps to ensure that any Department Data which comes into its possession or control is protected in accordance with the DPA 2018 and appropriate security procedures <b>as set out in Schedule 7 (Security &amp; Department Policies)</b> and in compliance with Good Industry Practice (having regard to the nature of its other obligations under this Agreement and under the DPA 2018).</p> | 19 Department Data                                 |
| <b>Clause 20.4.4 to 20.4.7</b> | Clauses 20.4.4 to 20.4.7 have been renumbered (i) to (iv) as subclauses of Clause 20.4.3 (b)   | 20 Data Protection and Protection of Personal Data |
| <b>Clause 20.5.2</b>           | <p>Clause 20.5.2 has been amended</p> <p>20.5.2 receives a request to rectify, block or erase any Personal Data processed through the submission of learner data. Notification in such cases should be given <b>via the Agreement Manager</b>;</p>   | 20 Data Protection and Protection of Personal Data |
| <b>Clause 20.18</b>            | <p>Clause 20.18 has been added</p> <p>20.18 The Processor will comply with any further written instructions or additional conditions from the Department's Controller in relation to the data processing.</p>  | 20 Data Protection and Protection of Personal Data |
| <b>Clause 21.1.8</b>           | Clause 21.1.8 has been amended to include the requirement to maintain data on GIAS   | 21 Submission of Learner Data                      |

| Section                         | Change  | Clause Reference                              |
|---------------------------------|---|---|
|                                 | 21.1.8 The Provider must register with UKRLP ( <a href="http://www.ukrlp.co.uk/">http://www.ukrlp.co.uk/</a> ) and <b>Get Information About Schools</b> ( <a href="https://get-information-schools.service.gov.uk/">https://get-information-schools.service.gov.uk/</a> ) and maintain contact details on an on-going basis.  |   |
| <b>Clause 23.2.2</b>            | <p>Clause 23.2.2 has been amended</p> <p>23.2.2 The Provider must take all necessary precautions to ensure that all Confidential Information obtained from the Department is treated as confidential and not disclosed (without prior approval <b>from the Department's Agreement Manager</b>) or used other than for the purposes of this Agreement by any of its employees, servants, agents or sub-contractors.</p>  | 23 Freedom of Information and Confidentiality |
| <b>Clause 24.13</b>             | <p>Clause 24.13 has been amended</p> <p>24.13 The Provider will ensure that it has in place and complies with an effective whistleblowing procedure, approved by the body responsible for the management of the Provider, whereby staff may raise in confidence concerns about possible malpractice without fear of victimisation, subsequent discrimination or disadvantage. The procedure must be published on the Provider's public-facing website. The Provider will regularly review the procedure, including securing approval from the body responsible for the management of the Provider of any amended procedure.</p> | 24 Employees                                  |
| <b>Clause 25.10 &amp; 25.11</b> | Clauses 25.10 & 25.11 have been renumbered 25.9.1 & 25.9.2 as subclauses of Clause 25.9   | 25 Re-Provision of the Services               |
| <b>Clause 26.1.5</b>            | Clause 26.1.5 has been re-drafted for clarity   | 26 Payment and Audit                          |

| Section                     | Change  | Clause Reference            |
|-----------------------------|---|-----------------------------|
|                             | <p>26.1.5 The payment of Funding by the Department will be without prejudice to any claims or rights, which the Department may have against the Provider and will not constitute any admission by the Department as to the performance by the Provider of its obligations under this Agreement. Prior to any such payment of Funding, the Department shall be entitled to make deductions or deferrals in respect of any disputes or claims whatsoever with or against the Provider, arising from this Agreement or any other agreement between the Provider and the Department.</p>  |                             |
| <p><b>Clause 26.1.7</b></p> | <p>Clause 26.1.7 has been re-drafted for clarity and split into Clauses 26.1.7 &amp; 26.1.8</p> <p>26.1.7 Where the Department identifies errors which it deems to be material in the data that the Provider is required to provide under the Agreement to support the payment of Funding, the Department reserves the right at its absolute discretion to require the Provider at the Provider's cost to carry out a 100% audit of all or part of the Services by a deadline specified by the Department and/or to recover from the Provider Funding equivalent to an amount based on the error rate identified and the total value of the Funding paid to the Provider under this Agreement.</p> <p>26.1.8 Without prejudice to any other provisions in this Agreement, such amounts as are identified as being recoverable under Clause 26.1.7, may be recovered by making adjustments to data submitted by the Provider under the Agreement, or by raising an invoice for payment by the Provider, or by making deductions from future payments due to the Provider under the Agreement. Failure to settle such amounts by the Provider will constitute a Serious Breach under Clause 34 (Minor and Serious Breach) of this Agreement. The decision of the Department as to the amount of recovery under this Clause is final</p> | <p>26 Payment and Audit</p> |

| Section                     | Change   | Clause Reference                       |
|-----------------------------|--|--|
| <p><b>Clause 28.1.1</b></p> | <p>Clause 28.1.1 has been amended</p> <p>28.1.1 The Provider must, and will procure that any Provider Related Parties, maintain a full record of all incidents relating to <b>data protection</b>, health, safety and security, including CCTV, which occur during the Agreement Period. The Provider will make the aforementioned records available for inspection by the Department upon reasonable notice, and will present a report of them to the Department as and when requested.</p> | <p>28 Provider's Records and Audit</p> |
| <p><b>Clause 28.2.1</b></p> | <p>Clause 28.2.1 sub-clause (e) has been added to sub-clause (d)</p> <p>(d) to review the Provider's and/or a Provider Related Party's compliance with the DPA 2018, the FOIA in accordance with Clauses 19 (Department Data) and 23 (Freedom of Information and Confidentiality) <b>and any other Law applicable to the Services;</b></p>   | <p>28 Provider's Records and Audit</p> |
| <p><b>Clause 28.2.1</b></p> | <p>Clause 28.2.1 sub-clause (i) has been added to the renumbered sub-clause (g)</p> <p>(g) to ensure that the Provider and/or a Provider Related Party is complying with the Department Policies and any British or equivalent European standards <b>and any other audit that may be required by any Relevant Authority</b></p>  | <p>28 Provider's Records and Audit</p> |
| <p><b>Clause 28.2.7</b></p> | <p>The cross reference to Clause 32 and Clause 23 have been corrected within Clause 28.2.7</p> <p>28.2.7 If the findings of an audit conducted pursuant to this Clause <b>28</b> results in the requirement for ILR data to be corrected and re-submitted the Provider must re-submit the data to the Department, as set out in Clause</p>   | <p>28 Provider's Records and Audit</p> |

| Section               | Change   | Clause Reference                 |
|-----------------------|--|----------------------------------|
|                       | <b>21 (Submission of Learner Data)</b> , within two months. Failure to do so will be a Minor Breach of this Agreement.   |                                  |
| <b>Clause 30.5</b>    | Clause 30.5 has been added<br>30.5 The Provider will not enter into any agreement for Brokerage in relation to the Services under this Agreement.  | 30 Assignment and Subcontracting |
| <b>Clause 30.12</b>   | Clause 30.12 has been added<br>30.12 The Provider will review annually its sub-contracts, including the rationale for entering into those sub-contracts, and will publish by 31 October 2020 a statement on its public facing website setting out a high level summary of its sub-contracts and the rationale. | 30 Assignment and Subcontracting |
| <b>Clause 30.15</b>   | Clause 30.15 has been added<br>30.15 Failure to comply with any of the requirements under Clauses 30.1 to 30.14 may result in the Department taking such actions as it deems appropriate, which may include, but is not limited to, action under Clause 34 (Minor and Serious Breach).                         | 30 Assignment and Subcontracting |
| <b>Clause 31.8</b>    | Clauses 31.8.2 to 31.8.6 have been renumbered (a) to (e) as subclauses of Clause 31.8.1  | 31 Indemnities and Liability     |
| <b>Clause 31.11.1</b> | Clause 31.11.1 has been amended to remove the aggregate liability of £1,000,000<br>31.11.1 With regard to the Department the total aggregate liability will be limited to its obligation to pay the Funding as and when it falls due in accordance with this Agreement.  | 31 Indemnities and Liability     |
| <b>Clause 35.3.6</b>  | Clause 35.3.6 has been added   | 35 Termination                   |

| Section              | Change  | Clause Reference                          |
|----------------------|---|---|
|                      | 35.3.6 In accordance with 12.9.6 the Provider has had two consecutive Ofsted New Provider Monitoring Visits resulting in one or more “insufficient progress” judgements; and/or   |   |
| <b>Clause 36.1.2</b> | <p>Clause 36.1.2 has been amended to correct the text</p> <p>36.1.2 On or before the Expiry Date (except where the Provider will be responsible for delivering the Services in the subsequent Funding Year) or Termination Date, the Provider must ensure that all documents or computer records in its possession, <b>custody or control</b> including but not limited to e-portfolios, which contain information relating to the Services including any documents in the possession, custody or control of a sub-contractor are made available upon request to the Department.</p>  | 36 Consequences of Termination and Expiry |
| <b>Clause 37.2</b>   | <p>Clause 37.2 has been added</p> <p>37.2 On expiry or termination of this Agreement for any reason, the Provider shall do its utmost to minimise any disruption to Learners and shall co-operate fully with any reasonable requests made by the Department relating to this. For the avoidance of doubt the Department will be entitled to request that where the Provider cannot complete Learners that it will co-operate in transferring the Learners to a new provider even if this is prior to the Termination Date or Expiry Date of this Agreement and the Provider’s Exit Plan should reflect this. The Department will not be liable for any costs prior to or after incurred by the Provider in complying with this Clause 37.2.</p> | 37 Exit Arrangements                      |
| <b>Clause 48</b>     | The condition relating to payment of interest has been removed from the Agreement. Clause 48 has been marked “Not Used”   | 48 Interest on Late Payments              |

| Section   | Change  | Clause Reference   |
|---|---|--|
| <b>“Department’s Data”</b><br><b>“Department’s Information”</b>   | Definition has been amended to <b>“Department Data”</b> as defined in Clause 1 (Definitions) of the Agreement | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>“Good Industry Practice”</b><br><b>“Industry Good Practice”</b>                                      | Definition has been amended to <b>“Good Industry Practice”</b>  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>“Good Industry Standard”</b><br><b>“Industry Good Standard”</b>                                      | Definition has been amended to <b>“Good Industry Standard”</b>  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>“GSC”</b><br><b>“GSCP”</b>   | Definition has been amended to add <b>“Government Security Classifications Policy”</b>                        | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>“Tailored Assurance”</b><br><b>(formally called “CTAS”,</b><br><b>or, “CESG Tailored Assurance”)</b> | Definition has been deleted   | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |

| Section           | Change   | Clause Reference   |
|-------------------|--|--|
| <b>Clause 1.1</b> | Clause 1.1 has been deleted  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.2</b> | <p>Clause 1.2 has been renumbered Clause 1.1 and has been amended</p> <p>1.1. Where the Provider will handle information at OFFICIAL on behalf of the Department, the requirements under Cabinet Office Procurement Policy Note 09/14 – Use of Cyber Essentials Scheme certification, or any subsequent updated document, are mandated; the Provider will endeavour to meet the requirements of Cyber Essentials for the 2020/21 Funding Year and present the results to the Department on request. . The scope must be relevant to the Services supplied to, or on behalf of, the Department.</p> | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.3</b> | Clause 1.3 has been deleted  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.4</b> | <p>Clause 1.4 has been renumbered Clause 1.2 and has been amended</p> <p>1.2 The Provider will follow the <b>Cabinet Office guidance on</b> Government Security Classifications in respect of any Department Data being handled in the course of providing this Service, and will handle this data in accordance with its security classification. (In the event where the Provider has an existing Protective Marking Scheme then the Provider may continue</p>   | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |



| Section            | Change  | Clause Reference   |
|--------------------|---|--|
|                    | to use this but must map the HMG security classifications against it to ensure the correct controls are applied to the Department Data).  |  |
| <b>Clause 1.5</b>  | <p>Clause 1.5 has been renumbered 1.3 and has been amended</p> <p>1.3 Processing of Department Data must be segregated from all other data on the Provider's or sub-contractor's own IT equipment to protect the Department Data and enable the data to be identified and securely deleted when required. In the event that it is not possible to segregate any Department Data then the Provider and any sub-contractor will be required to ensure that it is stored in such a way that it is possible to securely delete the data in line with Clause 1.13.</p> | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.16</b> | <p>Clause 1.16 has been re-numbered Clause 1.14 and has been amended</p> <p>1.14 Access by Provider or sub-contractor staff to Department Data will be confined to those individuals who have a "need-to-know" in order to carry out their role; and have undergone mandatory pre-employment screening, to a minimum of HMG Baseline Personnel Security Standard (BPSS);. All Provider or sub-contractor staff must complete this process before access to Department Data is permitted.</p>  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.19</b> | <p>Clause 1.19 has been renumbered Clause 1.17 and has been amended</p> <p>1.17 Any suspected or actual breach of the confidentiality, integrity or availability of Department Data being handled in the course of providing this Service, or any non-compliance with these Departmental Security Standards for Providers, or other Security Standards pertaining to the solution, will be investigated immediately and escalated to the Department.</p>  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |

| Section            | Change   | Clause Reference  |
|--------------------|--|---|
|                    | The Provider will inform their Agreement Manager in writing as soon a breach is identified.  |   |
| <b>Clause 1.23</b> | <p>Clause 1.23 has been renumbered Clause 1.21 and amended</p> <p>1.21 The Provider will contractually enforce all the clauses in this Schedule onto any third-party suppliers, sub-contractors or partners who could potentially access Department Data in the course of providing this Service.</p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |
| <b>Clause 1.24</b> | <p>Clause 1.24 has been renumbered Clause 1.22 and has been amended</p> <p>1.22 The Provider and sub-contractors will undergo appropriate security assurance activities as determined by the Department. Provider and sub-contractors will support the provision of appropriate evidence of assurance and the production of the necessary security documentation on request.</p> | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |

