

# **Full Terms & Conditions**

## Apprenticeship Services

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### BACKGROUND

- A. The Employer wishes to engage the Provider in the delivery of the Apprenticeship Standard.
- B. This Agreement is the overarching contract between the Employer and the Provider. In relation to any individual Apprentice, this Agreement should be read alongside the Apprentice's ILPR/Learner Plan and Training Plan.
- C. This Agreement adheres to the latest version of the ESFA Apprenticeship Funding Rules ([www.gov.uk/guidance/apprenticeship-funding-rules](http://www.gov.uk/guidance/apprenticeship-funding-rules)). Should any new Funding Rules be added/removed or changed, then this will take precedent.

### OPERATIVE PROVISIONS

#### 1. INTERPRETATION

- 1.1 In this Agreement, the following words and expressions shall have the following meanings:

**Active Learning (also referred to as Off-the-Job Training)** refers to the training that is being funded through the Apprenticeship (i.e. Off-the-Job Training and/or English and maths training). Some Active Learning must take place in every calendar month of the Practical Period.

**Additional Payments** refers to extra funding to help with the additional costs of training specific groups of Apprentices. The different types of Additional Payments are: the 16 to 18 payment, the eligible 19 to 24 payment, Learning Support and the Care Leaver Bursary.

**Agency** refers to the Education and Skills Funding Agency (ESFA), being an agency of the Department for Education (DfE) or any successor body that should take over the responsibilities of the Agency.

**Annual Leave** means paid time off work that Employees are entitled to. For Apprentices that work 30 hours or more per week, this is at least 28 days per year (this is called statutory leave entitlement).

**Apprentice** means an individual who is doing an Apprenticeship and is engaged under an Apprenticeship Agreement (or an alternative English Apprenticeship).

**Apprentice Rate** is the minimum hourly rate Apprentices are entitled to if they are either aged under 19 or aged 19 and over and in their first year of an Apprenticeship. We encourage employers to pay more than the Apprentice Rate. View the [National Minimum Wage](#) rates on GOV.UK.

**Apprenticeship** means a job with training. This includes the training and End-Point Assessment. The full definitions of an approved English Apprenticeship can be found in Part 1 of the [Apprenticeships, Skills, Children and Learning Act 2009](#). An Accelerated Apprenticeship is where the Apprentice's planned duration is shorter (by at least 3 months) than the typical duration of the Apprenticeship Standard, based on Prior Learning. The minimum requirement of an Apprenticeship must still be met, including the 12-month minimum duration and minimum volume of Off-the-Job Training.

**Apprenticeship Agreement** is an Apprenticeship Agreement between an employer and an Apprentice, in accordance with section A1 of the [Apprenticeships, Skills, Children and Learning Act 2009](#).

**Apprenticeship Certificate** means a certificate used to provide formal recognition that an individual has achieved their Apprenticeship and is therefore certified.

**Apprenticeship Funding Rules** are the latest version of the ESFA Apprenticeship Funding Rules ([www.gov.uk/guidance/apprenticeship-funding-rules](http://www.gov.uk/guidance/apprenticeship-funding-rules)). Should any new Funding Rules be added/removed or changed then this will take precedent.

**Apprenticeship Levy (also refers to Levy Funding and Levy Funded)** is a Levy on UK Employers to raise funds to pay for Apprenticeship training and assessment. It is charged at 0.5% of an Employer's pay bill, but each Employer receives an allowance of £15,000 to offset against their Levy payment. As a result of this allowance, only Employers with an annual pay bill greater than £3 million must pay the Levy. Levy payments are made monthly to HMRC.

**Apprenticeship Standard** means a Standard approved by the ESFA and published by the Secretary of State, and assessed through a standardised End-Point Assessment, more particularly described in the ESFA Rules.

**Apprenticeship Service Account** means the area on the [Apprenticeship Service](#) where Employers can manage their funding and Apprentices, view their account balance and plan their spending.

**Assessment** see 'End-Point Assessment'.

**Break in Learning** is where an individual takes a break of at least a clear calendar month from their Apprenticeship but plans to return to it in the future. This could be linked to a break from work (e.g. illness, maternity leave or parental leave) or the Apprentice could still be working but has agreed with their Employer and Provider to take a break in their learning.

**Care Leaver** means an individual aged 16-24 who was (or still is) in the care of their Local Authority.

**Care Leaver Bursary** means an Additional Payment of £3,000 (paid in three instalments) paid to Apprentices who are Care Leavers. This is paid via the Apprentice's Provider.

**Certificates** are issued by Awarding Bodies to demonstrate an individual's qualifications, for example Level 2 English and maths.

