

Terms

1. Definitions and Interpretation

1.1 The definitions and rules of interpretation in this clause apply to this agreement:

Apprentice means a person who works under an Apprenticeship Agreement entered into with the Employer

Apprentice Assessment Organisation means any organisation on the Register of Apprentice Assessment Organisations which is selected by an Employer and contracted by Bradford College Group to carry out End-Point Assessment

Apprenticeship means the training and (where applicable) end-point assessment for an employee as part of a job with an accompanying skills development programme

Apprenticeship Agreement means (a) an approved English apprenticeship agreement; or (b) an apprenticeship agreement within the meaning given in section 32 of the Apprenticeship, Skills, Children and Learning Act 2009 as it applies in relation to England by virtue of provision made under section 115(9) of the Deregulation Act 2015

Apprenticeship Programme means a programme of Training as agreed between the employer and Bradford College Group

Apprenticeship Programme Completion Date means the date on which the last Apprentice successfully completes the relevant End-Point Assessment (including following any resits necessary for such successful completion)

Approved Apprenticeship Standard has the meaning given in Section A1 of the Apprenticeships, Skills, Children and Learning Act 2009

Bradford College Group is made up of the following organisations;

- Bradford College
- Training for Bradford Limited
- Beacon Recruitment
- Inprint

The contract will be delivered and managed by Training for Bradford Ltd (trading as City Training Services) on behalf of Bradford College Group.

Break in Learning means a period of time during an Apprenticeship Programme in which the Apprentice is not participating in work with the Employer, nor undertaking any training or learning with Bradford College Group and where at the time of notification the Apprentice intends to resume participation in the Apprenticeship at some point in the future. By way of example only, this may be due to illness, pregnancy or other reason which makes them temporarily unable to continue with the Apprenticeship;

Bribery Act the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation

Charges means the full cost of the Services provided in accordance with the Apprenticeship Programme(s) as set out the relevant Apprenticeship Programme including the cost of any resits pursuant payable to clause 4.1.9 and additional costs pursuant to clause 19.2;

Contract Particulars means the particulars of this agreement as set out and attached to this agreement above

Contract Terms means these contract terms from clause 1 to 20 (inclusive)

Employer's Digital Account the part of the ESFA's apprenticeship service which shows the amount of funding available to the Employer to spend on training of Apprentices

Employer's Representative means the person stated as the Employer's representative in the Contract Particulars or notified to Bradford College Group from time to time

End-Point Assessment the independent assessment of the Apprentice's knowledge, skills and behaviours carried out by an Apprentice Assessment Organisation at the end of the Training to confirm that the Apprentice has met the requirements of any relevant Approved Apprenticeship Standard

ESFA means the Secretary of State for Education, acting through the Education and Skills Funding Agency, an executive agency of the Department for Education, whose principal address is at Cheylesmore House, Quinton Road, Coventry, CV1 2WT

ESFA Contingency means the action following change in employer, apprentice or Bradford College Group circumstances set out in the Funding Rules (on page 33 after paragraph P206 in Version 2 of the Funding Rules)

ESFA Contingency Event means each scenario described in each ESFA Contingency

Funding the funding paid to the Training Provider on behalf of the Employer towards the cost of Training and End-Point Assessment in accordance with this agreement.

Funding Rules the Apprenticeship Funding and Performance Management Rules for Bradford College Group and, where applicable, the Apprenticeship Funding: Rules for Employer-Providers, both as revised and amended from time to time and available at: <https://www.gov.uk/government/publications/apprenticeship-funding-and-performance-management-rules-2017-to-2018>

Incentive Payment means an incentive payment made available to employers and paid to Bradford College Group on employers' behalf by the ESFA such as the apprenticeship grant for employers (AGE)

Intellectual Property Rights means any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites

Law means all statutes, statutory instruments, regulations, byelaws, rules, judicial rulings and orders made under any statute, directive or by any competent legislative or judicial body in England and Wales

Mandatory Policies means the policies of Bradford College Group or made known to the Employer from time to time

Services the provision of training services in respect of the Apprenticeship Programmes, as further detailed in Schedule 1

Subcontractor means a person or organisation selected by the Employer and Bradford College Group to deliver part of the Training on behalf of the Training Provider under this agreement

Training means the delivery of training and on-programme assessment by Bradford College Group to one or more Apprentices

Training Provider's Representative means the person stated as Bradford College Group representative in the Contract Particulars or notified to the Employer from time to time

Unfunded Charges means such parts of the Charges that have not been recovered from the ESFA for any reason other than the default of Bradford College Group

VAT means value added tax at the rate prevailing at the time of the relevant supply charged in accordance with the provisions of the Value Added Tax Act 1994;

- 1.2 Clause and Schedule headings do not affect the interpretation of this agreement.
- 1.3 References to clauses and Schedules are (unless otherwise provided) references to the clauses and Schedules of this agreement.
- 1.4 If there is an inconsistency between any of the provisions in the main body of this agreement and the Schedules, the provisions in the main body of this agreement shall prevail.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 1.6 A reference to a statute or statutory provision or the Funding Rules is a reference to it as amended, extended or re-enacted from time to time.
- 1.7 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time.
- 1.8 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.9 Words or phrases defined in the Funding Rules shall have the same meaning in this agreement.
- 1.10 A reference to a person includes firms, partnerships and corporations and their successors and permitted assignees or transferees.