### Conditions of Funding (Grant) (Local Authorities)

| Section                             | Change   | Clause Reference |
|-------------------------------------|--|------------------|
| “ <b>Barred List</b> “              | Definition has been added  | 1 Definitions    |
| “ <b>Brokerage</b> ”                | Definition has been added  | 1 Definitions    |
| “ <b>Confidential Information</b> ” | Definition has been amended<br>means any information, including Personal Data as defined by the Data Protection <b>Laws</b> , and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Parties including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked "confidential");  | 1 Definitions    |
| “ <b>Data Protection Laws</b> ”     | Definition has been amended<br>means the Data Protection Act 2018 and <b>Privacy and</b> Electronic Communications (EC Directive) Regulations 2003 and any other data protection laws and regulations applicable in the UK (or in any relevant part thereof), including the General Data Protection Regulation (EU) 2016/679 or similar and any codes of practice, guidelines and recommendations issued by the Information Commissioner, any replacement body or other relevant supervisory authority, all of which are current at the time of any Data processing by the Provider (and in the event of any conflict between the Data Protection Laws and Law, Data Protection Laws shall take precedence); | 1 Definitions    |
| “ <b>Department Data</b> “          | Definition has been amended  | 1 Definitions    |

| Section                           | Change   | Clause Reference |
|-----------------------------------|--|------------------|
|                                   | <p>means any data (including metadata), record, document or information howsoever stored which is either:</p> <p>(a) communicated by the Department, its staff, sub-contractors and agents to the Provider in writing, orally, electronically or by any other means relating to the Learners and/or Services provided to the Learners; or</p> <p>(b) is obtained, gleaned, compiled or processed by the Provider during the course of the Provider providing the Services relating to or provided to the Learners, <b>including Personal Data for which the Department is the data controller</b></p> <p>including but not limited to ILR Data and e-portfolios;</p>   |                  |
| <b>“Department Related Party”</b> | Definition has been added  | 1 Definitions    |
| <b>“Serious Breach“</b>           | <p>Definition has been amended</p> <p>shall mean any breach defined as a Serious Breach in the Agreement or any breach or breaches which adversely, materially or substantially affect the performance or delivery of the Services or compliance with the terms and conditions of the Agreement or the provision of a safe, healthy and supportive learning environment <b>or a breach of security that adversely affects the Personal Data or privacy of an individual.</b> Failure to comply with Law, or actions or omissions by the Provider that endanger the Health or Safety of Learners, <b>Provider Personnel, and all other persons including members of the public</b> would constitute a Serious Breach;</p> | 1 Definitions    |
| <b>Clause 1.4</b>                 | Clause 1.4 has been amended  | 1 Definitions    |

| Section                     | Change   | Clause Reference      |
|-----------------------------|--|-----------------------|
|                             | <p>1.4 Precedence of Documentation</p> <p>In the event of any inconsistency between the provisions of the Terms and Conditions and the Schedules, or between any of the Schedules, the conflict will be resolved according to the following descending order of priority:</p> <p>1.4.1 the Terms and Conditions,<br/> 1.4.2 Schedule 1 (the Specification);<br/> 1.4.3 the remaining Schedules,</p> <p>for the avoidance of doubt, in the event of any inconsistency between this Agreement and the Funding <b>Rules</b>, this Agreement will take precedence.</p> |                       |
| <p><b>Clause 12.4.1</b></p> | <p>Clause 12.4.1 has been amended to remove the reference to “additional Agreement obligations” and replace with “additional conditions of Funding”</p> <p>12.4.1 require the Provider to accept and comply with additional conditions of funding relating to the improvement of the Services assessed as inadequate; and/or</p>   | <p>12 Inspections</p> |
| <p><b>Clause 12.5.1</b></p> | <p>Clause 12.5.1 has been amended to remove the reference to “Agreement obligations” and replace with “conditions of funding”</p> <p>12.5.1 require the Provider to accept and comply with temporary additional conditions of funding relating to the improvement of the overall Services, including but not limited to, requiring the Provider to temporarily suspend the recruitment of Learning and/or temporarily cap any growth in those Learning Programmes which are assessed as inadequate;</p>  | <p>12 Inspections</p> |

| Section               | Change   | Clause Reference |
|-----------------------|--|------------------|
| <b>Clause 12.6.1</b>  | <p>Clause 12.6.1 has been amended to remove the reference to “Agreement obligations” and replace with “conditions of funding”</p> <p>12.6.1 require the Provider to accept and comply with additional conditions of funding relating to the improvement of the overall Services; and/or</p>  | 12 Inspections   |
| <b>Clause 12.10.6</b> | <p>Clause 12.10.6 has been added</p> <p>12.10.6 terminate this Agreement in accordance with Clause 35.3.6 if the Provider has two consecutive New Provider Monitoring visits each resulting in one or more “insufficient progress” judgements in relation to one or more themes.</p>   | 12 Inspections   |
| <b>Clause 15.2.3</b>  | <p>Clause 15.2.3 has been amended to remove the reference to “contractual obligations” and replace with “conditions of funding”</p> <p>15.2.3 Where the Department has undertaken an investigation or received a report from an independent accountant or otherwise, in relation to the Provider it may, as a consequence of that investigation or report, require the Provider to, and the Provider will, accept and comply with additional conditions of funding and will meet the cost of such investigation.</p> | 15 Relationships |
| <b>Clause 15.2.4</b>  | <p>Clause 15.2.4 has been amended to remove the reference to “contractual obligations” and replace with “additional conditions”</p> <p>15.2.4 Where the Provider fails to comply with the <b>additional conditions</b> 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, under Clause 34 (Minor and Serious Breach).</p>  | 15 Relationships |

| Section                        | Change  | Clause Reference                                   |
|--------------------------------|---|--|
| <b>Clause 19.2</b>             | <p>Clause 19.2 has been amended to clarify how back-ups of Department Data should be stored and to remove the requirement to deliver back-ups to the Department at monthly intervals when requested.</p> <p>19.2 The Provider must perform secure back-ups of all the Department Data and must ensure that up-to-date back-ups, <b>where not in the cloud</b>, are stored off-site in accordance with the Business Continuity Plan. <b>Back-ups stored in the cloud must comply with Data Protection Laws.</b> The Provider must ensure that such back-ups are available to the Department at all times upon request.</p> | 19 Department Data                                 |
| <b>Clause 19.3</b>             | <p>Clause 19.3 has been amended</p> <p>19.3 The Provider must take all necessary steps to ensure that any Department Data which comes into its possession or control is protected in accordance with the DPA 2018 and appropriate security procedures <b>as set out in Schedule 7 (Security &amp; Department Policies)</b> and in compliance with Good Industry Practice (having regard to the nature of its other obligations under this Agreement and under the DPA 2018).</p>  | 19 Department Data                                 |
| <b>Clause 20.5.4 to 20.5.7</b> | <p>Clauses 20.5.4 to 20.5.7 have been renumbered (i) to (iv) as subclauses of Clause 20.5.3 (b)</p>   | 20 Data Protection and Protection of Personal Data |
| <b>Clause 20.6.2</b>           | <p>Clause 20.6.2 has been amended</p> <p>20.6.2 receives a request to rectify, block or erase any Personal Data processed through the submission of learner data. Notification in such cases should be given <b>via the Agreement Manager</b>;</p>  | 20 Data Protection and Protection of Personal Data |

| Section                     | Change  | Clause Reference  |
|-----------------------------|---|---|
| <p><b>Clause 20.19</b></p>  | <p>Clause 20.19 has been added</p> <p>20.19 The Processor will comply with any further written instructions or additional conditions from the Department's Controller in relation to the data processing.</p>   | <p>20 Data Protection and Protection of Personal Data</p> |
| <p><b>Clause 21.2.8</b></p> | <p>Clause 21.2.8 has been amended to include the requirement to maintain data on GIAS</p> <p>21.2.8 The Provider must register with UKRLP (<a href="http://www.ukrlp.co.uk/">http://www.ukrlp.co.uk/</a>) and <b>Get Information About Schools</b> (<a href="https://get-information-schools.service.gov.uk/">https://get-information-schools.service.gov.uk/</a>) and maintain contact details on an on-going basis.</p>   | <p>21 Submission of Learner Data</p>                      |
| <p><b>Clause 23.2.2</b></p> | <p>Clause 23.2.2 has been amended</p> <p>23.2.2 The Provider must take all necessary precautions to ensure that all Confidential Information obtained from the Department is treated as confidential and not disclosed (without prior approval <b>from the Department's Agreement Manager</b>) or used other than for the purposes of this Agreement by any of its employees, servants, agents or sub-contractors.</p>  | <p>23 Freedom of Information and Confidentiality</p>      |
| <p><b>Clause 24.13</b></p>  | <p>Clause 24.13 has been amended</p> <p>24.13 The Provider will ensure that it has in place and complies with an effective whistleblowing procedure, <b>approved by the body responsible for the management of the Provider</b>, whereby staff may raise in confidence concerns about possible malpractice without fear of victimisation, subsequent discrimination or disadvantage. <b>The procedure must be published on the Provider's public-facing website. The Provider</b></p> | <p>24 Employees</p>                                       |



| Section                         | Change   | Clause Reference                |
|---------------------------------|--|---------------------------------|
|                                 | <p style="text-align: center;"><b>will regularly review the procedure, including securing approval from the body responsible for the management of the Provider of any amended procedure.</b></p>  |                                 |
| <b>Clause 25.10 &amp; 25.11</b> | <p>Clauses 25.10 &amp; 25.11 have been renumbered 25.9.1 &amp; 25.9.2 as subclauses of Clause 25.9</p>   | 25 Re-Provision of the Services |
| <b>Clause 26.1.5</b>            | <p>Clause 26.1.5 has been re-drafted for clarity</p> <p>26.1.5 The payment of Funding by the Department will be without prejudice to any claims or rights, which the Department may have against the Provider and will not constitute any admission by the Department as to the performance by the Provider of its obligations under this Agreement. Prior to any such payment of Funding, the Department shall be entitled to make deductions or deferments in respect of any disputes or claims whatsoever with or against the Provider, arising from this Agreement or any other agreement between the Provider and the Department.</p>   | 26 Payment and Audit            |
| <b>Clause 26.1.7</b>            | <p>Clause 26.1.7 has been re-drafted for clarity and split into Clauses 26.1.7 &amp; 26.1.8</p> <p>26.1.7 Where the Department identifies errors which it deems to be material in the data that the Provider is required to provide under the Agreement to support the payment of Funding, the Department reserves the right at its absolute discretion to require the Provider at the Provider's cost to carry out a 100% audit of all or part of the Services by a deadline specified by the Department and/or to recover from the Provider Funding equivalent to an amount based on the error rate identified and the total value of the Funding paid to the Provider under this Agreement.</p> <p>26.1.8 Without prejudice to any other provisions in this Agreement, such amounts as are identified as being recoverable under Clause 26.1.7,</p> | 26 Payment and Audit            |

| Section                     | Change   | Clause Reference                       |
|-----------------------------|--|--|
|                             | <p>may be recovered by making adjustments to data submitted by the Provider under the Agreement, or by raising an invoice for payment by the Provider, or by making deductions from future payments due to the Provider under the Agreement. Failure to settle such amounts by the Provider will constitute a Serious Breach under Clause 34 (Minor and Serious Breach) of this Agreement. The decision of the Department as to the amount of recovery under this Clause is final</p>        |  |
| <p><b>Clause 28.1.1</b></p> | <p>Clause 28.1.1 has been amended</p> <p>28.1.1 The Provider must, and will procure that any Provider Related Parties, maintain a full record of all incidents relating to <b>data protection</b>, health, safety and security, including CCTV, which occur during the Agreement Period. The Provider will make the aforementioned records available for inspection by the Department upon reasonable notice, and will present a report of them to the Department as and when requested.</p> | <p>28 Provider's Records and Audit</p> |
| <p><b>Clause 28.2.1</b></p> | <p>Clause 28.2.1 sub-clause (e) has been added to sub-clause (d)</p> <p>(d) to review the Provider's and/or a Provider Related Party's compliance with the DPA 2018, the FOIA in accordance with Clauses 19 (Department Data) and 23 (Freedom of Information and Confidentiality) <b>and any other Law applicable to the Services;</b></p>   | <p>28 Provider's Records and Audit</p> |
| <p><b>Clause 28.2.1</b></p> | <p>Clause 28.2.1 sub-clause (i) has been added to the renumbered sub-clause (g)</p> <p>(g) to ensure that the Provider and/or a Provider Related Party is complying with the Department Policies and any British or equivalent European standards <b>and any other audit that may be required by any Relevant Authority</b></p>  | <p>28 Provider's Records and Audit</p> |

| Section               | Change   | Clause Reference                 |
|-----------------------|--|----------------------------------|
| <b>Clause 28.2.7</b>  | <p>The cross reference to Clause 32 and Clause 23 have been corrected within Clause 28.2.7</p> <p>28.2.7 If the findings of an audit conducted pursuant to this Clause <b>28</b> results in the requirement for ILR data to be corrected and re-submitted the Provider must re-submit the data to the Department, as set out in Clause <b>21 (Submission of Learner Data)</b>, within two months. Failure to do so will be a Minor Breach of this Agreement.</p> | 28 Provider's Records and Audit  |
| <b>Clause 30.5</b>    | <p>Clause 30.5 has been added</p> <p>30.5 The Provider will not enter into any agreement for Brokerage in relation to the Services under this Agreement.</p>   | 30 Assignment and Subcontracting |
| <b>Clause 30.12</b>   | <p>Clause 30.12 has been added</p> <p>30.12 The Provider will review annually its sub-contracts, including the rationale for entering into those sub-contracts, and will publish by 31 October 2020 a statement on its public facing website setting out a high level summary of its sub-contracts and the rationale.</p>  | 30 Assignment and Subcontracting |
| <b>Clause 30.15</b>   | <p>Clause 30.15 has been added</p> <p>30.15 Failure to comply with any of the requirements under Clauses 30.1 to 30.14 may result in the Department taking such actions as it deems appropriate, which may include, but is not limited to, action under Clause 34 (Minor and Serious Breach).</p>  | 30 Assignment and Subcontracting |
| <b>Clause 31.8</b>    | <p>Clauses 31.8.2 to 31.8.6 have been renumbered (a) to (e) as subclauses of Clause 31.8.1</p>   | 31 Indemnities and Liability     |
| <b>Clause 31.11.1</b> | <p>Clause 31.11.1 has been amended to remove the aggregate liability of £1,000,000</p>   | 31 Indemnities and Liability     |