**Change of Circumstance** means a change in an Apprentice's personal or employment circumstances, or to their Apprenticeship. There are different actions to take and effects on funding depending on the type of change.

**Confidential Information** means any information that a party has or acquires before, on or after the date of this Agreement that is confidential in nature concerning the other Party including, without limitation, its business, affairs, customers, clients, suppliers, plans or strategy or that of any member of the group of companies to which the other party belongs.

**Co-investment** is where the Government shares the cost of training and assessing Apprentices with Employers. The Government will support the following types of Employers: non-Levy payers and Levy payers who have run out of Levy Funds. For Apprenticeships that started on or after 1 April 2019, Employers (who either do not pay the Levy or Levy payers who have run out of Levy funds) pay 5% towards the cost of Apprenticeship training. The Government will pay the rest (95%) up to the funding band maximum.

**Completion Payment** is a Government payment made to Providers when an Apprentice completes all their learning and undertakes the End-Point Assessment. This payment is 20% of either the total negotiated price or the funding band maximum, whichever is lower.

**Data Protection Law** means the UK GDPR as defined in the Data Protection Act 2018 (see section 6).

**Deputy** means an individual within the Employer's organisation appointed to act as the Supervisor in the Supervisor's absence.

**Dispute Resolution Process** means the process at Schedule 1 to be followed in the event of any dispute relating to the Services.

**Effective Date** is the earlier of date of this Agreement and the enrolment date of the first Apprentice hereunder.

**Employee** is an individual who has a contract of service. This does not include individuals who are self-employed.

**Employer** is an organisation that has a contract of service and an Apprenticeship Agreement with an Apprentice. This may also include a company or charity whose PAYE scheme the Employer has connected to their Apprenticeship Service Account. References to an 'Employer' describe the whole organisation, not individual sites, locations, groups, or companies linked by directors.

**End-Point Assessment Organisation (EPAO)** means an approved organisation on the ESFA's Register of End-Point Assessment Organisations.

**ESFA** means the Education and Skills Funding Agency.

**ESFA Apprenticeship Funding Rules** means the ESFA's funding and performance management rules as per the Agency's website ([www.gov.uk/guidance/apprenticeship-funding-rules](http://www.gov.uk/guidance/apprenticeship-funding-rules)). Should any new Funding Rules be added/removed or changed then this will take precedent.

**Evidence Pack** is a collection of documents and information about an Apprentice and their Apprenticeship. It provides evidence that the Apprentice exists, is eligible for funding and that the Apprenticeship is being delivered in line with the Apprenticeship Funding Rules.

**Final Day** is defined in legislation as the Final Day of the Practical Period. This is the equivalent of the learning end date on the ILR (there must be evidence of learning on this learning end date) and it is also referred to as the "Gateway" between the Practical Period and the End-Point Assessment.

**Functional Skills** means qualifications in English and/or maths for the purposes of the ESFA Rules.

**Funding Rules** see Apprenticeship Funding Rules.

**Gateway** see 'Final Day'.

**Gateway Requirements** are the requirements set out in the assessment plan that must be met by the Apprentice prior to undertaking End-Point Assessment of the Apprenticeship Standard. They will include the completion of English and maths qualifications (where applicable) and any on-programme mandatory qualifications (where applicable) along with satisfactory evidence (as determined by the Employer, in consultation with the Provider) that the Apprentice has achieved the necessary Knowledge, Skills and Behaviours set out in the Apprenticeship Standard.

**Good Industry Practice** means standards, practice methods and procedures conforming to applicable legal requirements and that degree of care and skill diligence and prudence which would be reasonably expected of an experienced person engaged in providing services similar in nature to the Training Services in a similar type and size of undertaking and under the same or similar circumstances as anticipated by this Agreement.

**ILR** means the individualised learner record which the Provider submits to the ESFA.

**Individual Learning Plan Record (ILPR/Learner Plan)** means in relation to each Apprentice a plan agreed between the Employer, the Provider and the Apprentice setting out how the Apprentice will develop the skills required under the Apprenticeship Standard.

**Initial Assessment** is the process of identifying an individual's learning and support needs to enable the design of an Individual Learning Plan Record (ILPR/Learner Plan). It determines the learner's starting point for their Apprenticeship.

**Knowledge, Skills and Behaviours (KSBs)** are set out in all Apprenticeship Standards; Apprentices are required to learn them to be occupationally competent. KSBs are taught in Off-the-Job Training and tested in the End-Point Assessment.

**Learning Support** means financial support available for Apprentices who have been assessed as having a learning difficulty or disability (for which a reasonable adjustment is required in order for them to undertake their Apprenticeship).