2. Commencement and Duration

- 2.1 This agreement shall commence on the date stated in the Contract Particulars and shall continue until the later of:

2.1.1 the Expiry Date;

2.1.2 the latest Apprenticeship Programme Completion Date to occur provided that the relevant Apprenticeship Programme giving rise to such date has commenced prior to the Expiry Date.

2.2 The Expiry Date may be amended by agreement between the parties in writing.

3. Bradford College Group Obligations

3.1 The Training Provider shall deliver the Services to the Employer:

3.1.1 In accordance with and for the duration of the relevant Apprenticeship Programme;

3.1.2 Using reasonable skill and care;

3.1.3 In compliance with the Funding Rules;

3.1.4 In compliance with the Law and associated codes and guidance from time to time in force.

3.2 Bradford College Group shall enter into written agreements with all relevant:

3.2.1 Subcontractors; and

3.2.2 Apprentice Assessment Organisations;

as specified in the relevant Apprenticeship Programme.

3.3 Bradford College Group shall monitor the quality of Training delivered by a Subcontractor through such means as it considers appropriate including regular meetings, audits and observations of teaching, learning and assessment.

3.4 Subject to the Employer fulfilling the obligations set out in clause 4, Bradford College Group shall use its reasonable endeavours to recover sums in respect of the charges from the ESFA.

4. Employer Obligations

4.1 The Employer shall:

4.1.1 From the commencement of the relevant Apprenticeship Programme, employ and pay the Apprentice in accordance with the Law, agreed employment terms and conditions for the duration of the relevant Apprenticeship Programme which shall be not less than the period set out in the relevant Apprenticeship Programme (subject to earlier termination of this agreement in accordance with its terms and/or the Apprentice's employment contract);

4.1.2 Promptly do all acts and not omit to do anything reasonably requested of the Employer by Bradford College Group for the purposes of Bradford College Group:

(a) compliance with the Funding Rules; and

(b) obtaining any payment to which it may be entitled under the Funding Rules;

4.1.3 Enter into and procure that each Apprentice enters into:

(a) an Apprenticeship Agreement; and

(b) a commitment statement as required by the Funding Rules,

Each of which must be in place for the entire length of the Apprenticeship and meet the requirements of the Funding Rules and made available to the Bradford College Group on request;

- 4.1.4 Provide such training and/or carry out such actions as are assigned to the Employer in the Apprenticeship Programme and in any event support each Apprentice in their learning and development to the reasonable satisfaction of the Bradford College Group;
- 4.1.5 Notify in writing Bradford College Group of any Break in Learning;
- 4.1.6 Confirm promptly on request by providing signed declarations to the Bradford College Group:
 - (a) Each Apprentice's eligibility for apprenticeship funding (see Appendix a);
 - (b) Any eligibility for 16-18 year old incentive payments (if applicable);
 - (c) The average number of employees employed by the Employer in the three years immediately preceding the first day of an Apprenticeship and (if applicable) the Employer's eligibility for small employer incentive payment;
 - (d) Any other matters on which the Bradford College Group requires written evidence that is in the possession of the Employer in order for Bradford College Group to comply with the Funding Rules;
 - (e) The address or addresses where the Apprentice shall be carrying out their working hours; and
 - (f) Whether learning support is available to support Apprentices with additional learning needs,
- 4.1.7 Ensure, and on request confirm, that:
 - (a) Where the Apprentice is employed for less than 30 hours per week (minimum 16 hours) the apprenticeship programme is extended pro rata. Zero-hours contracts are acceptable only where they meet all of the rules in the ESFA funding guidance-
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/683579/17_18_apprenticeship_funding_and_pm_rules_V5.pdf
 - (b) The funding for the Apprenticeship is not used to pay the apprentice's wages;
 - (c) The Apprentice is enabled to complete the Apprenticeship (an Apprenticeship is a genuine job with an accompanying skills development programme) within their working hours and make available time for the Apprentice to be able to complete the Apprenticeship Programme including:
 - (i) Permitting 20% of each Apprentice's employed hours to be used for off-the-job training;
 - (ii) Releasing the Apprentice to the Bradford College Group for undertaking such training and courses with the Bradford College Group as set out in the Apprenticeship Proposal;