| Section              | Change  | Clause Reference                          |
|----------------------|---|---|
|                      | 31.11.1 With regard to the Department the total aggregate liability will be limited to its obligation to pay the Funding as and when it falls due in accordance with this Agreement.  |   |
| <b>Clause 35.3.6</b> | Clause 35.3.6 has been added<br><br>35.3.6 In accordance with 12.10.6 the Provider has had two consecutive Ofsted New Provider Monitoring Visits resulting in one or more “insufficient progress” judgements; and/or  | 35 Termination                            |
| <b>Clause 36.1.2</b> | Clause 36.1.2 has been amended to correct the text<br><br>36.1.2 On or before the Expiry Date (except where the Provider will be responsible for delivering the Services in the subsequent Funding Year) or Termination Date, the Provider must ensure that all documents or computer records in its possession, <b>custody or control</b> including but not limited to e-portfolios, which contain information relating to the Services including any documents in the possession, custody or control of a sub-contractor are made available upon request to the Department.   | 36 Consequences of Termination and Expiry |
| <b>Clause 37.3</b>   | Clause 37.3 has been added<br><br>37.3 On expiry or termination of this Agreement for any reason, the Provider shall do its utmost to minimise any disruption to Learners and shall co-operate fully with any reasonable requests made by the Department relating to this. For the avoidance of doubt the Department will be entitled to request that where the Provider cannot complete Learners that it will co-operate in transferring the Learners to a new provider even if this is prior to the Termination Date or Expiry Date of this Agreement and the Provider’s Exit Plan should reflect this. The Department will not | 37 Exit Arrangements                      |

| Section  | Change  | Clause Reference   |
|--|---|--|
|  | be liable for any costs prior to or after incurred by the Provider in complying with this Clause 37.3.                  |  |
| <b>Clause 48</b>   | The condition relating to payment of interest has been removed from the Agreement. Clause 48 has been marked “Not Used” | 48 Interest on Late Payments   |
| <b>“Department’s Data”<br/>“Department’s Information”</b>    | Definition has been amended to <b>“Department Data”</b> as defined in Clause 1 (Definitions) of the Agreement           | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>“Good Industry Practice”<br/>“Industry Good Practice”</b> | Definition has been amended to <b>“Good Industry Practice”</b>  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>“Good Industry Standard”<br/>“Industry Good Standard”</b> | Definition has been amended to <b>“Good Industry Standard”</b>  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>“GSC”<br/>“GSCP”</b>                                      | Definition has been amended to add <b>“Government Security Classifications Policy”</b>                                  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |

| Section   | Change   | Clause Reference   |
|---|--|--|
| <b>“Tailored Assurance” (formally called “CTAS”, or, “CESG Tailored Assurance”)</b> | Definition has been deleted  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.1</b>   | Clause 1.1 has been deleted  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.2</b>   | <p>Clause 1.2 has been renumbered Clause 1.1 and has been amended</p> <p>1.1 Where the Provider will handle information at OFFICIAL on behalf of the Department, the requirements under Cabinet Office Procurement Policy <a href="#">Note 09/14</a> – Use of Cyber Essentials Scheme certification, or any subsequent updated document, are mandated; the Provider will endeavour to meet the requirements of Cyber Essentials for the 2020/21 Funding Year and present the results to the Department on request. The scope must be relevant to the Services supplied to, or on behalf of, the Department</p> | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.3</b>   | Clause 1.3 has been deleted  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.4</b>   | Clause 1.4 has been renumbered Clause 1.2 and has been amended   | Schedule 7:<br>Security &  |

| Section                   | Change  | Clause Reference  |
|---------------------------|---|---|
|                           | <p>1.2 The Provider will follow the <b>Cabinet Office guidance on</b> Government Security Classifications in respect of any Department Data being handled in the course of providing this Service, and will handle this data in accordance with its security classification. (In the event where the Provider has an existing Protective Marking Scheme then the Provider may continue to use this but must map the HMG security classifications against it to ensure the correct controls are applied to the Department Data).</p>                               | <p>Department Policies<br/>Part A Security</p>                                    |
| <p><b>Clause 1.5</b></p>  | <p>Clause 1.5 has been renumbered 1.3 and has been amended</p> <p>1.3 Processing of Department Data must be segregated from all other data on the Provider's or sub-contractor's own IT equipment to protect the Department Data and enable the data to be identified and securely deleted when required. In the event that it is not possible to segregate any Department Data then the Provider and any sub-contractor will be required to ensure that it is stored in such a way that it is possible to securely delete the data in line with Clause 1.13.</p> | <p>Schedule 7:<br/>Security &amp;<br/>Department Policies<br/>Part A Security</p> |
| <p><b>Clause 1.16</b></p> | <p>Clause 1.16 has been re-numbered Clause 1.14 and has been amended</p> <p>1.14 Access by Provider or sub-contractor staff to Department Data will be confined to those individuals who have a "need-to-know" in order to carry out their role; and have undergone mandatory pre-employment screening, to a minimum of HMG Baseline Personnel Security Standard (BPSS);. All Provider or sub-contractor staff must complete this process before access to Department Data is permitted.</p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department Policies<br/>Part A Security</p> |
| <p><b>Clause 1.19</b></p> | <p>Clause 1.19 has been renumbered Clause 1.17 and has been amended</p> <p>1.17 Any suspected or actual breach of the confidentiality, integrity or availability of Department Data being handled in the course of providing</p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department</p>                              |

| Section                   | Change   | Clause Reference  |
|---------------------------|--|---|
|                           | <p>this Service, or any non-compliance with these Departmental Security Standards for Providers, or other Security Standards pertaining to the solution, will be investigated immediately and escalated to the Department. The Provider will inform their Agreement Manager in writing as soon a breach is identified.</p>   | <p>Policies<br/>Part A Security</p>   |
| <p><b>Clause 1.23</b></p> | <p>Clause 1.23 has been renumbered Clause 1.21 and amended</p> <p>1.21 The Provider will contractually enforce all the clauses in this Schedule onto any third-party suppliers, sub-contractors or partners who could potentially access Department Data in the course of providing this Service.</p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |
| <p><b>Clause 1.24</b></p> | <p>Clause 1.24 has been renumbered Clause 1.22 and has been amended</p> <p>1.22 The Provider and sub-contractors will undergo appropriate security assurance activities as determined by the Department. Provider and sub-contractors will support the provision of appropriate evidence of assurance and the production of the necessary security documentation on request.</p> | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |



### Conditions of Funding (Grant) (Trusts)

| Section                             | Change   | Clause Reference |
|-------------------------------------|--|------------------|
| “ <b>Barred List</b> “              | Definition has been added  | 1 Definitions    |
| “ <b>Brokerage</b> ”                | Definition has been added  | 1 Definitions    |
| “ <b>Confidential Information</b> ” | Definition has been amended<br>means any information, including Personal Data as defined by the Data Protection <b>Laws</b> , and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Parties including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked "confidential");  | 1 Definitions    |
| “ <b>Data Protection Laws</b> ”     | Definition has been amended<br>means the Data Protection Act 2018 and <b>Privacy and</b> Electronic Communications (EC Directive) Regulations 2003 and any other data protection laws and regulations applicable in the UK (or in any relevant part thereof), including the General Data Protection Regulation (EU) 2016/679 or similar and any codes of practice, guidelines and recommendations issued by the Information Commissioner, any replacement body or other relevant supervisory authority, all of which are current at the time of any Data processing by the Provider (and in the event of any conflict between the Data Protection Laws and Law, Data Protection Laws shall take precedence); | 1 Definitions    |
| “ <b>Department Data</b> “          | Definition has been amended  | 1 Definitions    |

| Section                           | Change   | Clause Reference |
|-----------------------------------|--|------------------|
|                                   | <p>means any data (including metadata), record, document or information howsoever stored which is either:</p> <p>(a) communicated by the Department, its staff, sub-contractors and agents to the Provider in writing, orally, electronically or by any other means relating to the Learners and/or Services provided to the Learners; or</p> <p>(b) is obtained, gleaned, compiled or processed by the Provider during the course of the Provider providing the Services relating to or provided to the Learners, <b>including Personal Data for which the Department is the data controller</b></p> <p>including but not limited to ILR Data and e-portfolios;</p>   |                  |
| <b>“Department Related Party”</b> | Definition has been added  | 1 Definitions    |
| <b>“Serious Breach“</b>           | <p>Definition has been amended</p> <p>shall mean any breach defined as a Serious Breach in the Agreement or any breach or breaches which adversely, materially or substantially affect the performance or delivery of the Services or compliance with the terms and conditions of the Agreement or the provision of a safe, healthy and supportive learning environment <b>or a breach of security that adversely affects the Personal Data or privacy of an individual.</b> Failure to comply with Law, or actions or omissions by the Provider that endanger the Health or Safety of Learners, <b>Provider Personnel, and all other persons including members of the public</b> would constitute a Serious Breach;</p> | 1 Definitions    |
| <b>Clause 1.4</b>                 | Clause 1.4 has been amended  | 1 Definitions    |

| Section                     | Change   | Clause Reference      |
|-----------------------------|--|-----------------------|
|                             | <p>1.4 Precedence of Documentation</p> <p>In the event of any inconsistency between the provisions of the Terms and Conditions and the Schedules, or between any of the Schedules, the conflict will be resolved according to the following descending order of priority:</p> <p>1.4.1 the Terms and Conditions,<br/> 1.4.2 Schedule 1 (the Specification);<br/> 1.4.3 the remaining Schedules,</p> <p>for the avoidance of doubt, in the event of any inconsistency between this Agreement and the Funding <b>Rules</b>, this Agreement will take precedence.</p> |                       |
| <p><b>Clause 12.3.1</b></p> | <p>Clause 12.3.1 has been amended to remove the reference to “additional Agreement obligations” and replace with “additional conditions of Funding”</p> <p>12.3.1 require the Provider to accept and comply with additional conditions of funding relating to the improvement of the Services assessed as inadequate; and/or</p>   | <p>12 Inspections</p> |
| <p><b>Clause 12.4.1</b></p> | <p>Clause 12.4.1 has been amended to remove the reference to “Agreement obligations” and replace with “conditions of funding”</p> <p>12.4.1 require the Provider to accept and comply with temporary additional conditions of funding relating to the improvement of the overall Services, including but not limited to, requiring the Provider to temporarily suspend the recruitment of Learning and/or temporarily cap any growth in those Learning Programmes which are assessed as inadequate;</p>  | <p>12 Inspections</p> |

| Section              | Change   | Clause Reference |
|----------------------|--|------------------|
| <b>Clause 12.5.1</b> | <p>Clause 12.5.1 has been amended to remove the reference to “Agreement obligations” and replace with “conditions of funding”</p> <p>12.5.1 require the Provider to accept and comply with additional conditions of funding relating to the improvement of the overall Services; and/or</p>  | 12 Inspections   |
| <b>Clause 12.9.6</b> | <p>Clause 12.9.6 has been added</p> <p>12.9.6 terminate this Agreement in accordance with Clause 35.3.6 if the Provider has two consecutive New Provider Monitoring visits each resulting in one or more “insufficient progress” judgements in relation to one or more themes.</p>   | 12 Inspections   |
| <b>Clause 15.2.3</b> | <p>Clause 15.2.3 has been amended to remove the reference to “contractual obligations” and replace with “conditions of funding”</p> <p>15.2.3 Where the Department has undertaken an investigation or received a report from an independent accountant or otherwise, in relation to the Provider it may, as a consequence of that investigation or report, require the Provider to, and the Provider will, accept and comply with additional conditions of funding and will meet the cost of such investigation.</p> | 15 Relationships |
| <b>Clause 15.2.4</b> | <p>Clause 15.2.4 has been amended to remove the reference to “contractual obligations” and replace with “additional conditions”</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, under Clause 34 (Minor and Serious Breach).</p>   | 15 Relationships |

| Section                        | Change  | Clause Reference                                   |
|--------------------------------|---|--|
| <b>Clause 19.2</b>             | <p>Clause 19.2 has been amended to clarify how back-ups of Department Data should be stored and to remove the requirement to deliver back-ups to the Department at monthly intervals when requested.</p> <p>19.2 The Provider must perform secure back-ups of all the Department Data and must ensure that up-to-date back-ups, <b>where not in the cloud</b>, are stored off-site in accordance with the Business Continuity Plan. <b>Back-ups stored in the cloud must comply with Data Protection Laws.</b> The Provider must ensure that such back-ups are available to the Department at all times upon request.</p> | 19 Department Data                                 |
| <b>Clause 19.3</b>             | <p>Clause 19.3 has been amended</p> <p>19.3 The Provider must take all necessary steps to ensure that any Department Data which comes into its possession or control is protected in accordance with the DPA 2018 and appropriate security procedures <b>as set out in Schedule 7 (Security &amp; Department Policies)</b> and in compliance with Good Industry Practice (having regard to the nature of its other obligations under this Agreement and under the DPA 2018).</p>  | 19 Department Data                                 |
| <b>Clause 20.4.4 to 20.4.7</b> | <p>Clauses 20.4.4 to 20.4.7 have been renumbered (i) to (iv) as subclauses of Clause 20.4.3 (b)</p>   | 20 Data Protection and Protection of Personal Data |
| <b>Clause 20.5.2</b>           | <p>Clause 20.5.2 has been amended</p> <p>20.5.2 receives a request to rectify, block or erase any Personal Data processed through the submission of learner data. Notification in such cases should be given <b>via the Agreement Manager</b>;</p>  | 20 Data Protection and Protection of Personal Data |

| Section              | Change  | Clause Reference                                   |
|----------------------|---|--|
| <b>Clause 20.18</b>  | <p>Clause 20.18 has been added</p> <p>20.18 The Processor will comply with any further written instructions or additional conditions from the Department's Controller in relation to the data processing.</p>   | 20 Data Protection and Protection of Personal Data |
| <b>Clause 21.1.8</b> | <p>Clause 21.1.8 has been amended to include the requirement to maintain data on GIAS</p> <p>21.1.8 The Provider must register with UKRLP (<a href="http://www.ukrlp.co.uk/">http://www.ukrlp.co.uk/</a>) and <b>Get Information About Schools</b> (<a href="https://get-information-schools.service.gov.uk/">https://get-information-schools.service.gov.uk/</a>) and maintain contact details on an on-going basis.</p>   | 21 Submission of Learner Data                      |
| <b>Clause 23.2.2</b> | <p>Clause 23.2.2 has been amended</p> <p>23.2.2 The Provider must take all necessary precautions to ensure that all Confidential Information obtained from the Department is treated as confidential and not disclosed (without prior approval <b>from the Department's Agreement Manager</b>) or used other than for the purposes of this Agreement by any of its employees, servants, agents or sub-contractors.</p>  | 23 Freedom of Information and Confidentiality      |
| <b>Clause 24.13</b>  | <p>Clause 24.13 has been amended</p> <p>24.13 The Provider will ensure that it has in place and complies with an effective whistleblowing procedure, <b>approved by the body responsible for the management of the Provider</b>, whereby staff may raise in confidence concerns about possible malpractice without fear of victimisation, subsequent discrimination or disadvantage. <b>The procedure must be published on the Provider's public-facing website. The Provider</b></p> | 24 Employees                                       |