**Levy** see 'Apprenticeship Levy'.

**Levy Funding** means funding provided by the ESFA through either the Employer's Apprenticeship Service Account with the Apprenticeship Service, the ESFA or through Government Employer Co-investment.

**National Minimum Wage** see 'Apprentice Rate'.

**Normal Working Hours** are the Apprentice's paid hours, not including any overtime and are also referred to as Contracted Hours.

**Off-the-Job Training** also referred to as 'Active Learning'. From 1<sup>st</sup> August 2022, full-time Apprentices must spend on average 6 hours per week on Off-the-Job Training; the volume delivered must be linked to the Initial Assessment of the Apprentice and therefore may be more than 6 hours per week.

**Practical Period** is the period for which the Apprentice is expected to work and receive training under an approved English Apprenticeship Agreement.

**Prior Learning** refers to previous learning that may count towards an Apprenticeship for example, work experience, education, training and qualifications.

**Productive Job Role** is the job for which the Apprentice has been employed by the Employer.

**Progress Review** also referred to as Review Meetings will take place every 6 to 12 weeks involving the Employer, Apprentice and Provider to discuss the progress of the Apprentice against their Training Plan.

**Provider** is North Lancs Training Group Ltd (NLTG), Company Number 01948169, whose registered office is at Bradshawgate House, 1 Oak Street, Accrington, Lancashire, BB5 1EQ.

**Recruit an Apprentice Service** means the Government provided service which allows providers to post and manage Apprenticeship vacancies on behalf of Employers eligible to make use of the service.

**Retake** refers to taking the End-Point Assessment again, after further training.

**Services** means the services to be delivered by the Provider under this Agreement.

**Supervisor** means the appropriate individual within the Employer's organisation with responsibility for supporting, encouraging and monitoring the Apprentice in their workplace.

**Termination Conditions** means the conditions specified in 7.1 of this Agreement.

**Training** means the training and assessment to be provided to the Apprentice pursuant to the ILPR/Learner Plan.

**Training Plan** signed by the Apprentice, the Employer and the Provider which meets the ESFA Apprenticeship Funding Rules.

**Transferred Levy Funds** means Levy funding provided by the ESFA which is transferred from one Employer to another Employer as permitted under the ESFA Rules.

**Withdrawal** means an Apprentice leaves or stops taking part in their Apprenticeship before they have completed it.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
- 1.5 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to each other gender.
- 1.8 This Agreement shall be binding on, and ensure to the benefit of, the Parties to this Agreement and their respective personal representatives, successors and permitted assigns, and references to any Party shall include that Party's personal representatives, successors and permitted assigns.
- 1.9 A reference to a statute or statutory provision is a reference to it as amended, extended or reenacted from time to time.
- 1.10 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.11 A reference to writing or written does not include fax.
- 1.12 Any obligation on a Party not to do something includes an obligation not to allow that thing to be done.
- 1.13 A reference to this Agreement or to any other agreement or document referred to in this Agreement is a reference of this Agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this Agreement) from time to time.
- 1.14 References to clauses and Schedules are to the clauses and Schedules of this Agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.15 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.

1.16 Words or phrases defined in the ESFA Funding Rules shall have the same meaning in this document.

1.17 The provisions of this Agreement which are stated to apply if the agreed Services are Government Employer Co-investment Funded, Levy Funded or funded via Transferred Levy Funds shall be construed consistently with the ESFA Rules.

## **2. COMMENCEMENT AND DURATION**

2.1 This Agreement shall be effective from the Effective Date until the 31st July 2025 or upon completion of the last Apprenticeship whichever is the later; or

2.1.1 until the Parties have discharged all their obligations hereunder.

2.1.2 unless terminated earlier under clause 7.

2.2 Notwithstanding the termination or expiry of this Agreement under this clause 2 or clause 7, clauses 5 (Confidential Information), 6 (Data Protection) and 11 (Intellectual Property) shall remain in force. Furthermore, any such termination shall be without prejudice to any rights or obligations arising prior thereto.

## **3. THE PROVIDER'S RESPONSIBILITIES**

3.1 The Provider will in accordance with the ESFA Funding Rules:

3.1.1 Check Apprentice individual eligibility at the start of their programme; only use Government Employer Co-investment Funding, Levy and Transferred Levy Funds for those that are eligible and retain evidence of each Apprentice's eligibility for as long as reasonably necessary.

3.1.2 Conduct Initial Assessment of the Apprentice's abilities, Knowledge, Skills and Behaviours, in line with the proposed Apprenticeship and job role, which includes the identification and recognition of the Apprentice's Prior Learning carrying out relevant diagnostic testing and the identification of any Learning Support needs (including English and maths). The outcomes of Initial Assessment will to be used to create the ILPR/Learner Plan.