- (iii) Providing the Apprentice the use of equipment necessary to enable the Apprentice to fulfil training objectives;
 - (iv) Provide relevant documentation to enable Bradford College Group to identify continuous professional development activities that can contribute towards the achievement of the Apprenticeship;
 - (v) Co-operating with Bradford College Group to arrange for any necessary End-Point Assessment and allowing the Apprentice to attend the same;
- 4.1.8 Comply with the terms of any agreement between the Employer and the ESFA;
- 4.1.9 The employer must put the Apprentices forward automatically for at least one resit.
- 4.1.10 Where an Apprentice fails the final end point assessment to achieve the qualification as detailed in the schedules to this agreement, the Employer shall meet all costs (including any Apprentice costs) for the Apprentice to re-sit any subsequent end point assessments required to achieve the qualification(s). Full payment to be made in advance of any additional end point assessment.
- 4.1.11 Where the employer agrees additional qualifications that are non-mandatory the employer must pay for registration and examination (including certification) costs. These cannot be funded from employer's digital account or government-employer co-investment funds.
- 4.1.12 Comply with the Mandatory Policies.
- 4.2 To secure an efficient working relationship between Bradford College Group and the Employer and to protect the interests of the Apprentice, the Employer shall:
- 4.2.1 Co-operate in good faith with Bradford College Group and any Subcontractor and/or Apprentice Assessment Organisation to enable the successful delivery and completion of each Apprenticeship;
 - 4.2.2 Where indicated in the Contract Particulars that Bradford College Group will be providing on-line administrative tasks, provide to Bradford College Group on request all necessary log-in information to enable the Bradford College Group to access the Employer's Digital Account for the purposes of confirming the Funding available in respect of an Apprentice and uploading on behalf of the Employer information required pursuant to the Funding Rules relating to the Apprentice, the Apprenticeship Programme and/or other relevant matters;
 - 4.2.3 Allow Bradford College Group, its staff, auditors, contractors or agents, including the Bradford College Group Representative, access to the Apprentice, the Employer's premises and any relevant records or documents, including health and safety records, to allow Bradford College Group to comply with Bradford College Group obligations under this agreement. Such access shall be as reasonably agreed between the parties or on reasonable notice from Bradford College Group;
 - 4.2.4 Promptly notify the Bradford College Group in writing when it becomes aware or develops a reasonable suspicion that the Apprentice wishes to withdraw from the Apprenticeship;

- 4.2.5 Immediately notify Bradford College Group if the Apprentice informs the Employer that they no longer wish to continue with the Apprenticeship; and
- 4.2.6 Appoint an Employer's Representative and promptly notify Bradford College Group of any change of the Employer's Representative from time to time.

5. Apprenticeship Proposal

- 5.1.1 Following consultation between Bradford College and the Employer, Bradford College group will produce an Apprenticeship Training Proposal for each specific framework or standard to be provided within the duration of the contract.
- 5.1.2 Within the proposal, specific details around the apprenticeship, employees, duration, delivery and agreed price will be agreed between Bradford College Group and the Employer.
- 5.1.3 The Employer will provide details of the employees who will be being enrolled on the Apprenticeship programme and other specific learner information that will enable Bradford College Group to complete the enrolment process.
- 5.1.4 Where the price agreed is above the maximum value of the funding band for the apprenticeship, the employer must pay in full the difference between the band maximum and the agreed price including VAT. This cannot be funded from an employer's digital account.

6. Charges and Payments

- 6.1 The Employer shall pay the Charges to Bradford College Group to the extent that the Charges have not been recovered by Bradford College Group from the ESFA. Where apprenticeship training is not funded from the employer's digital account (non-levy paying employers, and levy paying employers with insufficient funds), employers must co-invest 10% of the agreed training cost up to the maximum value of the funding band and 100% where this is above the funding band.
- 6.2 Training for Bradford Limited (trading as City Training Services), a wholly owned subsidiary of Bradford College Group, will raise invoices associated with the delivery of Apprenticeships. Training for Bradford Limited will manage all associated financial transactions between the Employer and Bradford College Group.
- 6.3 Training for Bradford Limited shall send invoices in respect of the Unfunded Charges to the Employer at the frequency set out in the relevant Apprenticeship Proposal (or if the Apprenticeship Programme does not so specify, on a monthly basis). The Employer shall pay such invoices upon receipt of invoice.
- 6.4 Subject to the Employer providing the bank account details of the company or other legal person that employs the relevant Apprentice, Training for Bradford Limited shall pay to the Employer any Incentive Payments received from the ESFA on behalf of the Employer within thirty (30) days of receipt or such other timescale as may be specified in the Funding Rules.
- 6.5 Where for any reason the ESFA requires Training for Bradford Limited to return any Incentive Payments or any other payment, the Employer shall pay to Training for Bradford Limited an amount equal to the sum required to be returned. Training for Bradford Limited shall notify the Employer of any requirement to return payments to the ESFA and the Employer shall pay such amount to the Training Provider within thirty (30) days of such notice.