| Section                                | Change   | Clause Reference                       |
|--|--|--|
|  | <p><b>will regularly review the procedure, including securing approval from the body responsible for the management of the Provider of any amended procedure.</b></p>  |  |
| <p><b>Clause 25.10 &amp; 25.11</b></p> | <p>Clauses 25.10 &amp; 25.11 have been renumbered 25.9.1 &amp; 25.9.2 as subclauses of Clause 25.9</p>   | <p>25 Re-Provision of the Services</p> |
| <p><b>Clause 26.1.5</b></p>            | <p>Clause 26.1.5 has been re-drafted for clarity</p> <p>26.1.5 The payment of Funding by the Department will be without prejudice to any claims or rights, which the Department may have against the Provider and will not constitute any admission by the Department as to the performance by the Provider of its obligations under this Agreement. Prior to any such payment of Funding, the Department shall be entitled to make deductions or deferments in respect of any disputes or claims whatsoever with or against the Provider, arising from this Agreement or any other agreement between the Provider and the Department.</p>   | <p>26 Payment and Audit</p>            |
| <p><b>Clause 26.1.7</b></p>            | <p>Clause 26.1.7 has been re-drafted for clarity and split into Clauses 26.1.7 &amp; 26.1.8</p> <p>26.1.7 Where the Department identifies errors which it deems to be material in the data that the Provider is required to provide under the Agreement to support the payment of Funding, the Department reserves the right at its absolute discretion to require the Provider at the Provider's cost to carry out a 100% audit of all or part of the Services by a deadline specified by the Department and/or to recover from the Provider Funding equivalent to an amount based on the error rate identified and the total value of the Funding paid to the Provider under this Agreement.</p> <p>26.1.8 Without prejudice to any other provisions in this Agreement, such amounts as are identified as being recoverable under Clause 26.1.7,</p> | <p>26 Payment and Audit</p>            |

| Section                     | Change   | Clause Reference                       |
|-----------------------------|--|--|
|                             | <p>may be recovered by making adjustments to data submitted by the Provider under the Agreement, or by raising an invoice for payment by the Provider, or by making deductions from future payments due to the Provider under the Agreement. Failure to settle such amounts by the Provider will constitute a Serious Breach under Clause 34 (Minor and Serious Breach) of this Agreement. The decision of the Department as to the amount of recovery under this Clause is final</p>        |  |
| <p><b>Clause 28.1.1</b></p> | <p>Clause 28.1.1 has been amended</p> <p>28.1.1 The Provider must, and will procure that any Provider Related Parties, maintain a full record of all incidents relating to <b>data protection</b>, health, safety and security, including CCTV, which occur during the Agreement Period. The Provider will make the aforementioned records available for inspection by the Department upon reasonable notice, and will present a report of them to the Department as and when requested.</p> | <p>28 Provider's Records and Audit</p> |
| <p><b>Clause 28.2.1</b></p> | <p>Clause 28.2.1 sub-clause (e) has been added to sub-clause (d)</p> <p>(d) to review the Provider's and/or a Provider Related Party's compliance with the DPA 2018, the FOIA in accordance with Clauses 19 (Department Data) and 23 (Freedom of Information and Confidentiality) <b>and any other Law applicable to the Services;</b></p>   | <p>28 Provider's Records and Audit</p> |
| <p><b>Clause 28.2.1</b></p> | <p>Clause 28.2.1 sub-clause (i) has been added to the renumbered sub-clause (g)</p> <p>(g) to ensure that the Provider and/or a Provider Related Party is complying with the Department Policies and any British or equivalent European standards <b>and any other audit that may be required by any Relevant Authority</b></p>  | <p>28 Provider's Records and Audit</p> |



| Section               | Change   | Clause Reference                 |
|-----------------------|--|----------------------------------|
| <b>Clause 28.2.7</b>  | <p>The cross reference to Clause 32 and Clause 23 have been corrected within Clause 28.2.7</p> <p>28.2.7 If the findings of an audit conducted pursuant to this Clause <b>28</b> results in the requirement for ILR data to be corrected and re-submitted the Provider must re-submit the data to the Department, as set out in Clause <b>21 (Submission of Learner Data)</b>, within two months. Failure to do so will be a Minor Breach of this Agreement.</p> | 28 Provider's Records and Audit  |
| <b>Clause 30.5</b>    | <p>Clause 30.5 has been added</p> <p>30.5 The Provider will not enter into any agreement for Brokerage in relation to the Services under this Agreement.</p>   | 30 Assignment and Subcontracting |
| <b>Clause 30.12</b>   | <p>Clause 30.12 has been added</p> <p>30.12 The Provider will review annually its sub-contracts, including the rationale for entering into those sub-contracts, and will publish by 31 October 2020 a statement on its public facing website setting out a high level summary of its sub-contracts and the rationale.</p>  | 30 Assignment and Subcontracting |
| <b>Clause 30.15</b>   | <p>Clause 30.15 has been added</p> <p>30.15 Failure to comply with any of the requirements under Clauses 30.1 to 30.14 may result in the Department taking such actions as it deems appropriate, which may include, but is not limited to, action under Clause 34 (Minor and Serious Breach).</p>  | 30 Assignment and Subcontracting |
| <b>Clause 31.8</b>    | <p>Clauses 31.8.2 to 31.8.6 have been renumbered (a) to (e) as subclauses of Clause 31.8.1</p>   | 31 Indemnities and Liability     |
| <b>Clause 31.11.1</b> | <p>Clause 31.11.1 has been amended to remove the aggregate liability of £1,000,000</p>   | 31 Indemnities and Liability     |

| Section              | Change  | Clause Reference                          |
|----------------------|---|---|
|                      | 31.11.1 With regard to the Department the total aggregate liability will be limited to its obligation to pay the Funding as and when it falls due in accordance with this Agreement.  |   |
| <b>Clause 35.3.6</b> | Clause 35.3.6 has been added<br><br>35.3.6 In accordance with 12.9.6 the Provider has had two consecutive Ofsted New Provider Monitoring Visits resulting in one or more “insufficient progress” judgements; and/or   | 35 Termination                            |
| <b>Clause 36.1.2</b> | Clause 36.1.2 has been amended to correct the text<br><br>36.1.2 On or before the Expiry Date (except where the Provider will be responsible for delivering the Services in the subsequent Funding Year) or Termination Date, the Provider must ensure that all documents or computer records in its possession, <b>custody or control</b> including but not limited to e-portfolios, which contain information relating to the Services including any documents in the possession, custody or control of a sub-contractor are made available upon request to the Department.   | 36 Consequences of Termination and Expiry |
| <b>Clause 37.2</b>   | Clause 37.2 has been added<br><br>37.2 On expiry or termination of this Agreement for any reason, the Provider shall do its utmost to minimise any disruption to Learners and shall co-operate fully with any reasonable requests made by the Department relating to this. For the avoidance of doubt the Department will be entitled to request that where the Provider cannot complete Learners that it will co-operate in transferring the Learners to a new provider even if this is prior to the Termination Date or Expiry Date of this Agreement and the Provider’s Exit Plan should reflect this. The Department will not | 37 Exit Arrangements                      |

| Section  | Change  | Clause Reference   |
|--|---|--|
|  | be liable for any costs prior to or after incurred by the Provider in complying with this Clause 37.2.                  |  |
| <b>Clause 48</b>   | The condition relating to payment of interest has been removed from the Agreement. Clause 48 has been marked "Not Used" | 48 Interest on Late Payments   |
| <b>"Department's Data"</b><br><b>"Department's Information"</b>    | Definition has been amended to <b>"Department Data"</b> as defined in Clause 1 (Definitions) of the Agreement           | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>"Good Industry Practice"</b><br><b>"Industry Good Practice"</b> | Definition has been amended to <b>"Good Industry Practice"</b>  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>"Good Industry Standard"</b><br><b>"Industry Good Standard"</b> | Definition has been amended to <b>"Good Industry Standard"</b>  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>"GSC"</b><br><b>"GSCP"</b>                                      | Definition has been amended to add <b>"Government Security Classifications Policy"</b>                                  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |

| Section   | Change   | Clause Reference   |
|---|--|--|
| <b>“Tailored Assurance”<br/>(formally called “CTAS”,<br/>or, “CESG Tailored<br/>Assurance”)</b> | Definition has been deleted  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.1</b>   | Clause 1.1 has been deleted  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.2</b>   | Clause 1.2 has been renumbered Clause 1.1 and has been amended<br><br>1.1 Where the Provider will handle information at OFFICIAL on behalf of the Department, the requirements under Cabinet Office Procurement Policy <a href="#">Note 09/14</a> – Use of Cyber Essentials Scheme certification, or any subsequent updated document, are mandated; the Provider will endeavour to meet the requirements of Cyber Essentials for the 2020/21 Funding Year and present the results to the Department on request. The scope must be relevant to the Services supplied to, or on behalf of, the Department. | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.3</b>   | Clause 1.3 has been deleted  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A Security |
| <b>Clause 1.4</b>   | Clause 1.4 has been renumbered Clause 1.2 and has been amended   | Schedule 7:<br>Security &  |

| Section                   | Change  | Clause Reference  |
|---------------------------|---|---|
|                           | <p>1.2 The Provider will follow the <b>Cabinet Office guidance on</b> Government Security Classifications in respect of any Department Data being handled in the course of providing this Service, and will handle this data in accordance with its security classification. (In the event where the Provider has an existing Protective Marking Scheme then the Provider may continue to use this but must map the HMG security classifications against it to ensure the correct controls are applied to the Department Data).</p>                               | <p>Department Policies<br/>Part A Security</p>                                    |
| <p><b>Clause 1.5</b></p>  | <p>Clause 1.5 has been renumbered 1.3 and has been amended</p> <p>1.3 Processing of Department Data must be segregated from all other data on the Provider's or sub-contractor's own IT equipment to protect the Department Data and enable the data to be identified and securely deleted when required. In the event that it is not possible to segregate any Department Data then the Provider and any sub-contractor will be required to ensure that it is stored in such a way that it is possible to securely delete the data in line with Clause 1.13.</p> | <p>Schedule 7:<br/>Security &amp;<br/>Department Policies<br/>Part A Security</p> |
| <p><b>Clause 1.16</b></p> | <p>Clause 1.16 has been re-numbered Clause 1.14 and has been amended</p> <p>1.14 Access by Provider or sub-contractor staff to Department Data will be confined to those individuals who have a "need-to-know" in order to carry out their role; and have undergone mandatory pre-employment screening, to a minimum of HMG Baseline Personnel Security Standard (BPSS);. All Provider or sub-contractor staff must complete this process before access to Department Data is permitted.</p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department Policies<br/>Part A Security</p> |
| <p><b>Clause 1.19</b></p> | <p>Clause 1.19 has been renumbered Clause 1.17 and has been amended</p> <p>1.17 Any suspected or actual breach of the confidentiality, integrity or availability of Department Data being handled in the course of providing</p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department</p>                              |

| Section                   | Change   | Clause Reference  |
|---------------------------|--|---|
|                           | <p>this Service, or any non-compliance with these Departmental Security Standards for Providers, or other Security Standards pertaining to the solution, will be investigated immediately and escalated to the Department. The Provider will inform their Agreement Manager in writing as soon a breach is identified.</p>   | <p>Policies<br/>Part A Security</p>   |
| <p><b>Clause 1.23</b></p> | <p>Clause 1.23 has been renumbered Clause 1.21 and amended</p> <p>1.21 The Provider will contractually enforce all the clauses in this Schedule onto any third-party suppliers, sub-contractors or partners who could potentially access Department Data in the course of providing this Service.</p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |
| <p><b>Clause 1.24</b></p> | <p>Clause 1.24 has been renumbered Clause 1.22 and has been amended</p> <p>1.22 The Provider and sub-contractors will undergo appropriate security assurance activities as determined by the Department. Provider and sub-contractors will support the provision of appropriate evidence of assurance and the production of the necessary security documentation on request.</p> | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p> |

## Non-Maintained Special Schools

| Section                           | Change   | Clause Reference |
|-----------------------------------|--|------------------|
| <b>“Barred List”</b>              | Definition has been added  | 1 Definitions    |
| <b>“Brokerage”</b>                | Definition has been added  | 1 Definitions    |
| <b>“Confidential Information”</b> | Definition has been amended<br><br>means any information, including Personal Data as defined by the Data Protection <b>Laws</b> and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Parties including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked "confidential");  | 1 Definitions    |
| <b>“Data Protection Laws”</b>     | Definition has been amended<br><br>means the Data Protection Act 2018 and <b>Privacy and Electronic Communications (EC Directive) Regulations 2003</b> and any other data protection laws and regulations applicable in the UK (or in any relevant part thereof), including the General Data Protection Regulation (EU) 2016/679 or similar and any codes of practice, guidelines and recommendations issued by the Information Commissioner, any replacement body or other relevant supervisory authority, all of which are current at the time of any Data processing by the Provider (and in the event of any conflict between the Data Protection Laws and Law, Data Protection Laws shall take precedence); | 1 Definitions    |
| <b>“Department Data”</b>          | Definition has been amended  | 1 Definitions    |

| Section                           | Change   | Clause Reference |
|-----------------------------------|--|------------------|
|                                   | <p>means any data (including metadata), record, document or information howsoever stored which is either:</p> <p>(a) communicated by the Department, its staff, sub-contractors and agents to the Provider in writing, orally, electronically or by any other means relating to the Learners and/or Services provided to the Learners; or</p> <p>(b) is obtained, gleaned, compiled or processed by the Provider during the course of the Provider providing the Services relating to or provided to the Learners, <b>including Personal Data for which the Department is the data controller</b></p> <p>including but not limited to <b>School Census</b> and e-portfolios;</p> |                  |
| <b>“Department Related Party”</b> | Definition has been added  | 1 Definitions    |
| <b>“High Needs Learner”</b>       | <p>Definition has been amended</p> <p>means a Learner aged 16 to 18 with high levels of <b>Special Educational Needs and Disability (SEND)</b>, supported with top-up funding from the high needs budget, or any young person aged 19 to 25 subject to an Education Health and Care Plan, who requires additional support costing over £6,000;</p>   | 1 Definitions    |
| <b>“Serious Breach”</b>           | <p>Definition has been amended</p> <p>shall mean any breach defined as a Serious Breach in the Agreement or any breach or breaches which adversely, materially or substantially affect the performance or delivery of the Services or compliance with the terms and conditions of the Agreement or the provision of a safe, healthy and supportive learning environment <b>or a breach of security that adversely affects the Personal Data or privacy of an individual.</b> Failure to comply with Law, or</p>  | 1 Definitions    |