3.1.2.1 Carry out a thorough assessment to identify any learning difficulty or disability that requires reasonable adjustments and the additional Learning Support the Apprentice needs to complete the Apprenticeship and if appropriate, record in the ILR that an Apprentice has a Learning Support need.

3.1.2.2 Agree and record the outcome of the additional Learning Support assessment, deliver support in line with identified needs, record all outcomes in the Evidence Pack, and retain evidence of the assessment.

3.1.2.3 Conduct a thorough Functional Skills assessment based on the national literacy and numeracy standards if an Apprentice requires further Training before being able to achieve their Standard and the Training Provider is seeking funding for this.

3.1.2.4 The Provider will not provide any Services under this agreement unless the Employer agrees that the Apprenticeship to be provided is the most appropriate for that individual as per ESFA rules.

3.1.3 Prepare and distribute to the Employer and the Apprentice ILPR/Learner Plan and Training Plan at the outset of an Apprentice's programme; and update the latter with any material changes that are identified throughout the Apprenticeship as identified during Review Meetings.

3.1.4 Create the Apprentice's ILR and record their learning start date and agreed price for Training and assessment.

3.1.5 Agree the Training and who is responsible for its delivery and obtain a copy of the signed Apprenticeship Agreement.

3.1.6 Provide an ILPR/Learner Plan for the Apprentice that meets the requirements of the assessment plan for the Apprenticeship and the Employer's and the Apprentice's needs.

3.1.7 Appoint suitably qualified Tutors to undertake Training of the Apprentice in accordance with the ILPR/Learner Plan.

3.1.8 Provide the Services in accordance with Good Industry Practice.

3.1.9 Monitor the quality of the delivery of the Apprenticeship through regular meetings and Provider quality assurance of the Quality of Education.

3.1.10 Regularly appraise the progress of the Apprentice and discuss such progress with the Employer in order that the ILPR/Learner Plan can be met or (by agreement) varied to reflect changes in circumstances.

3.1.11 Contract in writing with an End-Point Assessment Organisation (EPAO) of the Employer's choosing, and agree with it provisions covering the arrangements for sharing relevant information about the Apprentice so End-Point Assessment and certification can take place, including arrangements for any re-takes and payments and Change of Circumstances, which may delay or lead to the cancellation of End-Point Assessment. For this purpose the Employer shall choose an EPAO reasonably acceptable to the Provider within 14 days of the Provider requiring it to do so, and if the Employer shall fail to do so, the Provider is hereby authorised in the name and on behalf of the Employer to choose such EPAO as the Provider thinks fit, provided that no EPAO shall be appointed pursuant to this clause which is connected with the Provider, or which is not on the ESFA Register of EPAOs.

3.1.12 Make payment to the End-Point Assessment Organisation for conducting the End-Point Assessment and keep records of all such payments.

3.1.13 Collect Employer Co-investments regularly during the Apprenticeship and report the value received on the ILR and ensure all Employer Co-investments are collected in full at least one month prior to the date on which the Completion Payment is due and the Provider shall not return to the Employer, in total or in

- part, the Employer's Co-investments once the Co-investments have been collected.
- 3.1.14 Where the volume of Off-the-Job Training delivered is less than the volume of planned Off-the-Job Training, produce a statement in accordance with the ESFA Rules.
  - 3.1.15 Agree with the Employer the dates of intended visits to the workplace, any off-site Training, exams or End-Point Assessment requirements.
  - 3.1.16 Notify the Employer if the Apprentice is absent from scheduled Training sessions or other scheduled meetings.
  - 3.1.17 Notify the Employer promptly and in advance if it should be necessary to postpone or cancel any scheduled Training session or other scheduled meeting.
  - 3.1.18 Claim any additional funding from the Agency for Functional Skills and additional Learning Support if applicable.
  - 3.1.19 where applicable:
    - 3.1.19.1 notify Employers of any other Employer incentives or grants related to Apprenticeships that may be available.
    - 3.1.19.2 pay any Additional Payments to the Employer within 30 days of Provider receipt.
  - 3.1.20 Advise the Apprentice and Employer of contact details for nominated assessors, Tutors and support staff responsible for the programme.
  - 3.1.21 Inform all Parties and the Apprentice about the Provider's procedures for appeals and complaints, i.e. via the Provider's website, and ensure that these are followed up in a timely and thorough manner.
- 3.2 The Provider reserves the right to recover sums from the Employer if the Agency claws back funding from the Provider because of a breach of the Funding Rules by the Employer.
  - 3.3 Where the Employer is unable to complete the Apprenticeship, the Provider shall use all reasonable endeavours to ensure that the Apprentice is offered the opportunity to transfer to another organisation able to provide an Apprenticeship in a form substantially the same as the Apprenticeship.