- 6.6 All sums payable by or to Training for Bradford Limited or the Employer are exclusive of VAT. In the case of any VAT payable, the VAT shall be due thirty (30) days after receipt by the receiving party of a valid VAT invoice.
- 6.7 Without prejudice to the rights of either party under this agreement, any sums that remain unpaid after their due date shall bear interest at the rate of four per cent (4%) above the Bank of England base rate from time to time.

7. **Dispute Resolution**

This clause 7 shall have effect provided that where the Contract Particulars state that Bradford College Group has its own Complaints Procedure, such Complaints Procedure shall take precedence over and be completed prior to the process set out in clauses 7.1 to 7.3 is commenced.

- 7.1 In the event of a dispute arising between the parties in relation to this agreement, either party may serve written notice on the other stating the nature of the dispute (a **Dispute Notice**).
- 7.2 After service of the Dispute Notice, the following procedure shall be followed by the parties (all periods specified in this clause 7.2 shall be extendable by mutual agreement):
- 7.2.1 Within five (5) working days, Bradford College Group Representative and the Employer's Representative shall meet to attempt to settle the dispute (each party acting in good faith);
- 7.2.2 If the Bradford College Group Representative and the Employer's Representative are unable to reach a settlement within twenty (20) working days from the date of service of the Dispute Notice, the chief executive officers of each of the parties shall meet within the following fifteen (15) working days to attempt to settle the dispute; and
- 7.2.3 If no settlement results from the meeting specified in clause 7.2.2, for the following fifty (50) working days the parties shall attempt to settle the dispute by mediation (in accordance with the CEDR Model Mediation Procedure) by an independent mediator appointed by CEDR unless otherwise agreed between the parties, with costs to be shared equally between the parties.
- 7.2.4 The college will only continue to support an Apprentice on programme for a maximum period of sixty (60) working days where payment is disputed and remain unresolved.
- 7.3 If no settlement is reached under clause 7.2 the dispute shall be determined by the English High Court and the parties submit to the exclusive jurisdiction of such court for such purposes.
- 7.4 In addition to the process set out in clauses 7.1 to 7.3, Apprentices and Employers can contact the apprenticeship helpline regarding apprenticeship concerns, complaints and enquiries:

National Apprenticeship Helpline
Email: nationalhelpdesk@apprenticeships.gov.uk
Tel: 0800 015 0400

8. **Termination**

- 8.1 Without prejudice to any rights that have accrued under this agreement or any of its rights or remedies, either party may at any time terminate this agreement or any part of it with immediate effect by giving written notice to the other party if:
- 8.1.1 The other party commits a material breach of any term of this agreement (other than failure to pay any amounts due under this agreement) and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - 8.1.2 The other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
 - 8.1.3 The other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
 - 8.1.4 The other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
 - 8.1.5 A petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party;
 - 8.1.6 An application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party;
 - 8.1.7 The holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
 - 8.1.8 A person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - 8.1.9 A creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
 - 8.1.10 Any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 8.1.3 to clause 8.1.9 (inclusive);
 - 8.1.11 The other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
 - 8.1.12 The other party's funding agreement with the ESFA is terminated.
- 8.2 If Bradford College Group ceases to be an ESFA approved training provider (so indicated at the date of this agreement by being listed on the Register of Apprenticeship Training Providers) then the provisions of clause 9.5 shall apply.

9. Consequences of Termination

- 9.1 Other than as set out in this agreement, neither party shall have any further obligation to the other under this agreement after its termination.
- 9.2 Any provision of this agreement which expressly or by implication is intended to come into or continue in force on or after termination of this agreement, including clause 1, clause 4.1.2, clause 7, clause 9, clause 10, clause 12, clause 15, clause 16, clause 17 and clause 20 shall remain in full force and effect.
- 9.3 Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.
- 9.4 On termination (for any reasons) or expiry of this agreement:
- 9.4.1 The Employer shall immediately pay to Bradford College Group all Charges due at the date of termination or expiry pursuant to the Apprenticeship Programmes;
- 9.4.2 To the extent that the Employer has paid the Charges pursuant to clause 9.4.1 and Bradford College Group recovers funding from the ESFA in respect of those Charges, the Bradford College Group shall, provided that the Employer does not owe any other sums to the Training Provider, reimburse the Employer those sums paid pursuant to clause 9.4.1;
- 9.4.3 Each party shall promptly return to the other any equipment, documents, information or materials owned by the other party (or a third party) and used in connection with the Services; and
- 9.4.4 Each party shall cooperate in good faith to ensure that no Apprentice is materially disadvantaged by the termination of this agreement.
- 9.5 If Bradford College Group ceases to be an ESFA approved training provider then:
- 9.5.1 This agreement shall continue in full force and effect in respect of Apprentices who have started their Apprenticeship prior to the date on which Bradford College Group ceased to be an ESFA approved training provider and the Apprenticeship Programme Completion Date for the purposes of clause 2.1.2 shall be the date on which the last such Apprentice successfully completes the relevant End-Point Assessment; and
- 9.5.2 This agreement shall terminate in respect of any person who was due to become an Apprentice on or after the date on which Bradford College Group ceased to be an ESFA approved training provider and Bradford College Group shall use its reasonable endeavours to assist such persons in their transition to another training provider.