| Section               | Change   | Clause Reference                           |
|-----------------------|--|--|
|                       | actions or omissions by the Provider that endanger the Health or Safety of Learners, <b>Provider Personnel, and all other persons including members of the public</b> would constitute a Serious Breach;   |  |
| <b>Clause 10.5</b>    | Clause 10.5 sub-clauses (a) to (e) have been renumbered 10.5.1 to 10.5.5   | 10 Quality Assurance and Raising Standards |
| <b>Clause 10.5(e)</b> | <p>The cross reference to sub-clauses 10.5(a) to 10.5(d) have been corrected within the renumbered Clause 10.5.5</p> <p>10.5.5 ensure all sub-contractors delivering Services under the Agreement on behalf of the Provider comply with the requirements set out in Clauses <b>10.5.1 to 10.5.4</b> above.</p>                                   | 10 Quality Assurance and Raising Standards |
| <b>Clause 10.6</b>    | <p>The cross reference to Clauses 10.5(a) to 10.5(e) have been corrected within Clause 10.6</p> <p>10.6 Failure to meet the requirements set out in Clauses <b>10.5.1 to 10.5.5</b> may result in the Department assessing the Provider to be in Serious Breach of the Agreement under Clause 35 (Minor and Serious Breach) of the Agreement</p> | 10 Quality Assurance and Raising Standards |
| <b>Clause 10.9</b>    | <p>The cross reference to Clauses 10.5(a) to 10.5(e) have been corrected within Clause 10.9</p> <p>10.9 The Department may assess the quality and delivery of the Services and the Provider's compliance with the requirements in Clause <b>10.5.1 to 10.5.5</b></p>   | 10 Quality Assurance and Raising Standards |

| Section              | Change   | Clause Reference    |
|----------------------|--|---------------------|
|                      | <p>during the Agreement Period. The Provider will be informed of the outcome of that process. Where the Department assesses the Provider to be in Serious Breach of Agreement following such assessment the Department will issue a notice in accordance with Clause 35.3.1 of the Agreement which, where the Department is not terminating, may:</p>  |                     |
| <b>Clause 11.1</b>   | <p>Clause 11.1 sub-clause (a) has been amended to remove the reference to “Agreement obligations” and replace with “conditions of funding”</p> <p>(a) require the Provider to, and the Provider will, accept and comply with additional <b>conditions of funding</b> relating to the improvement of financial health and/or control arrangements;</p>  | 11 Financial Health |
| <b>Clause 12.3.1</b> | <p>Clause 12.3.1 has been amended to remove the reference to “Agreement obligations” and replace with “conditions of funding”</p> <p>12.3.1 require the Provider to accept and comply with additional <b>conditions of funding</b> relating to the improvement of the Services assessed as inadequate; and/or</p>  | 12 Inspections      |
| <b>Clause 12.4.1</b> | <p>Clause 12.4.1 has been amended to remove the reference to “Agreement obligations” and replace with “conditions of funding”</p> <p>12.4.1 require the Provider to accept and comply with temporary additional <b>conditions of funding</b> relating to the improvement of the overall Services, including but not limited to, requiring the Provider to temporarily suspend the recruitment of Learners and/or temporarily cap any growth in those Learning Programmes which are assessed as inadequate;</p> | 12 Inspections      |
| <b>Clause 12.5.1</b> | <p>Clause 12.5.1 has been amended to remove the reference to “Agreement obligations” and replace with “conditions of funding”</p>  | 12 Inspections      |

| Section               | Change  | Clause Reference     |
|-----------------------|---|----------------------|
|                       | 12.5.1 require the Provider to accept and comply with additional <b>conditions of funding</b> relating to the improvement of the overall Services; and/or   |                      |
| <b>Clause 12.10.6</b> | <p>Clause 12.10.6 has been added</p> <p>12.10.6 Terminate this Agreement in accordance with Clause 36.3.6 if the Provider has two consecutive New Provider Monitoring visits each resulting in one or more “insufficient progress” judgements in relation to one or more themes.</p>  | 12 Inspections       |
| <b>Clause 13</b>      | The clause relating to Minimum Standards has been removed from the Agreement. Clause 13 has been marked “Not Used”  | 13 Minimum Standards |
| <b>Clause 15.2.3</b>  | <p>Clause 15.2.3 has been amended to remove the reference to “contractual obligations” and replace with “conditions of funding”</p> <p>15.2.3 Where the Department has undertaken an investigation or received a report from an independent accountant or otherwise, in relation to the Provider it may, as a consequence of that investigation or report, require the Provider to, and the Provider will, accept and comply with additional <b>conditions of funding</b> and will meet the cost of such investigation.</p> | 15 Relationships     |
| <b>Clause 15.2.4</b>  | <p>Clause 15.2.4 has been amended to remove the reference to “contractual obligations” and replace with “additional conditions”</p> <p>15.2.4 Where the Provider fails to comply with the <b>additional conditions</b> imposed under Clause 15.2.3, within such time as the Department deems reasonable, the Department may take such actions as it deems</p>   | 15 Relationships     |

| Section              | Change  | Clause Reference   |
|----------------------|---|--------------------|
|                      | appropriate which may include, but is not limited to, under Clause 35 (Minor and Serious Breach).   |                    |
| <b>Clause 16.2.3</b> | <p>Clause 16.2.3 has been amended to correct the text</p> <p>16.2.3 In the event that the Provider wishes to change the identity of the Account Manager, it will, subject to Clause 16.2.4 give to the Department not less than 5 Working Days' notice in writing of such change. <b>Such written</b> notice will inform the Department of the name, telephone number e-mail address and postal address of the new Account Manager.</p>   | 16 Representative  |
| <b>Clause 19.2</b>   | <p>Clause 19.2 has been amended to clarify how back-ups of Department Data should be stored and to remove the requirement to deliver back-ups to the Department at monthly intervals when requested.</p> <p>19.2 The Provider must perform secure back-ups of all the Department Data and must ensure that up-to-date back-ups, <b>where not in the cloud</b>, are stored off-site in accordance with the Business Continuity Plan. <b>Back-ups stored in the cloud must comply with Data Protection Laws.</b> The Provider must ensure that such back-ups are available to the Department at all times upon request.</p> | 19 Department Data |
| <b>Clause 19.3</b>   | <p>Clause 19.3 has been amended</p> <p>19.3 The Provider must take all necessary steps to ensure that any Department Data which comes into its possession or control is protected in accordance with the DPA 2018 and appropriate security procedures <b>as set out in Schedule 7 (Security &amp; Department Policies)</b> and in compliance with</p>   | 19 Department Data |

| Section                            | Change  | Clause Reference                                   |
|------------------------------------|---|--|
|                                    | Good Industry Practice (having regard to the nature of its other obligations under this Agreement and under the DPA 2018).  |  |
| <b>Clause 20.1</b>                 | <p>Clause 20.1 has been amended to correct the text and the cross reference to Clause 20.15</p> <p>20.1 The Parties acknowledge that for the purposes of the Data Protection Laws, the Department on behalf of the Secretary of State for Education is the Controller and the Provider is the Processor only for the processing set out in Schedule 6 (i.e. submission of Learner data to the Department). Any other processing of Personal Data undertaken by the Provider (<b>i.e.</b> Learner enrolment or delivering education &amp; training, e.g. e-portfolios) will be as a Data Controller and not on behalf of the Department. Clauses 20.2 to <b>20.14</b> below apply only in relation to the processing of Personal Data on behalf of the Department as set out in Schedule 6, and the only processing that the Processor is authorised to do on behalf of the Department is listed in Schedule 6 by the Department and may not be determined by the Processor.</p> | 20 Data Protection and Protection of Personal Data |
| <b>Clauses 20.4.4 to 20.4.7</b>    | Clauses 20.4.4 to 20.4.7 have been renumbered (i) to (iv) as sub-clauses of Clause 20.4.3 (b)   | 20 Data Protection and Protection of Personal Data |
| <b>Clauses 20.4.8 &amp; 20.4.9</b> | Clauses 20.4.8 & 20.4.9 have been renumbered 20.4.4 & 20.4.5  | 20 Data Protection and Protection of Personal Data |

| Section              | Change  | Clause Reference                                   |
|----------------------|---|--|
| <b>Clause 20.5.2</b> | <p>Clause 20.5.2 has been amended</p> <p>20.5.2 receives a request to rectify, block or erase any Personal Data processed through the submission of learner data. <b>Notification in such cases should be given via the Agreement Manager;</b></p>  | 20 Data Protection and Protection of Personal Data |
| <b>Clause 20.18</b>  | <p>Clause 20.18 has been added</p> <p>20.18 The Processor will comply with any further written instructions or additional conditions from the Department's Controller in relation to the data processing.</p>   | 20 Data Protection and Protection of Personal Data |
| <b>Clause 21.1.7</b> | <p>Clause 21.1.7 has been amended</p> <p>21.1.7 The Provider must update the course information funded by the Department at <a href="https://coursedirectory.nationalcareersservice.org.uk/">https://coursedirectory.nationalcareersservice.org.uk/</a>.</p>  | 21 Submission of Learner Data                      |
| <b>Clause 21.1.8</b> | <p>Clause 21.1.8 has been amended to include the requirement to maintain data on GIAS</p> <p>21.1.8 The Provider must register with UKRLP (<a href="http://www.ukrlp.co.uk/">http://www.ukrlp.co.uk/</a>) and <b>Get Information About Schools</b> (<a href="https://get-information-schools.service.gov.uk/">https://get-information-schools.service.gov.uk/</a>) and maintain contact details on an on-going basis.</p> | 21 Submission of Learner Data                      |

| Section  | Change  | Clause Reference                                     |
|--|---|--|
| <p><b>Clause 23.2.2</b></p>                    | <p>Clause 23.2.2 has been amended</p> <p>23.2.2 The Provider must take all necessary precautions to ensure that all Confidential Information obtained from the Department is treated as confidential and not disclosed (without prior approval <b>from the Department's Agreement Manager</b>) or used other than for the purposes of this Agreement by any of its employees, servants, agents or sub-contractors.</p>  | <p>23 Freedom of Information and Confidentiality</p> |
| <p><b>Clause 24.13</b></p>                     | <p>Clause 24.13 has been amended</p> <p>24.13 The Provider will ensure that it has in place and complies with an effective whistleblowing procedure, <b>approved by the body responsible for the management of the Provider</b>, whereby staff may raise in confidence concerns about possible malpractice without fear of victimisation, subsequent discrimination or disadvantage. <b>The procedure must be published on the Provider's public-facing website. The Provider will regularly review the procedure, including securing approval from the body responsible for the management of the Provider of any amended procedure.</b></p> | <p>24 Employees</p>                                  |
| <p><b>Clauses 25.10 &amp; 25.11</b></p>        | <p>Clauses 25.10 &amp; 25.11 have been renumbered 25.9.1 &amp; 25.9.2 as sub-clauses of Clause 25.9</p>   | <p>25 Re-Provision of the Services</p>               |
| <p><b>Clauses 25.12, 25.13 &amp; 25.14</b></p> | <p>Clauses 25.12, 25.13 &amp; 25.14 have been renumbered 25.10, 25.11 &amp; 25.12</p>   | <p>25 Re-Provision of the Services</p>               |
| <p><b>Clause 26.1.5</b></p>                    | <p>Clause 26.1.5 has been re-drafted for clarity</p>  | <p>26 Payment and Audit</p>                          |

| Section                     | Change   | Clause Reference            |
|-----------------------------|--|-----------------------------|
|                             | <p>26.1.5 The payment of Funding by the Department will be without prejudice to any claims or rights, which the Department may have against the Provider and will not constitute any admission by the Department as to the performance by the Provider of its obligations under this Agreement. Prior to any such payment of Funding, the Department will be entitled to make deductions or deferrals in respect of any disputes or claims whatsoever with or against the Provider, arising from this Agreement or any other agreement between the Provider and the Department.</p>  |                             |
| <p><b>Clause 26.1.6</b></p> | <p>The cross reference to Clause 36.3.7 has been corrected within Clause 26.1.6</p> <p>26.1.6 The Department shall be entitled to terminate, pursuant to Clause <b>36.3.9</b> of this Agreement on written notice if the Provider does not recruit and/or data returns reveal that no Learners have been enrolled for the academic year to which this Agreement relates. Where the Department terminates the Agreement under this Clause 26.1.6, the Department will withdraw the allocation of Funding for the academic year and will take action to recover Funds where payments have already occurred.</p>  | <p>26 Payment and Audit</p> |
| <p><b>Clause 26.1.7</b></p> | <p>Clause 26.1.7 has been re-drafted for clarity and split into Clauses 26.1.7 &amp; 26.1.8</p> <p>26.1.7 Where the Department identifies errors which it deems material in the data that the Provider is required to provide under the Agreement to support the payment of Funding, the Department reserves the right at its absolute discretion to require the Provider at the Provider's cost to carry out a 100% audit of all or part of the Services by a deadline specified by the Department and / or to recover from the Provider Funding equivalent to an amount based on the error rate identified and the total value of the Funding paid to the Provider under this Agreement.</p> | <p>26 Payment and Audit</p> |



| Section                                 | Change   | Clause Reference                       |
|---|--|--|
|   | <p>26.1.8 Without prejudice to any other provisions in this Agreement, such amounts as are identified as being recoverable under Clause 26.1.70, may be recovered by making adjustments to data submitted by the Provider under the Agreement, or by raising an invoice for payment by the Provider, or by making deductions from future payments due to the Provider under the Agreement. Failure to settle such amounts by the Provider will constitute a Serious Breach under Clause 35 (Minor and Serious Breach) of this Agreement. The decision of the Department as to the amount of recovery under this clause is final.</p> |  |
| <p><b>Clauses 26.1.8 to 26.1.14</b></p> | <p>Clauses 26.1.8 to 26.1.14 have been renumbered 26.1.9 to 26.1.15 and all references to clauses 26.1.11 have been corrected.</p>   | <p>26 Payment and Audit</p>            |
| <p><b>Clause 28.1.1</b></p>             | <p>Clause 28.1.1 has been amended</p> <p>28.1.1 The Provider must, and will procure that any Provider Related Parties, maintain a full record of all incidents relating to <b>data protection</b>, health, safety and security, including CCTV, which occur during the Agreement Period. The Provider will make the aforementioned records available for inspection by the Department upon reasonable notice, and will present a report of them to the Department as and when requested.</p>   | <p>28 Provider's Records and Audit</p> |
| <p><b>Clause 28.2.1</b></p>             | <p>Clause 28.2.1 sub-clause (e) has been added to sub-clause (d)</p> <p>(d) to review the Provider's and/or a Provider Related Party's (compliance with the DPA 2018, the FOIA in accordance with Clauses 19 (Department Data) and 0 (Freedom of Information and Confidentiality) <b>and any other Law applicable to the Services;</b></p>   | <p>28 Provider's Records and Audit</p> |