#### **4. THE EMPLOYER'S RESPONSIBILITIES**

- 4.1 Apprenticeship Agreement
 

The Employer will:

  - 4.1.1 provide the Apprentice with a copy of their signed Apprenticeship Agreement at the start of their Apprenticeship which will remain in place for the duration of the Apprenticeship. Without an Apprenticeship Agreement an Apprenticeship Certificate cannot be issued. A copy of the Apprenticeship Agreement must also be provided to the Provider.
  - 4.1.2 employ and pay the Apprentice in accordance with the terms of the Apprenticeship Agreement, the Funding Rules and employment law generally (including Annual Leave and the Apprentice Rate).
  - 4.1.3 ensure that the minimum period of employment of the Apprentice will be at least the expected duration of the Apprenticeship for at least 30 hours per week (or pro-rata).
  - 4.1.4 ensure the Apprentice's Contracted Hours of work shall include time for planned rather than requisite Off-the-Job Training hours required for the Apprenticeship in accordance with the Funding Rules.
- 4.2 Eligibility/Evidence for Funding
 

The Employer will confirm via signed declaration to the Provider that the Apprentice meets the eligibility to work in England and meets the criteria for Apprenticeship funding set out in the Funding Rules and provide relevant evidence e.g. meets the initial and ongoing eligibility evidence and criteria as set out in the ESFA Funding Rules.
- 4.3 Support and Supervision
  - 4.3.1 The Employer confirms that the Apprentice's Productive Job Role allows the Apprentice to gain the wider employment experience required by the relevant Apprenticeship and that they can complete all elements of the Apprenticeship within their Contracted Hours.
  - 4.3.2 The Employer will provide appropriate supervision to support, encourage and monitor the Apprentice in their workplace, including provision of a named Supervisor/Mentor.
  - 4.3.3 The Supervisor or their Deputy will, on behalf of the Employer:
    - 4.3.3.1 attend and contribute to all scheduled tripartite Review Meetings and sign the written record of each such review.
    - 4.3.3.2 provide, so far as reasonably practicable, the experience, facilities and support necessary for the Apprentice to achieve the Training objectives set out in the ILPR/Learner Plan, without loss of wages.
    - 4.3.3.3 allow the Apprentice paid time to attend any planned Off-the-Job Training, including any additional support with Functional Skills required for the Apprenticeship, release for exams, testing or assessment, or such reasonable adjustments as may be required to support the Apprentice with special educational needs or disabilities.
    - 4.3.3.4 provide opportunities for the Apprentice to be involved in Active Learning and apply their new skills in the workplace as well as constructive feedback to the Apprentice on their performance at work.
    - 4.3.3.5 notify the Provider immediately on becoming aware of the need to cancel or postpone any scheduled Training or assessment.
    - 4.3.3.6 promptly notify the Provider of any change in circumstance in relation to changes to 1) working hours of the Apprentice 2) Break in Learning of at least a clear calendar month 3) employment status and eligibility i.e. working more than 50% of their time outside England.
  - 4.3.4 The Employer will notify the Provider immediately of any grievance or disciplinary problems relating to the Apprentice as well as any periods of sickness or absence of at least a clear calendar month that may affect the likelihood of achievement by the target achievement date set out in the ILPR/Learner Plan.
  - 4.3.5 If requested, the Employer will allow any funder or regulatory authority (including but not limited to the