10. ESFA Contingencies

The parties shall take all necessary steps to give effect to the ESFA Contingencies in the event of an ESFA Contingency Event occurring. For the avoidance of doubt, giving effect to the ESFA Contingencies shall not constitute a breach of this agreement.

11. Force Majeure

Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control. In such

circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for one ninety (90) days or more, the party not affected may terminate this agreement by giving thirty (30) days' written notice to the other party.

12. Liabilities and Insurance

12.1 Neither party excludes or limits liability to the other party for:

12.1.1 Fraud or fraudulent misrepresentation;

12.1.2 Death or personal injury caused by negligence;

12.1.3 A breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or

12.1.4 Any matter for which it would be unlawful for the parties to exclude liability.

12.2 Subject to clause 12.1, neither party shall in any circumstance be liable to the other whether in contract, tort (including for negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, for:

12.2.1 Any loss (whether direct or indirect) of profits, business, business opportunities, revenue, turnover, reputation or goodwill;

12.2.2 Loss (whether direct or indirect) of anticipated savings or wasted expenditure (including management time); or

12.2.3 Any loss or liability (whether direct or indirect) under or in relation to any other contract.

12.3 Subject to clause 12.1 and except in relation to the indemnity contained in clause 16.3, the parties' total aggregate liability in contract, tort (including negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this agreement or any collateral contract shall be limited to the total Charges payable during the 12 months immediately preceding the date on which the claim arose or, if the claim arose during the first twelve months of this agreement being in force, the Charges payable during the first twelve months of this agreement.

12.4 Insurance

Each party shall at its own cost effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by that party, arising out of its performance of the agreement, including death or personal injury, loss of or damage to property or any other loss.

12.5 The terms of any insurance or the amount of cover shall not relieve the insured party of any liabilities under this agreement.

13. Safeguarding

13.1 The Employer acknowledges that Bradford College Group has a statutory duty to safeguard and promote the welfare of individuals under the age of 18 years old and vulnerable adults over the age of eighteen (18) years old pursuant to the Children Act 2004 and the Safeguarding Vulnerable Groups Act 2006.

- 13.2 The Employer shall and shall ensure that the Employer's employees, contractors and agents:
- 13.2.1 Comply with the requirements of the Children Act 2004 and the Safeguarding Vulnerable Groups Act 2006 to the extent that they apply to the Employer; and
 - 13.2.2 Confidentially report to the Bradford College Group designated senior person from time to time, any concerns relating to an Apprentice or other learner enrolled with Bradford College Group, employee, agent or contractor of Bradford College Group.
- 13.3 The Employer shall by signing this agreement, be deemed to have read the Training Provider's policy and guidance relating to safeguarding and will comply with its contents at all times.

14. Health and Safety

- 14.1 The parties shall perform their obligations under this agreement (including those in relation to the Services) in accordance with:
- 14.1.1 All applicable Law regarding health and safety; and
 - 14.1.2 The health and safety policy of the other party whilst at the other party's premises (to the extent it has been made known by one party to the other party).
- 14.2 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at either party's premises of which it becomes aware and which relate to or arise in connection with the performance of this agreement. Each party shall adopt any necessary associated safety measures in order to manage any such material health and safety hazards.

15. Confidentiality

- 15.1 Subject to Clause 15.2, the parties shall keep confidential all matters relating to this agreement and shall use all reasonable endeavours to prevent their employees, contractors, agents and other personnel from making any disclosure to any person of any matters relating it.
- 15.2 Clause 15.1 shall not apply to any disclosure of information:
- 15.2.1 Required by any applicable law, provided that Clause 17 shall apply to any disclosures required under the FOIA or the EIRs;
 - 15.2.2 That is reasonably required by persons engaged by a party in the performance of such party's obligations under this agreement;
 - 15.2.3 Where a party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of Clause 15.1;
 - 15.2.4 Of any document which the parties to this agreement have agreed contains no commercially sensitive information;
 - 15.2.5 Which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party; and
 - 15.2.6 By Bradford College Group to any other department, office or agency of the Government.