| Section              | Change   | Clause Reference                  |
|----------------------|--|-----------------------------------|
| <b>Clause 28.2.1</b> | <p>Clause 28.2.1 sub-clause (i) has been added to the renumbered sub-clause (g)</p> <p>(g) to ensure that the Provider and/or a Provider Related Party is complying with the Department Policies and any British or equivalent European standards; <b>and any other audit that may be required by any Relevant Authority</b></p>   | 28 Provider's Records and Audit   |
| <b>Clause 28.2.1</b> | Clause 28.2.1 sub clauses (f), (g) & (h) have been renumbered (e), (f) & (g)   | 28 Provider's Records and Audit   |
| <b>Clause 28.2.7</b> | Clause 28.2.7 has been replaced with 'NOT USED'  | 28 Provider's Records and Audit   |
| <b>Clause 29.3</b>   | <p>Clause 29.3 has been amended to correct the text</p> <p>29.3 The Department reserves the right to require the Provider to obtain a contribution towards the cost of the Services delivered under this Agreement from the employer of any <b>Learner</b>. Where a contribution is required, the Department will confirm to the Provider in writing the exact percentage of the contribution.</p> | 29 State Aid                      |
| <b>Clause 30.5</b>   | <p>Clause 30.5 has been added</p> <p>30.5 The Provider will not enter into any agreement for Brokerage in relation to the Services under this Agreement.</p>   | 30 Assignment and Sub-contracting |

| Section                         | Change  | Clause Reference                  |
|---------------------------------|---|-----------------------------------|
| <b>Clauses 30.5 to 30.10</b>    | Clauses 30.5 to 30.10 have been renumbered 30.6 to 30.11  | 30 Assignment and Sub-contracting |
| <b>Clause 30.12</b>             | <p>Clause 30.12 has been added</p> <p>30.12 The Provider will review annually its sub-contracts, including the rationale for entering into those sub-contracts, and will publish by 31 October 2020 a statement on its public facing website setting out a high level summary of its sub-contracts and the rationale.</p> | 30 Assignment and Sub-contracting |
| <b>Clauses 30.11 to 30.12</b>   | Clauses 30.11 to 30.12 have been renumbered 30.13 to 30.14  | 30 Assignment and Sub-contracting |
| <b>Clause 30.15</b>             | <p>Clause 30.15 has been added</p> <p>30.15 Failure to comply with any of the requirements under Clauses 30.1 to 30.14 may result in the Department taking such actions as it deems appropriate, which may include, but is not limited to, action under Clause 35 (Minor and Serious Breach).</p>                         | 30 Assignment and Sub-contracting |
| <b>Clauses 31.8.2 to 31.8.6</b> | Clauses 31.8.2 to 31.8.6 have been renumbered (a) to (e) as sub-clauses of Clause 31.8.1  | 31 Indemnities and Liability      |
| <b>Clause 31.11.1</b>           | Clause 31.11.1 has been amended to remove the aggregate liability of £1,000,000   | 31 Indemnities and Liability      |

| Section                         | Change  | Clause Reference                          |
|---------------------------------|---|---|
|                                 | 31.11.1 With regard to the Department the total aggregate liability will be limited to its obligation to pay the Funding as and when it falls due in accordance with this Agreement.  |   |
| <b>Clause 31.11.1</b>           | Clause 31.11.1 sub-clause (a) has been removed  | 31 Indemnities and Liability              |
| <b>Clause 36.3.6</b>            | Clause 36.3.6 has been added<br>36.3.6 In accordance with 12.10.6 the Provider has had two consecutive Ofsted New Provider Monitoring Visits resulting in one or more “insufficient progress” judgements; and/or  | 36 Termination                            |
| <b>Clauses 36.3.6 to 36.3.9</b> | Clauses 36.3.6 to 36.3.9 have been renumbered 36.3.7 to 36.3.10   | 36 Termination                            |
| <b>Clause 36.3.9</b>            | The cross reference to Clause 26.1.12 has been corrected within the renumbered Clause 36.3.10<br><br>36.3.10 the Provider fails to provide information as set out in Clause <b>26.1.13</b> and/or the Department receives information which demonstrates that the Provider is not complying with its obligations under the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax. | 36 Termination                            |
| <b>Clause 37.1.2</b>            | Clause 37.1.2 has been amended to correct the text<br><br>37.1.2 On or before the Expiry Date (except where the Provider will be responsible for delivering the Services in the subsequent Funding Year) or Termination Date, the Provider must ensure that all documents or computer records in its possession, <b>custody or control</b> including but not  | 37 Consequences of Termination and Expiry |

| Section                                      | Change  | Clause Reference   |
|--|---|--|
|  | <p>limited to e-portfolios, which contain information relating to the Services including any documents in the possession, custody or control of a sub-contractor are made available upon request to the Department.</p>   |  |
| <b>Clause 38.2</b>                           | <p>Clause 38.2 has been added</p> <p>38.2 On expiry or termination of this Agreement for any reason, the Provider shall do its utmost to minimise any disruption to Learners and shall co-operate fully with any reasonable requests made by the Department relating to this. For the avoidance of doubt the Department will be entitled to request that where the Provider cannot complete Learners that it will co-operate in transferring the Learners to a new provider even if this is prior to the Termination Date or Expiry Date of this Agreement and the Provider's Exit Plan should reflect this. The Department will not be liable for any costs prior to or after incurred by the Provider in complying with this Clause 38.2.</p> | 38 Exit Arrangements   |
| <b>Clause 49</b>                             | <p>The condition relating to payment of interest has been removed from the Agreement. Clause 49 has been marked "Not Used"</p>  | 49 Interest on Late Payments                                 |
| <b>Nature and purposes of the Processing</b> | <p>The description details have been amended to correct the text</p> <p>The nature and purposes of the processing is defined in the Department privacy notice.</p> <p><a href="https://www.gov.uk/government/publications/esfa-privacy-notice">https://www.gov.uk/government/publications/esfa-privacy-notice</a></p> <p><b>The Provider</b> will be required to submit the data to the Department as set out in Clause 21.2.</p>   | Schedule 6: GDPR Processing, Personal Data and Data Subjects |

| Section  | Change   | Clause Reference   |
|--|--|--|
|  | <p>The processing of data in the Agreement refers to the submission of census data to the Department only. The processing does not include the processing of personal data collected from the learners by the <b>Provider</b> for the purposes of enrolling learners onto programmes or delivering education or training, e.g. e-portfolios.</p>   |  |
| <p><b>Retention and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data</b></p> | <p>The description details have been amended to correct the text</p> <p>Information on how the data must be supplied to the Department is detailed in the School Census: guide to submitting data.</p> <p><a href="https://www.gov.uk/guidance/school-census">https://www.gov.uk/guidance/school-census</a></p> <p>For the purposes of the Department as a data controller of the data, <b>the Provider</b> is required to retain the data for the funding and audit purposes set out in this Agreement for 6 years from the end of the Financial Year in which the last payment is made under this Agreement.</p> <p><b>The Provider</b> (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: GDPR Processing, Personal Data and Data Subjects</p>        |
| <p><b>“Department’s Data”</b><br/><b>“Department’s Information”</b></p>  | <p>Definition has been amended to <b>“Department Data”</b> as defined in Clause 1 (Definitions) of the Agreement</p>   | <p>Schedule 7: Security &amp; Department Policies<br/>Part A: Security</p> |
| <p><b>“Good Industry Practice”</b><br/><b>“Industry Good Practice”</b></p>   | <p>Definition has been amended to <b>“Good Industry Practice”</b></p>  | <p>Schedule 7: Security &amp; Department</p>                               |

| Section   | Change   | Clause Reference  |
|---|--|---|
|   |  | Policies<br>Part A: Security  |
| <b>“Good Industry Standard”</b><br><b>“Industry Good Standard”</b>                                      | Definition has been amended to <b>“Good Industry Standard”</b>                         | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A: Security |
| <b>“GSC”</b><br><b>“GSCP”</b>   | Definition has been amended to add <b>“Government Security Classifications Policy”</b> | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A: Security |
| <b>“Tailored Assurance”</b><br><b>(formally called “CTAS”,</b><br><b>or, “CESG Tailored Assurance”)</b> | Definition has been deleted  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A: Security |
| <b>Clause 1.1</b>   | Clause 1.1 has been deleted  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A: Security |
| <b>Clause 1.2</b>   | Clause 1.2 has been renumbered Clause 1.1 and has been amended                         | Schedule 7:<br>Security &<br>Department                                 |

| Section                  | Change   | Clause Reference   |
|--------------------------|--|--|
|                          | <p>1.1 Where the Provider will handle information at OFFICIAL on behalf of the Department, the requirements under Cabinet Office Procurement Policy <a href="#">Note 09/14</a> – Use of Cyber Essentials Scheme certification, or any subsequent updated document, are mandated, Providers will endeavour to meet the requirements of Cyber Essentials for the 2020/21 Funding Year. This should be done annually, and your results presented to the Department on request. The scope must be relevant to the Services supplied to, or on behalf of, the Department.</p>   | <p>Policies<br/>Part A: Security</p>   |
| <p><b>Clause 1.3</b></p> | <p>Clause 1.3 has been deleted</p>   | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A: Security</p> |
| <p><b>Clause 1.4</b></p> | <p>Clause 1.4 has been renumbered Clause 1.2 and has been amended</p> <p>1.2 The Provider will follow the <b>Cabinet Office guidance on</b> Government Security Classification Policy (GSCP) in respect of any Department Data being handled in the course of providing this Service, and will handle this data in accordance with its security classification. (In the event where the Provider has an existing Protective Marking Scheme then the Provider may continue to use this but must map the HMG security classifications against it to ensure the correct controls are applied to the Department Data).</p> | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A: Security</p> |
| <p><b>Clause 1.5</b></p> | <p>Clause 1.5 has been renumbered Clause 1.3 and has been amended</p> <p>1.3 <b>Processing of Department</b> Data must be segregated from all other data on the Provider’s or sub-contractor’s own IT equipment to protect the Department Data and enable the data to be identified and securely deleted</p>   | <p>Schedule 7:<br/>Security &amp;<br/>Department</p>                                   |



| Section                     | Change   | Clause Reference   |
|-----------------------------|--|--|
|                             | <p>when required. In the event that it is not possible to segregate any Department Data then the Provider and any sub-contractor will be required to ensure that it is stored in such a way that it is possible to securely delete the data in line with Clause <b>1.13</b>.</p>   | <p>Policies<br/>Part A Security</p>  |
| <b>Clauses 1.6 to 1.9</b>   | <p>Clauses 1.6 to 1.9 have been renumbered 1.4 to 1.7</p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p>  |
| <b>Clause 1.10</b>          | <p>Clause 1.10 has been renumbered Clause 1.8 and the cross reference to clauses 1.11 and 1.12 have been corrected.</p> <p>1.8 Storage of Department Data on any portable devices or media will be limited to the absolute minimum required to deliver the stated business requirement and will be subject to Clauses <b>1.9</b> and <b>1.10</b> below.</p>                      | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A Security</p>  |
| <b>Clauses 1.11 to 1.15</b> | <p>Clauses 1.11 to 1.15 have been renumbered 1.9 to 1.13</p>   | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A: Security</p> |
| <b>Clause 1.16</b>          | <p>Clause 1.16 has been re-numbered Clause 1.14 and has been amended</p> <p>1.14 Access by Provider or sub-contractor staff to Department Data will be confined to those individuals who have a “need-to-know” in order to carry out their role; and have undergone mandatory pre-employment screening, to a minimum of HMG Baseline Personnel Security Standard (BPSS). All</p> | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A: Security</p> |

| Section                     | Change   | Clause Reference  |
|-----------------------------|--|---|
|                             | Provider or sub-contractor staff must complete this process before access to Department Data is permitted.   |   |
| <b>Clauses 1.17 to 1.18</b> | Clauses 1.17 to 1.18 have been renumbered 1.15 to 1.16   | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A: Security |
| <b>Clause 1.19</b>          | <p>Clause 1.19 has been renumbered Clause 1.17 and has been amended</p> <p>1.19 Any suspected or actual breach of the confidentiality, integrity or availability of Department Data being handled in the course of providing this Service, or any non-compliance with these Departmental Security Standards for Contractors, or other Security Standards pertaining to the solution, will be investigated immediately and escalated to the Department. <b>The Provider will inform their Agreement Manager in writing as soon as a breach is identified.</b></p> | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A: Security |
| <b>Clauses 1.20 to 1.22</b> | Clauses 1.20 to 1.22 have been renumbered 1.18 to 1.20   | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A: Security |
| <b>Clause 1.23</b>          | <p>Clause 1.23 has been renumbered Clause 1.21 and amended</p> <p>1.21 The Provider will contractually enforce all the <b>clauses in this Schedule</b> onto any third-party suppliers, sub-contractors or partners who could potentially access Department Data in the course of providing this Service.</p>   | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A: Security |

| Section                   | Change  | Clause Reference   |
|---------------------------|---|--|
| <p><b>Clause 1.24</b></p> | <p>Clause 1.24 has been renumbered 1.22 and has been amended</p> <p>The Provider and sub-contractors will undergo appropriate security assurance activities as determined by the Department. Provider and sub-contractors will support the provision of appropriate evidence of assurance and the production of the necessary security documentation <b>on request</b>.</p> | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A: Security</p> |