- Agency or Ofsted) to visit the Apprentice at work.
- 4.3.6 If the Employer receives Transferred Levy Funds, the Employer shall provide the Training Provider with a completed subsidy control declaration for the funding received and if the Training Provider becomes aware that the Employer has exceeded its small amounts of financial assistance exemptions the Training Provider shall be free to report that fact to the ESFA.
- 4.4 Health and Safety
- 4.4.1 The Employer will ensure that the Apprentice receives a full induction when they start, including a full briefing on the Employer's health and safety procedures. A record of such induction and briefing shall be maintained by the Employer.
- 4.4.2 The Employer will maintain all appropriate insurance policies including public and Employer's liability insurance and will ensure that the Apprentice is covered by such policies for the full duration of their Apprenticeship. The Employer will give the Provider copies of the certificates in relation to such policies at the start of each Apprenticeship.
- 4.4.3 The Employer will complete a health and safety review with a representative of the Provider before the start of the Apprenticeship. The Provider will signpost the Employer to any relevant guidance/support.
- 4.4.4 Such health and safety review will be reviewed at least every five years (for low risk environments), three years and two years respectively for environments that are categorised by the Provider as being medium or high risk.
- 4.4.5 The Employer will notify the Provider immediately of any accident involving the Apprentice. In the event of any major injury or disease of the Apprentice which falls under the scope of the Reporting of Injuries, Dangerous Diseases and Occurrences Regulations 1995 (RIDDOR), the Employer must investigate and provide information about such accident or occurrence to the Provider.
- 4.4.6 The Employer will notify the Provider immediately of any change in circumstances that may affect the health and safety of the Apprentice.
- 4.5 Safeguarding and Promoting the Welfare of the Apprentice
- 4.5.1 The Provider is committed to safeguarding and promoting the welfare of the Apprentice and the Employer shares that commitment. Accordingly, the Employer will take appropriate steps to ensure that:
- 4.5.1.1 the welfare of the Apprentice is safeguarded; and
- 4.5.1.2 learning takes place in a safe, healthy and supportive environment.
- 4.5.2 If the Provider should judge that the requirements of clause 4.5.1 are not met, it reserves the right to withdraw the Apprentice from Training.
- 4.5.3 The Employer has a responsibility to safeguard vulnerable adults and young people (i.e. under 18 years old) under Section 11 of the Children's Act 2004, and any Employees who have a position of authority over the young person or within the organisation are considered to be in a position of trust.
- 4.5.4 If the Provider is concerned about an Apprentice's welfare it may be required to report those concerns to, inter alia, the relevant local authority.
- 4.5.5 Safeguarding Contact
- 4.5.5.1 Should the Employer be concerned about the Apprentice's welfare then it should contact the Apprentice's tutor or the safeguarding lead at the Provider as follows:  
Safeguarding lead at the Provider:  
Name: Mark Taylor  
E-mail: [Mark.Taylor@nltg.co.uk](mailto:Mark.Taylor@nltg.co.uk) Tel: 01254 397119  
Mobile: 07711158807  
Address: NLTG, Bradshawgate House, 1 Oak Street, Accrington, BB5 1EQ
- 4.5.5.2 In the event that there is no response from the tutor or the named safeguarding lead above, the Employer should contact the Provider's Managing Director on 01254 397119 or, in the absence of the Managing Director, any other Director of the Provider.
- 4.6 Equality and Diversity
- The Employer confirms that it has an equality and diversity policy which applies to the whole organisation, including the Apprentice, and complies with current legislation; or, if it does not have such a policy, it agrees to be bound by the Provider's equality and diversity policy in so far as the Apprentice is concerned (a copy is available at [www.nltg.co.uk](http://www.nltg.co.uk)).
- 4.7 Prevent Duty
- 4.7.1 The Provider is subject to The Counter-Terrorism and Security Act 2015 (CTSA) which obligates it to have "due regard" to the need to prevent people from being drawn into terrorism and to comply with statutory guidance issued from time to time. The obligations extend to all persons who come into contact with the Provider, whether learners, staff, contractors, speakers, volunteers, partners or otherwise.
- 4.7.2 The Employer:
- 4.7.2.1 acknowledges that the Provider is subject to the CTSA;
- 4.7.2.2 agrees that it will not put the Provider in breach of its obligations under the CTSA but that it will support the Provider in meeting such obligations;
- 4.7.2.3 will promptly report to the Provider and/or the Police any suspicions or concerns that any Apprentice(s) may be being drawn into terrorism; and will maintain written records of any such report(s).
- 4.8 Control
- The Apprentice is under the supervision and control of the Employer. The Provider shall not be liable for any loss or damage resulting from any act, omission or error made by the Apprentice.

## **5. CONFIDENTIAL INFORMATION**

- 5.1 Each Party will keep confidential:
  - 5.1.1 the terms of this Agreement; and
  - 5.1.2 all Confidential Information that it may acquire in relation to the other Party.
- 5.2 Neither Party will use the other Party's Confidential Information for any purpose other than to perform its obligations under this Agreement. Each Party will ensure that its Employees comply with the provisions of this clause 5.
- 5.3 The obligations on a Party set out in this clause 5 will not apply to any Confidential Information which:
  - 5.3.1 either of the Parties can demonstrate is in the public domain (other than because of a breach of this clause 5); or
  - 5.3.2 a Party is required to disclose by law, regulation, the Agency or the order of a court of competent jurisdiction.

## **6. DATA PROTECTION**

The Parties shall comply with the provisions and obligations imposed by the General Data Protection Regulation (GDPR) and other laws relating to Data Protection applicable in the United Kingdom (together, "Data Protection Law") when storing and processing any personal data. All personal data acquired by one Party from another shall be returned to the disclosing Party on request, provided that the performance of a duty imposed by Data Protection Law shall not constitute a breach of any obligation in respect of confidentiality which may be owed to the other party.