16. Intellectual Property

- 16.1 Each party shall retain ownership of all Intellectual Property Rights in any materials created by that party and used for the delivery of an Apprenticeship Programme (the **Project Materials**).
- 16.2 Each party shall make available to the other free of charge and hereby grants to the other party a non-exclusive, non-transferable, royalty free licence to use their Project Materials for the duration of the relevant Apprenticeship Programme.
- 16.3 Each party shall indemnify the other against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right in the performance of a party's obligations under this agreement, except to the extent that they have been caused by or contributed to by the indemnified party's acts or omissions.

17. Data Protection and Freedom of Information

- 17.1 The Employer acknowledges that the Training Provider is subject to the requirements of the Data Protection Act 1998, the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and, from 25 May 2018, the General Data Protection Regulation (Regulation (EU) 2016/679), all as amended from time to time. The Training Provider acknowledges that the Employer is subject to the requirements of the Data Protection Act 1998 and, from 25 May 2018, the General Data Protection Regulation (Regulation (EU) 2016/679), as amended from time to time.
- 17.2 The Employer shall offer such prompt and reasonable assistance to Bradford College Group as Bradford College Group may request from time to time, to assist it in complying with its information disclosure obligations under the legislation set out at Clause 10.1.
- 17.3 Where Bradford College Group or the Employer handle any personal or sensitive personal data (within the meaning of the Data Protection Act 1998 and/or the General Data Protection Regulation (Regulation (EU) 2016/679)), including in relation to the Apprentices or Apprentices, they undertake to comply with their respective obligations under that legislation.
- 17.4 Where the Employer receives a request for information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 relating to the operation of this agreement, the Employer shall promptly pass the request to Bradford College Group and shall not respond directly to any such request without the Bradford College Group prior written consent.

18. Equality Legislation

- 18.1 Each party shall (and shall procure that its employees, contractors, agents and other personnel shall):
 - 18.1.1 Perform its obligations under this agreement (including those in relation to the Services) in accordance with all applicable equality law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);
 - 18.1.2 At all times comply with the provisions of the Human Rights Act 1998 in the performance of this agreement.

19. Contract Variation

19.1 No variation to this agreement other than pursuant to clause 19.3 shall have effect unless agreed in writing and signed by both parties pursuant to clause 19.2.

19.2 Change Protocol

19.2.1 In the event either party (acting reasonably) requires a change (**Change**) to this agreement, the parties shall discuss any such Change proposed by the other and such discussion shall result in a written request for a Change being submitted by the requesting party to the other party.

19.2.2 The parties shall work together in good faith to assist the requesting party in preparing a written recommendation for a Change which shall set out:

- (a) The title of the Change;
- (b) The originator and the date of the request;
- (c) The reason for the Change;
- (d) The full details of the Change, including any specification or service standards;
- (e) The price, if any, of or associated with the Change;
- (f) A timetable for implementation;
- (g) The impact, if any, of the Change on other aspects of this agreement, including contractual documentation and resources;
- (h) Provision for signature of the request by all parties to signal acceptance of the Change; and
- (i) Any other relevant information reasonably requested by any party.

19.2.3 If approved, each party shall sign the written recommendation. The signing of the written recommendation shall signify acceptance of a Change by the parties.

19.2.4 Once signed by both parties, the Change shall be immediately effective and the parties shall perform their respective obligations on the basis of the agreed amendment.

19.3 Where in the reasonable opinion of Bradford College Group a change to one or more of the Apprenticeship Programmes is required in order to comply with ESFA rules, guidance or instructions issued from time to time (an **ESFA Change**), Bradford College Group shall notify the Employer in writing of the ESFA Change and the ESFA Change shall have effect from such date as may be stated in such notice. Any additional costs reasonably incurred by Bradford College Group arising from the ESFA Change shall be payable by the Employer and shall be deemed to be incorporated into the Charges.

20. General

20.1 Assignment

No party shall otherwise novate, assign or transfer its rights or obligations under this agreement without the prior written consent of the other party.

20.2 Provisions to Remain in Force

If any term, condition or provision of this agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall not affect the validity, legality and enforceability of the other provisions of or any other documents referred to in this agreement.

20.3 Entire Agreement

This agreement and the documents referred to in this agreement contain all the terms which the parties have agreed in relation to the subject matter of this agreement.

20.4 Waiver

No term or provision of this agreement shall be considered as waived by a party to this agreement unless a waiver is given in writing by that party. No waiver shall be a waiver of a past or future default or breach, nor shall it amend, delete or add to the terms, conditions or provisions of this agreement unless (and only to the extent) expressly stated in that waiver.

20.5 Counterparts

This agreement may be executed and delivered in any number of counterparts, each of which so executed will be an original, but together will constitute one and the same instrument.

20.6 No Agency

Nothing in this agreement shall be construed as creating a partnership or as a contract of employment between the parties and neither party shall be, or be deemed to be, an agent of the other party and neither party shall hold itself out as having authority or power to bind the other in any way.