## Specialist Post-16 Institution

| Section                           | Change   | Clause Reference |
|-----------------------------------|--|------------------|
| <b>“Barred List”</b>              | Definition has been added  | 1 Definitions    |
| <b>“Brokerage”</b>                | Definition has been added  | 1 Definitions    |
| <b>“Confidential Information”</b> | Definition has been amended<br><br>means any information, including Personal Data as defined by the Data Protection <b>Laws</b> and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Parties including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked "confidential");  | 1 Definitions    |
| <b>“Data Protection Laws”</b>     | Definition has been amended<br><br>means the Data Protection Act 2018 and <b>Privacy and</b> Electronic Communications (EC Directive) Regulations 2003 and any other data protection laws and regulations applicable in the UK (or in any relevant part thereof), including the General Data Protection Regulation (EU) 2016/679 or similar and any codes of practice, guidelines and recommendations issued by the Information Commissioner, any replacement body or other relevant supervisory authority, all of which are current at the time of any Data processing by the Provider (and in the event of any conflict between the Data Protection Laws and Law, Data Protection Laws shall take precedence); | 1 Definitions    |
| <b>“Department Data”</b>          | Definition has been amended  | 1 Definitions    |

| Section                           | Change   | Clause Reference |
|-----------------------------------|--|------------------|
|                                   | <p>means any data (including metadata), record, document or information howsoever stored which is either:</p> <p>(a) communicated by the Department, its staff, sub-contractors and agents to the Provider in writing, orally, electronically or by any other means relating to the Learners and/or Services provided to the Learners; or</p> <p>(b) is obtained, gleaned, compiled or processed by the Provider during the course of the Provider providing the Services relating to or provided to the Learners, <b>including Personal Data for which the Department is the data controller</b></p> <p>including but not limited to ILR Data and e-portfolios;</p> |                  |
| <b>“Department Related Party”</b> | Definition has been added  | 1 Definitions    |
| <b>“High Needs Learner”</b>       | <p>Definition has been amended</p> <p>means a Learner aged 16 to 18 with high levels of <b>Special Educational Needs and Disability (SEND)</b>, supported with top-up funding from the high needs budget, or any young person aged 19 to 25 subject to an Education Health and Care Plan, who requires additional support costing over £6,000;</p>   | 1 Definitions    |
| <b>“Serious Breach”</b>           | <p>Definition has been amended</p> <p>shall mean any breach defined as a Serious Breach in the Agreement or any breach or breaches which adversely, materially or substantially affect the performance or delivery of the Services or compliance with the terms and conditions of the Agreement or the provision of a safe, healthy and supportive learning environment <b>or a breach of security that adversely affects the</b></p>  | 1 Definitions    |

| Section                      | Change   | Clause Reference                                  |
|------------------------------|--|---|
|                              | <p><b>Personal Data or privacy of an individual.</b> Failure to comply with Law, or actions or omissions by the Provider that endanger the Health or Safety of Learners, <b>Provider Personnel, and all other persons including member of the public</b> would constitute a Serious Breach;</p>  |   |
| <p><b>Clause 10.5</b></p>    | <p>Clause 10.5 sub-clauses (a) to (e) have been renumbered 10.5.1 to 10.5.5</p>  | <p>10 Quality Assurance and Raising Standards</p> |
| <p><b>Clause 10.5(e)</b></p> | <p>The cross reference to sub-clauses 10.5(a) to 10.5(d) have been corrected within the renumbered Clause 10.5.5</p> <p>10.5.6 ensure all sub-contractors delivering Services under the Agreement on behalf of the Provider comply with the requirements set out in Clauses <b>10.5.1 to 10.5.4</b> above.</p>                                   | <p>10 Quality Assurance and Raising Standards</p> |
| <p><b>Clause 10.6</b></p>    | <p>The cross reference to Clauses 10.5(a) to 10.5(e) have been corrected within Clause 10.6</p> <p>10.6 Failure to meet the requirements set out in Clauses <b>10.5.1 to 10.5.5</b> may result in the Department assessing the Provider to be in Serious Breach of the Agreement under Clause 35 (Minor and Serious Breach) of the Agreement</p> | <p>10 Quality Assurance and Raising Standards</p> |
| <p><b>Clause 10.9</b></p>    | <p>The cross reference to Clauses 10.5(a) to 10.5(e) have been corrected within Clause 10.9</p>  | <p>10 Quality Assurance and Raising Standards</p> |

| Section                     | Change  | Clause Reference           |
|-----------------------------|---|----------------------------|
|                             | <p>10.10 The Department may assess the quality and delivery of the Services and the Provider’s compliance with the requirements in Clause <b>10.5.1</b> to <b>10.5.5</b> during the Agreement Period. The Provider will be informed of the outcome of that process. Where the Department assesses the Provider to be in Serious Breach of Agreement following such assessment the Department will issue a notice in accordance with Clause 35.3.1 of the Agreement which, where the Department is not terminating, may:</p> |                            |
| <p><b>Clause 11.1</b></p>   | <p>Clause 11.1 sub-clause (a) has been amended to remove the reference to “Agreement obligations” and replace with “conditions of funding”</p> <p>(b) require the Provider to, and the Provider will, accept and comply with additional <b>conditions of funding</b> relating to the improvement of financial health and/or control arrangements;</p>   | <p>11 Financial Health</p> |
| <p><b>Clause 12.3.1</b></p> | <p>Clause 12.3.1 has been amended to remove the reference to “Agreement obligations” and replace with “conditions of funding”</p> <p>12.3.1 require the Provider to accept and comply with additional <b>conditions of funding</b> relating to the improvement of the Services assessed as inadequate; and/or</p>   | <p>12 Inspections</p>      |
| <p><b>Clause 12.4.1</b></p> | <p>Clause 12.4.1 has been amended to remove the reference to “contractual obligations” and replace with “conditions of funding”</p> <p>12.4.2 require the Provider to accept and comply with temporary additional <b>conditions of funding</b> relating to the improvement of the overall Services, including but not limited to, requiring the Provider to temporarily suspend the recruitment of Learners and/or temporarily cap any growth in those Learning Programmes which are assessed as inadequate;</p>            | <p>12 Inspections</p>      |

| Section               | Change  | Clause Reference     |
|-----------------------|---|----------------------|
| <b>Clause 12.5.1</b>  | <p>Clause 12.5.1 has been amended to remove the reference to “Agreement obligations” and replace with “conditions of funding”</p> <p>12.5.2 require the Provider to accept and comply with additional <b>conditions of funding</b> relating to the improvement of the overall Services; and/or</p>  | 12 Inspections       |
| <b>Clause 12.12.6</b> | <p>Cause 12.12.6 has been added</p> <p>12.12.6 terminate this Agreement in accordance with Clause 36.3.6 if the Provider has two consecutive New Provider Monitoring visits each resulting in one or more “insufficient progress” judgements in relation to one or more themes.</p>   | 12 Inspections       |
| <b>Clause 13</b>      | The clause relating to Minimum Standards has been removed from the Agreement. Clause 13 has been marked “Not Used”  | 13 Minimum Standards |
| <b>Clause 15.2.3</b>  | <p>Clause 15.2.3 has been amended to remove the reference to “contractual obligations” and replace with “conditions of funding”</p> <p>15.2.5 Where the Department has undertaken an investigation or received a report from an independent accountant or otherwise, in relation to the Provider it may, as a consequence of that investigation or report, require the Provider to, and the Provider will, accept and comply with additional <b>conditions of funding</b> and will meet the cost of such investigation.</p> | 15 Relationships     |
| <b>Clause 15.2.4</b>  | Clause 15.2.4 has been amended to remove the reference to “contractual obligations” and replace with “additional conditions”  | 15 Relationships     |



| Section              | Change   | Clause Reference   |
|----------------------|--|--------------------|
|                      | 15.2.6 Where the Provider fails to comply with the <b>additional conditions</b> 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, under Clause 35 (Minor and Serious Breach).   |                    |
| <b>Clause 16.2.3</b> | <p>Clause 16.2.3 has been amended to correct the text</p> <p>16.2.4 In the event that the Provider wishes to change the identity of the Account Manager, it will, subject to Clause 16.2.4 give to the Department not less than 5 Working Days' notice in writing of such change. <b>Such written</b> notice will inform the Department of the name, telephone number e-mail address and postal address of the new Account Manager.</p>  | 16 Representative  |
| <b>Clause 19.2</b>   | <p>Clause 19.2 has been amended to clarify how back-ups of Department Data should be stored and to remove the requirement to deliver back-ups to the Department at monthly intervals when requested.</p> <p>19.4 The Provider must perform secure back-ups of all the Department Data and must ensure that up-to-date back-ups, <b>where not stored in the cloud</b>, are stored off-site in accordance with the Business Continuity Plan. <b>Back-ups stored in the cloud must comply with Data Protection Laws.</b> The Provider must ensure that such back-ups are available to the Department at all times upon request.</p> | 19 Department Data |
| <b>Clause 19.3</b>   | <p>Clause 19.3 has been amended</p> <p>19.5 The Provider must take all necessary steps to ensure that any Department Data which comes into its possession or control is protected in accordance</p>  | 19 Department Data |

| Section                            | Change  | Clause Reference                                   |
|------------------------------------|---|--|
|                                    | with the DPA 2018 and appropriate security procedures <b>as set out in Schedule 7 (Security &amp; Department Policies)</b> and in compliance with Good Industry Practice (having regard to the nature of its other obligations under this Agreement and under the DPA 2018).  |  |
| <b>Clause 20.1</b>                 | <p>Clause 20.1 has been amended to correct the text and the cross reference to Clause 20.15</p> <p>20.2 The Parties acknowledge that for the purposes of the Data Protection Laws, the Department on behalf of the Secretary of State for Education is the Controller and the Provider is the Processor only for the processing set out in Schedule 6 (i.e. submission of Learner data to the Department). Any other processing of Personal Data undertaken by the Provider (<b>i.e.</b> Learner enrolment or delivering education &amp; training, e.g. e-portfolios) will be as a Data Controller and not on behalf of the Department. Clauses 20.2 to <b>20.14</b> below apply only in relation to the processing of Personal Data on behalf of the Department as set out in Schedule 6, and the only processing that the Processor is authorised to do on behalf of the Department is listed in Schedule 6 by the Department and may not be determined by the Processor.</p> | 20 Data Protection and Protection of Personal Data |
| <b>Clauses 20.4.4 to 20.4.7</b>    | Clauses 20.4.4 to 20.4.7 have been renumbered (i) to (iv) as sub-clauses of Clause 20.4.3 (b)   | 20 Data Protection and Protection of Personal Data |
| <b>Clauses 20.4.8 &amp; 20.4.9</b> | Clauses 20.4.8 & 20.4.9 have been renumbered 20.4.4 & 20.4.5  | 20 Data Protection and Protection of Personal Data |

| Section              | Change  | Clause Reference                                   |
|----------------------|---|--|
| <b>Clause 20.5.2</b> | <p>Clause 20.5.2 has been amended</p> <p>20.5.2 receives a request to rectify, block or erase any Personal Data processed through the submission of learner data. <b>Notification in such cases should be given via the Agreement Manager;</b></p>  | 20 Data Protection and Protection of Personal Data |
| <b>Clause 20.18</b>  | <p>Clause 20.18 has been added</p> <p>20.19 The Processor will comply with any further written instructions or additional conditions from the Department's Controller in relation to the data processing.</p>   | 20 Data Protection and Protection of Personal Data |
| <b>Clause 21.1.7</b> | <p>Clause 21.1.7 has been amended</p> <p>21.1.7 The Provider must update the course information funded by the Department at <a href="https://coursedirectory.nationalcareersservice.org.uk/">https://coursedirectory.nationalcareersservice.org.uk/</a>.</p>  | 21 Submission of Learner Data                      |
| <b>Clause 21.1.8</b> | <p>Clause 21.1.8 has been amended to include the requirement to maintain data on GIAS</p> <p>21.1.9 The Provider must register with UKRLP (<a href="http://www.ukrlp.co.uk/">http://www.ukrlp.co.uk/</a>) and <b>Get Information About Schools</b> (<a href="https://get-information-schools.service.gov.uk/">https://get-information-schools.service.gov.uk/</a>) and maintain contact details on an on-going basis.</p> | 21 Submission of Learner Data                      |

| Section  | Change  | Clause Reference                                     |
|--|---|--|
| <p><b>Clause 23.2.2</b></p>                    | <p>Clause 23.2.2 has been amended</p> <p>23.2.3 The Provider must take all necessary precautions to ensure that all Confidential Information obtained from the Department is treated as confidential and not disclosed (without prior approval <b>from the Department's Agreement Manager</b>) or used other than for the purposes of this Agreement by any of its employees, servants, agents or sub-contractors.</p>  | <p>23 Freedom of Information and Confidentiality</p> |
| <p><b>Clause 24.13</b></p>                     | <p>Clause 24.13 has been amended</p> <p>24.13 The Provider will ensure that it has in place and complies with an effective whistleblowing procedure, <b>approved by the body responsible for the management of the Provider</b>, whereby staff may raise in confidence concerns about possible malpractice without fear of victimisation, subsequent discrimination or disadvantage. <b>The procedure must be published on the Provider's public-facing website. The Provider will regularly review the procedure, including securing approval from the body responsible for the management of the Provider of any amended procedure.</b></p> | <p>24 Employees</p>                                  |
| <p><b>Clauses 25.10 &amp; 25.11</b></p>        | <p>Clauses 25.10 &amp; 25.11 have been renumbered 25.9.1 &amp; 25.9.2 as sub-clauses of Clause 25.9</p>   | <p>25 Re-Provision of the Services</p>               |
| <p><b>Clauses 25.12, 25.13 &amp; 25.14</b></p> | <p>Clauses 25.12, 25.13 &amp; 25.14 have been renumbered 25.10, 25.11 &amp; 25.12</p>   | <p>25 Re-Provision of the Services</p>               |
| <p><b>Clause 26.1.5</b></p>                    | <p>Clause 26.1.5 has been re-drafted for clarity</p>  | <p>26 Payment and Audit</p>                          |

| Section                     | Change   | Clause Reference            |
|-----------------------------|--|-----------------------------|
|                             | <p>26.1.6 The payment of Funding by the Department will be without prejudice to any claims or rights, which the Department may have against the Provider and will not constitute any admission by the Department as to the performance by the Provider of its obligations under this Agreement. Prior to any such payment of Funding, the Department will be entitled to make deductions or deferrals in respect of any disputes or claims whatsoever with or against the Provider, arising from this Agreement or any other agreement between the Provider and the Department.</p>                                |                             |
| <p><b>Clause 26.1.6</b></p> | <p>The cross reference to Clause 36.3.7 have been corrected within the Clause 26.1.6</p> <p>26.1.6 The Department shall be entitled to terminate, pursuant to Clause <b>36.3.8</b> of this Agreement on written notice if the Provider does not recruit and/or data returns reveal that no Learners have been enrolled for the academic year to which this Agreement relates. Where the Department terminates the Agreement under this Clause 26.1.6, the Department will withdraw the allocation of Funding for the academic year and will take action to recover Funds where payments have already occurred.</p> | <p>26 Payment and Audit</p> |
| <p><b>Clause 26.1.7</b></p> | <p>Clause 26.1.7 has been re-drafted for clarity and split into Clauses 26.1.7 &amp; 26.1.8</p> <p>26.1.9 Where the Department identifies errors which it deems material in the data that the Provider is required to provide under the Agreement to support the payment of Funding, the Department reserves the right at its absolute discretion to require the Provider at the Provider's cost to carry out a 100% audit of all or part of the Services by a deadline specified by the Department and / or to recover from the Provider</p>  | <p>26 Payment and Audit</p> |