## **7. TERMINATION OF AGREEMENT**

- 7.1 If a party:
  - 7.1.1 commits a breach of this Agreement which cannot be remedied; or
  - 7.1.2 commits a breach of this Agreement which can be remedied but fails to remedy that breach within 30 days of receipt of a written notice setting out the breach and requiring it to be remedied being given by the Party not in breach, then the Party not in breach may terminate this Agreement immediately by giving written notice to that effect to the other Party.
- 7.2 Any Party may terminate this Agreement immediately by giving written notice to that effect to the other, if the other Party commits more than three breaches of the same or similar provisions of this Agreement in any rolling period of 12 months (whether or not such breaches are material breaches, have been remedied and/or can be remedied) provided that such breaches were notified by one Party to the other at or about the time those breaches took place.
- 7.3 Any Party may terminate this Agreement immediately by written notice to the other Party if the other Party becomes insolvent.
- 7.4 In the event of termination of the Agreement under this clause 7 the Parties shall work together in good faith to ensure that any Apprentices at the date of termination are not prejudiced because of such termination and are appropriately supported through to the successful completion of their Apprenticeships.

## **8. NOTICES**

- 8.1 Any notice or other communication given under or in connection with this Agreement shall be in writing and:
  - 8.1.1 delivered by hand; or
  - 8.1.2 sent by e-mail or pre-paid first-class post to the relevant Party at the address and marked for the attention of the individual detailed below (or such other address or individual as may be notified by the relevant Party to the other Party from time to time in accordance with this clause 8):
    - 8.1.2.1 NLTG, Bradshawgate House, 1 Oak Street, Accrington, Lancashire BB5 1EQ for the attention of the Managing Director.
- 8.2 Any notice or communication given in accordance with clause 8 shall be deemed to have been served:
  - 8.2.1 if delivered by hand, at the time of delivery; and
  - 8.2.2 if sent by pre-paid first-class post at 9.00 a.m. on the second working day after the date of posting.
  - 8.2.3 If sent by email, at 9.00 a.m. on the first working day after the date of sending.
- 8.3 To prove service of a notice or communication it shall be sufficient to prove that the provisions of this clause 8 were complied with.

## **9. ASSIGNMENT AND SUBCONTRACTING**

Each Party shall only be entitled to sub-contract an obligation under this Agreement if it has obtained the prior written consent of the other Party (at the other Party's sole discretion). SAVE THAT no such consent shall be required if a Party wishes to transfer its rights and obligations under this Agreement (which, for these purposes shall include the ILPR/Learner Plan and Training Plan) to another entity within its group to which all or a substantial part of its business is also transferred. Each Party agrees to execute any novation that the other Party may reasonably request to give effect to any such transfer.

## **10. LIMITATION OF LIABILITY**

- 10.1 Nothing in this Agreement shall limit or exclude either Party's liability for:
  - 10.1.1 death or personal injury caused by negligence, fraud or fraudulent misrepresentation;
  - 10.1.2 any other liability which cannot be excluded or limited by law; or
  - 10.1.3 any liability arising under clause 6 (Data Protection).
- 10.2 Subject to clause 10.1, the Provider shall not be liable to the Employer for loss of:
  - 10.2.1 profits.
  - 10.2.2 sales or business.



- 10.2.3 agreements or contracts.
- 10.2.4 anticipated savings.
- 10.2.5 damage to goodwill.
- 10.2.6 use or corruption of software, data or information; and
- 10.2.7 any indirect or consequential loss.

The aggregate maximum liability of the Provider arising under or in connection with the performance or contemplated performance of this Agreement, including costs, shall be limited for any individual Apprenticeship to the amount of funding actually received by the Provider for such Apprenticeship, provided that the aggregate value of all claims under this Agreement shall not exceed the lower of £25,000 and the amount received by the Provider for the Services in the 12 months immediately preceding the date on which the claim arose.

## **11. INTELLECTUAL PROPERTY**

- 11.1 Save as set out in clause 11.2. below:
  - 11.1.1 The intellectual property rights in all materials created by or on behalf of the Provider and used for the Training and assessment of Apprentices shall remain the property of the Provider.
  - 11.1.2 The intellectual property rights in all materials created by or on behalf of the Employer and used for the Training and assessment of Apprentices shall remain the property of the Employer.
- 11.2 Each Party grants to the other a non-exclusive, non-transferable royalty free licence to use the other's materials in the delivery of the Services.

## **12. CREDIT CHECKS**

A Party may from time to time carry out credit checks on the other or request such other evidence of the financial status of the other Party as is reasonable in the circumstances.