20.7 No Double Recovery

Notwithstanding any other provisions of this agreement, no party shall be entitled to recover compensation or to make a claim under this agreement in respect of any loss that it has incurred to the extent that it has already been compensated in respect of that loss pursuant to this agreement or otherwise.

20.8 Further Assurance

Each party shall do all things and execute all further documents necessary to give full effect to this agreement.

20.9 Severability

If any provision of this agreement shall be declared invalid, unenforceable or illegal by the courts of any jurisdiction to which it is subject, such provision may be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability or legality of the remaining provisions of this agreement.

20.10 Governing Law

This agreement and any non-contractual obligation arising out of it is subject to the laws of England and the parties agree that any disputes between the parties shall be subject to the exclusive jurisdiction of the courts of England.

20.11 Third Party Rights

No term of this agreement is intended to give any entitlement as against any party to any person who is not a party to this agreement and no term of this agreement may be enforced by any person other than a party to this agreement under the Contracts (Rights of Third Parties) Act 1999.

Mandatory Policies

In order to fulfil the arrangements within this contract the employer will need to have in place and evidence the following policies:

1. Safeguarding Policy
2. Prevent Policy
3. Health & Safety Policy
4. Equal Opportunities Policy
5. Complaints Policy
6. Privacy Notice / GDPR
7. Modern Slavery Policy

We hereby confirm that we have all the above policies in place and agree to provide these to Bradford College Group

If we don't have one or more of the policies listed above then we agree to abide by the policies provided by Bradford College Group

Eligibility and incentives linked to an apprenticeship

To use funds in the employer's digital account or government-employer co-investment, the individual must:

1. Start their apprenticeship after the last Friday in June of the academic year in which they have their 16th birthday.
2. Be able to complete the apprenticeship within the time they have available; if you know an individual is unable to complete the apprenticeship in the time they have available, they must not be funded.
3. Not be enrolled on another apprenticeship, or another DfE funded FE/HE programme, at the same time as any new apprenticeship they start.
4. Not be asked to contribute financially to the direct cost of learning or assessment (this includes where an apprentice leaves their programme early; employers must not claim training or assessment costs back from ex- apprentices).
5. Not use a student loan to pay for their apprenticeship (where an individual transfers to an apprenticeship from a full-time further education or higher education course, and this course has been funded by a student loan, this loan must be terminated).
6. Spend at least 50% of their working hours in England over the duration of the apprenticeship.
7. Have the right to work in England.

8. Be one of the following:

8.1. A citizen of a country within the European Economic Area (EEA) (including other countries determined within the EEA or those with bilateral agreements), or have the right of abode in the UK, and have been ordinarily resident in the EEA (including other countries determined within the EEA or those with bilateral agreements), for at least the previous three years on the first day of learning.

8.2. A non-EEA citizen with permission from the UK government to live in the UK, (not for educational purposes) and have been ordinarily resident in the UK for at least the previous three years before the start of learning.

9. As an exception, we will also allow the following individuals to be funded from an employer's digital account or using government-employer co-investment.

9.1 Armed forces and Royal Fleet Auxiliary personnel to undertake a statutory English apprenticeship wherever they are based in the United Kingdom.

9.2 Members of other nations' armed forces stationed in England and their family members, where the family member has a right to work in the United Kingdom, if the armed forces' individual has been ordinarily resident in England for three years. We will not fund family members that stay outside of England.

10. Apprentices whose occupation involves significant travel outside of the UK as part of their job (such as in travel or tourism) or work offshore (such as on an oil platform) and they have an identified registered work location in England. You must not claim for the additional expense of delivering learning outside of England.

11. You must not claim funding for individuals who do not meet the ESFA eligibility criteria unless they are eligible under the Fees and Awards Regulations 2007 Act (as amended). You must not claim for individuals who:

11.1. Are here illegally

11.2 Are resident in the United Kingdom on a Tier 4 (general) student visa unless they are eligible through meeting any other of the categories described above

11.3 Are non-EEA citizens in the United Kingdom on holiday, with or without a visa

11.4 Have overstayed their immigration or visitor visa

11.5 Are non-EEA citizens and are a family member of a person granted a Tier 4 visa, have been given immigration permission to stay in the UK and have not been ordinarily resident in the UK for the previous three years on the first day of learning

11.6 Are ordinarily resident in the Channel Islands or Isle of Man, unless they are also ordinarily resident within England

11.7 Have a biometric residence permit or residence permit imposing a study prohibition or restriction on the individual

12. Where you are using funds from an employer's digital account you must have confirmation from the employer that the apprentice is employed by that employer or a connected company or charity as defined by HMRC.

13. Any eligible individual can be funded to undertake an apprenticeship at a higher level than a qualification they already hold, including a previous apprenticeship.

14. We will be able to support an apprentice to undertake an apprenticeship at the same or lower level than a qualification they already hold, if the apprenticeship will allow the individual to acquire substantive new skills and evidence can be provided that the content of the training is materially different from any prior qualification or a previous apprenticeship.