| Section                          | Change   | Clause Reference                |
|----------------------------------|--|---------------------------------|
|                                  | <p>Funding equivalent to an amount based on the error rate identified and the total value of the Funding paid to the Provider under this Agreement.</p> <p>26.1.10 Without prejudice to any other provisions in this Agreement, such amounts as are identified as being recoverable under Clause 26.1.7, may be recovered by making adjustments to data submitted by the Provider under the Agreement, or by raising an invoice for payment by the Provider, or by making deductions from future payments due to the Provider under the Agreement. Failure to settle such amounts by the Provider will constitute a Serious Breach under Clause 35 (Minor and Serious Breach) of this Agreement. The decision of the Department as to the amount of recovery under this clause is final.</p> |                                 |
| <b>Clauses 26.1.8 to 26.1.14</b> | Clauses 26.1.8 to 26.1.14 have been renumbered 26.1.9 to 26.1.15 and all references to clauses 26.1.11 have been corrected.  | 26 Payment and Audit            |
| <b>Clause 28.1.1</b>             | <p>Clause 28.1.1 has been amended</p> <p>28.1.2 The Provider must, and will procure that any Provider Related Parties, maintain a full record of all incidents relating to <b>data protection</b>, health, safety and security, including CCTV, which occur during the Agreement Period. The Provider will make the aforementioned records available for inspection by the Department upon reasonable notice, and will present a report of them to the Department as and when requested.</p>   | 28 Provider's Records and Audit |
| <b>Clause 28.2.1</b>             | <p>Clause 28.2.1 sub-clause (e) has been added to sub-clause (d)</p> <p>(e) to review the Provider's and/or a Provider Related Party's (compliance with the DPA 2018, the FOIA in accordance with Clauses 19</p>   | 28 Provider's Records and Audit |

| Section              | Change   | Clause Reference                |
|----------------------|--|---------------------------------|
|                      | (Department Data) and 0 (Freedom of Information and Confidentiality) <b>and any other Law applicable to the Services;</b>  |                                 |
| <b>Clause 28.2.1</b> | Clause 28.2.1 sub-clause (i) has been added to the renumbered sub-clause (g)<br><br>(h) to ensure that the Provider and/or a Provider Related Party is complying with the Department Policies and any British or equivalent European standards <b>and any other audit that may be required by any Relevant Authority</b>   | 28 Provider's Records and Audit |
| <b>Clause 28.2.1</b> | Clause 28.2.1 sub clauses (f), (g) & (h) have been renumbered (e), (f) & (g)   | 28 Provider's Records and Audit |
| <b>Clause 28.2.7</b> | The cross reference to Clause 23 has been corrected within Clause 28.2.7<br><br>28.2.7 If the findings of an audit conducted pursuant to this Clause 28 results in the requirement for ILR data to be corrected and re-submitted the Provider must re-submit the data to the Department, as set out in Clause <b>21 (Submission of Learner Data)</b> , within two months. Failure to do so will be a Minor Breach of this Agreement. | 28 Provider's Records and Audit |
| <b>Clause 29.3</b>   | Clause 29.3 has been amended to correct the text<br><br>29.4 The Department reserves the right to require the Provider to obtain a contribution towards the cost of the Services delivered under this Agreement from the employer of any <b>Learner</b> . Where a contribution is required, the Department will confirm to the Provider in writing the exact percentage of the contribution.   | 29 State Aid                    |

| Section                         | Change  | Clause Reference                  |
|---------------------------------|---|-----------------------------------|
| <b>Clause 30.5</b>              | <p>Clause 30.5 has been added</p> <p>30.5 The Provider will not enter into any agreement for Brokerage in relation to the Services under this Agreement.</p>  | 30 Assignment and Sub-contracting |
| <b>Clauses 30.5 to 30.10</b>    | <p>Clauses 30.5 to 30.10 have been renumbered 30.6 to 30.11</p>   | 30 Assignment and Sub-contracting |
| <b>Clause 30.12</b>             | <p>Clause 30.12 has been added</p> <p>30.12 The Provider will review annually its sub-contracts, including the rationale for entering into those sub-contracts, and will publish by 31 October 2020 a statement on its public facing website setting out a high level summary of its sub-contracts and the rationale.</p> | 30 Assignment and Sub-contracting |
| <b>Clauses 30.11 to 30.12</b>   | <p>Clauses 30.11 to 30.12 have been renumbered 30.13 to 30.14</p>   | 30 Assignment and Sub-contracting |
| <b>Clause 30.15</b>             | <p>Clause 30.15 has been added</p> <p>30.15 Failure to comply with any of the requirements under Clauses 30.1 to 30.14 may result in the Department taking such actions as it deems appropriate, which may include, but is not limited to, action under Clause 35 (Minor and Serious Breach).</p>                         | 30 Assignment and Sub-contracting |
| <b>Clauses 31.8.2 to 31.8.6</b> | <p>Clauses 31.8.2 to 31.8.6 have been renumbered (a) to (e) as sub-clauses of Clause 31.8.1</p>   | 31 Indemnities and Liability      |



| Section                         | Change  | Clause Reference                          |
|---------------------------------|---|---|
| <b>Clause 31.11.1</b>           | <p>Clause 31.11.1 has been amended to remove the aggregate liability of £1,000,000</p> <p>31.11.2 With regard to the Department the total aggregate liability will be limited to its obligation to pay the Funding as and when it falls due in accordance with this Agreement.</p>  | 31 Indemnities and Liability              |
| <b>Clause 31.11.1</b>           | Clause 31.11.1 sub-clause (a) has been removed  | 31 Indemnities and Liability              |
| <b>Clause 36.3.6</b>            | <p>Clause 36.3.6 has been added</p> <p>36.3.6 in accordance with 12.12.6 the Provider has had two consecutive Ofsted New Provider Monitoring Visits resulting in one or more “insufficient progress” judgements; and/or</p>   | 36 Termination                            |
| <b>Clauses 36.3.6 to 36.3.9</b> | Clauses 36.3.6 to 36.3.9 have been renumbered 36.3.7 to 36.3.10   | 36 Termination                            |
| <b>Clause 36.3.9</b>            | <p>The cross reference to Clause 26.1.12 have been corrected within the renumbered Clause 36.3.10</p> <p>36.3.10 the Provider fails to provide information as set out in Clause <b>26.1.13</b> and/or the Department receives information which demonstrates that the Provider is not complying with its obligations under the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax.</p> | 36 Termination                            |
| <b>Clause 37.1.2</b>            | Clause 37.1.2 has been amended to correct the text  | 37 Consequences of Termination and Expiry |

| Section   | Change  | Clause Reference   |
|---|---|--|
|   | 37.1.3 On or before the Expiry Date (except where the Provider will be responsible for delivering the Services in the subsequent Funding Year) or Termination Date, the Provider must ensure that all documents or computer records in its possession, <b>custody or control</b> including but not limited to e-portfolios, which contain information relating to the Services including any documents in the possession, custody or control of a sub-contractor are made available upon request to the Department.   |  |
| <b>Clause 38.2</b>  | <p>Clause 38.2 has been added</p> <p>38.2 On expiry or termination of this Agreement for any reason, the Provider shall do its utmost to minimise any disruption to Learners and shall co-operate fully with any reasonable requests made by the Department relating to this. For the avoidance of doubt the Department will be entitled to request that where the Provider cannot complete Learners that it will co-operate in transferring the Learners to a new provider even if this is prior to the Termination Date or Expiry Date of this Agreement and the Provider's Exit Plan should reflect this. The Department will not be liable for any costs prior to or after incurred by the Provider in complying with this Clause 38.2.</p> | 38 Exit Arrangements   |
| <b>Clause 49</b>  | The condition relating to payment of interest has been removed from the Agreement. Clause 49 has been marked "Not Used"   | 49 Interest on Late Payments                                   |
| <b>"Department's Data"<br/>"Department's Information"</b> | Definition has been amended to <b>"Department Data"</b> as defined in Clause 1 (Definitions) of the Agreement   | Schedule 7: Security & Department Policies<br>Part A: Security |

| Section  | Change  | Clause Reference   |
|--|---|--|
| <p><b>“Good Industry Practice”</b><br/><b>“Industry Good Practice”</b></p>                                       | <p>Definition has been amended to <b>“Good Industry Practice”</b></p>                         | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A: Security</p> |
| <p><b>“Good Industry Standard”</b><br/><b>“Industry Good Standard”</b></p>                                       | <p>Definition has been amended to <b>“Good Industry Standard”</b></p>                         | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A: Security</p> |
| <p><b>“GSC”</b><br/><b>“GSCP”</b></p>  | <p>Definition has been amended to add <b>“Government Security Classifications Policy”</b></p> | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A: Security</p> |
| <p><b>“Tailored Assurance”</b><br/><b>(formally called “CTAS”,</b><br/><b>or, “CESG Tailored Assurance”)</b></p> | <p>Definition has been deleted</p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A: Security</p> |
| <p><b>Clause 1.1</b></p>   | <p>Clause 1.1 has been deleted</p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A: Security</p> |

| Section           | Change   | Clause Reference   |
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| <b>Clause 1.2</b> | <p>Clause 1.2 has been renumbered Clause 1.1 and has been amended</p> <p>1.4 Where the Provider will handle information at OFFICIAL on behalf of the Department, the requirements under Cabinet Office Procurement Policy <a href="#">Note 09/14</a> – Use of Cyber Essentials Scheme certification, or any subsequent updated document, are mandated, Providers will endeavour to meet the requirements of Cyber Essentials for the 2020/21 Funding Year. This should be done annually, and your results presented to the Department on request. The scope must be relevant to the Services supplied to, or on behalf of, the Department.</p> | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A: Security</p> |
| <b>Clause 1.3</b> | <p>Clause 1.3 has been deleted</p>   | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A: Security</p> |
| <b>Clause 1.4</b> | <p>Clause 1.4 has been renumbered Clause 1.2 and has been amended</p> <p>1.5 The Provider will follow the <b>Cabinet Office guidance on</b> Government Security Classification Policy (GSCP) in respect of any Department Data being handled in the course of providing this Service, and will handle this data in accordance with its security classification. (In the event where the Provider has an existing Protective Marking Scheme then the Provider may continue to use this but must map the HMG security classifications against it to ensure the correct controls are applied to the Department Data).</p>                         | <p>Schedule 7:<br/>Security &amp;<br/>Department<br/>Policies<br/>Part A: Security</p> |
| <b>Clause 1.5</b> | <p>Clause 1.5 has been renumbered Clause 1.3 and has been amended</p>  | <p>Schedule 7:<br/>Security &amp;</p>  |

| Section                            | Change   | Clause Reference   |
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|                                    | <p>1.6 <b>Processing of Department</b> Data must be segregated from all other data on the Provider's or sub-contractor's own IT equipment to protect the Department Data and enable the data to be identified and securely deleted when required. In the event that it is not possible to segregate any Department Data then the Provider and any sub-contractor will be required to ensure that it is stored in such a way that it is possible to securely delete the data in line with Clause <b>1.13</b>.</p> | <p>Department Policies<br/>Part A Security</p>                                     |
| <p><b>Clauses 1.6 to 1.9</b></p>   | <p>Clauses 1.6 to 1.9 have been renumbered 1.4 to 1.7</p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department Policies<br/>Part A Security</p>  |
| <p><b>Clause 1.10</b></p>          | <p>Clause 1.10 has been renumbered Clause 1.8 and the cross reference to clauses 1.11 and 1.12 have been corrected.</p> <p>1.8 Storage of Department Data on any portable devices or media will be limited to the absolute minimum required to deliver the stated business requirement and will be subject to Clauses <b>1.9</b> and <b>1.10</b> below.</p>  | <p>Schedule 7:<br/>Security &amp;<br/>Department Policies<br/>Part A Security</p>  |
| <p><b>Clauses 1.11 to 1.15</b></p> | <p>Clauses 1.11 to 1.15 have been renumbered 1.9 to 1.13</p>   | <p>Schedule 7:<br/>Security &amp;<br/>Department Policies<br/>Part A: Security</p> |
| <p><b>Clause 1.16</b></p>          | <p>Clause 1.16 has been re-numbered Clause 1.14 and has been amended</p>   | <p>Schedule 7:<br/>Security &amp;<br/>Department</p>                               |

| Section                     | Change  | Clause Reference  |
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|                             | 1.14 Access by Provider or sub-contractor staff to Department Data will be confined to those individuals who have a “need-to-know” in order to carry out their role; and have undergone mandatory pre-employment screening, to a minimum of HMG Baseline Personnel Security Standard (BPSS). All Provider or sub-contractor staff must complete this process before access to Department Data is permitted.   | Policies<br>Part A: Security  |
| <b>Clauses 1.17 to 1.18</b> | Clauses 1.17 to 1.18 have been renumbered 1.15 to 1.16  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A: Security |
| <b>Clause 1.19</b>          | Clause 1.19 has been renumbered Clause 1.17 and has been amended<br><br>1.17 Any suspected or actual breach of the confidentiality, integrity or availability of Department Data being handled in the course of providing this Service, or any non-compliance with these Departmental Security Standards for Contractors, or other Security Standards pertaining to the solution, will be investigated immediately and escalated to the Department. <b>The Provider will inform their Agreement Manager in writing as soon as a breach is identified.</b> | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A: Security |
| <b>Clauses 1.20 to 1.22</b> | Clauses 1.20 to 1.22 have been renumbered 1.18 to 1.20  | Schedule 7:<br>Security &<br>Department<br>Policies<br>Part A: Security |
| <b>Clause 1.23</b>          | Clause 1.23 has been renumbered Clause 1.21 and amended   | Schedule 7:<br>Security &   |

| Section                   | Change   | Clause Reference   |
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|                           | <p>1.22 The Provider will contractually enforce all the <b>clauses in this Schedule</b> onto any third-party suppliers, sub-contractors or partners who could potentially access Department Data in the course of providing this Service.</p>  | <p>Department Policies<br/>Part A: Security</p>                                    |
| <p><b>Clause 1.24</b></p> | <p>Clause 1.24 has been renumbered 1.22 and has been amended</p> <p>1.22 The Provider and sub-contractors will undergo appropriate security assurance activities as determined by the Department. Provider and sub-contractors will support the provision of appropriate evidence of assurance and the production of the necessary security documentation <b>on request</b>.</p> | <p>Schedule 7:<br/>Security &amp;<br/>Department Policies<br/>Part A: Security</p> |