15. The age of the apprentice on the day they start their apprenticeship will be used for all age-based eligibility criteria for that apprenticeship.

16. An apprentice's eligibility will not change during the apprenticeship, unless their employment status changes.

17. Bradford College Group will reassess any individual for any new apprenticeship.

18. If an apprentice becomes unemployed or self-employed during the apprenticeship, this will make their apprenticeship and funding ineligible at that point. Bradford College Group will report them as having withdrawn from the apprenticeship on the ILR.

19. If an apprentice is made redundant through no fault of their own, we will continue to fund them even if they cannot find another employer. Apprentices who are made redundant within six months of the planned end date will be funded completely. Apprentices who are made redundant more than six months from the planned end date will be funded for 12 weeks.

Support for younger apprentices

1. Additional payments totalling £1,000 for the employer are available if the apprentice is defined as a 16- to 18-year-old or an eligible 19- to 24-year-old as described in the Funding Rules.

2. These payments will be split into two equal payments when the apprentice is still in learning at 90 days and 365 days.

Additional payments

1. The employer will receive a payment towards the additional cost associated with training if, at the start of the apprenticeship, the apprentice is:

- aged between 16 and 18 years old (or 15 years of age if the apprentice's 16th birthday is between the last Friday of June and 31 August)
- aged between 19 and 24 years old and has either an EHC plan provided by their local authority or has been in the care of their local authority

2. A child in care is defined as:

- an eligible child - a young person who is 16 or 17 and who has been looked after by the local authority/Health and Social Care Trust for at least a period of 13 weeks since the age of 14, and who is still looked after
- a relevant child - a young person who is 16 or 17 who has left care after their 16th birthday and before leaving care was an eligible child
- a former relevant child - a young person who is aged between 18 and 21 (up to their 25th birthday if they are in education or training) who, before turning 18, was either an eligible or a relevant child, or both

3. Before the start of any apprenticeship, the employer, or the apprentice, must provide the appropriate evidence to keep in the evidence pack.
4. Where payments are for apprentices aged between 19 and 24 years old at the start of their apprenticeship, the apprentice must consent to inform the employer that they have an EHC plan or that they have been in the care of their local authority and either:
 - a signed, original declaration(s) from the apprentice to confirm they are a care leaver
 - or evidence of an EHC plan. These payments will be paid as follows:
5. 90 days after the apprentice starts 50% will be paid
6. 365 days after the apprentice starts the remaining 50% will be paid
7. The additional payments due to the employer will be paid within 30 working days of receiving funding from the ESFA on receipt of a valid claim.

Extra support for small employers

1. The government will waive the co-investment requirement for employers with fewer than 50 employees if the apprentice is defined as a 16- to 18-year-old or an eligible 19- to 24-year-old as described in the Funding Rules.
2. Where the employer is eligible for the co-investment to be waived and also pays the levy, we will not use their digital account funds.
3. We determine whether co-investment is waived from the size of the employer at the start of the apprentice's programme; this determines whether co-investment is waived for the rest of the apprenticeship with that employer.
4. If the apprentice transfers to another employer and continues the same apprenticeship, then the size of the new employer and the age of the apprentice when they begin their new employment, determine whether co-investment is waived.
5. We will continue to waive the co-investment if the employer grows to 50+ employees after the start of the apprenticeship as the eligibility for the waiver is based on the status at the start of the apprenticeship with that employer.

Extra support for small employers

1. The government will fund all of the apprenticeship training costs, up to the maximum value of the funding band for the apprenticeship, for employers employing fewer than 50 people, if on the first day of the apprenticeship, the apprentice is:
 - aged between 16 and 18 years old (or 15 years old if the apprentice's 16th birthday is between the last Friday of June and 31 August)
 - aged between 19 and 24 years old and either has:
 - an EHC plan provided by their local authority
 - or has been in the care of their local authority.
2. The provider will not request any employer contribution to the cost of an apprenticeship up to the maximum value of the funding band if an employer employing fewer than 50 people recruits an eligible apprentice.
3. If the price agreed between the provider and the employer is above the maximum value of the funding band for the apprenticeship, the employer must pay in full the difference between the band maximum and the agreed price. This cannot be funded from an employer's digital account.

4. To be eligible for a waiver, the employer must provide evidence that they employed an average of 49 or fewer employees in the 365 days before the apprentice was recruited using the calculation below

5. We define the number of employees as the number of people with a contract of employment. This must be calculated using the average number of employees with a contract of employment in the 365 days before the apprentice is recruited.

6. If the average number of employees is 49 and the recruitment of apprentices takes this number to 50, the employer will still be eligible to receive this extra support. However, if the average number of employees is 50 and the recruitment of apprentices takes this number to 51, the employer will not be eligible to receive this extra support.