## **13. GENERAL**

- 13.1 Except as expressly provided in this Agreement, each Party will pay its own costs and expenses incurred in connection with the preparation, negotiation and implementation of this Agreement and the documents referred to in this Agreement.
- 13.2 Nothing in this Agreement is intended to or will operate to create a partnership or joint venture of any kind between the Parties, or to authorise any Party to act as agent for another, and no Party will have authority to act in the name or on behalf of or otherwise to bind another Party in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 13.3 Each Party warrants and represents that it enters into this Agreement as principal and not as agent for any person.
- 13.4 The Parties acknowledge that the rights, responsibilities and obligations of the Parties hereunder are limited to the express provisions contained in this Agreement and that this Agreement will not imply any additional rights, responsibilities or obligations on any Party.
- 13.5 No variation or waiver of any of the terms of this Agreement will be binding unless set out in writing, expressed to amend this Agreement and signed by each of the Parties or their duly authorised representatives.
- 13.6 The failure to exercise or delay in exercising a right or remedy provided by this Agreement or by law will not constitute a waiver of the right or remedy or a waiver of other rights or remedies.
- 13.7 The rights and remedies provided by this Agreement are cumulative and (subject as otherwise provided in this Agreement) are not exclusive of any rights or remedies provided by law.
- 13.8 A Party shall not be in breach of this Agreement or otherwise liable to the other Party for any failure to perform or delay in performing its obligations under this Agreement to the extent that such failure or delay is due to force majeure.
- 13.9 This Agreement may be executed in any number of counterparts and all the counterparts when taken together will constitute one agreement.
- 13.10 If any provision of this Agreement, or any part of a provision of this Agreement, is found to be illegal, invalid or unenforceable the remaining provisions, or the remainder of the provision concerned, will continue in effect.
- 13.11 This Agreement does not create any right enforceable by any person who is not a Party, whether pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 13.12 This Agreement, its Schedules and the documents referred to in the Agreement and Schedules contain all the terms which the Parties have agreed in relation to their subject matter, and supersede all prior written or oral agreements, representations or understandings between the Parties (including any heads of terms) relating to that subject matter.

## **14. GOVERNING LAW AND JURISDICTION**

This Agreement is governed by the laws of England and Wales and the Parties submit to the exclusive jurisdiction of the courts of England and Wales.

# Full Terms & Conditions

## Apprenticeship Services

### SCHEDULE 1

#### 1. COSTS

The total cost (the “**Total Cost**”) of each Apprenticeship is set out in the ILPR/Learner Plan. The Total Cost includes:

- a. Initial Assessment
- b. the cost of Training delivered by the Provider;
- c. exam fees (first sitting only), registration and any linked membership fees for exam components within the Apprenticeship and certification fees;
- d. on-programme assessment; and
- e. (subject to paragraph 9 below) End-Point Assessment.

#### 2. LEVY AND EMPLOYER CO-INVESTMENT PAYMENT

- a. For Employers subject to the Apprenticeship Levy, payments from the Employer’s Apprenticeship Account will be made in accordance with the Funding Rules.
- b. For all Employers Training delivery will not start until the relevant Apprenticeship is added and approved by the Employer on the Apprenticeship Service, or where permissions have been granted for NLTG to add Apprentices on behalf of the Employer and the Apprenticeship is subsequently approved.
- c. Any Employer Co-investment payments will be made as set out in the ILPR/Learner Plan or in accordance with the Funding Rules (the latter being the case where the Employer has insufficient funds in its Levy Account). This applies where the cost of the Apprenticeship cannot be met by the funds in the Employer’s Apprenticeship Service Account.
- d. Any Levy funding provided by the ESFA which is transferred from one Employer to another Employer as permitted under the ESFA Rules, the receiving Employer must complete a Subsidy Control declaration for the funding received.
- e. Employers must not require Apprentices to make financial contributions towards the cost of any part of their Apprenticeship Standard.

#### 3. RECRUITMENT SUPPORT

Where the Provider is supporting the recruitment process a recruitment fee may be payable. The terms relating to any such fee will be agreed separately in writing. Employers wishing to advertise their own Apprenticeship vacancies have the option of using the Government’s free Recruit an Apprentice Service for new recruits into their business. Employers wishing to utilise NLTG’s recruitment support service will need to provide NLTG with permission to do so via their Apprenticeship Service Account, and must also authorise all vacancies.

#### 4. IF THE APPRENTICE DOES NOT START

Should the Provider provide support with the recruitment of a candidate who does not then start an Apprenticeship with NLTG within four weeks after starting employment, but at such date is still employed by the Employer (or a group or associated company of the Employer) then, otherwise than with the written consent of the Provider, a fee of £500, shall be due.

#### 5. WITHDRAWALS

If the Apprentice should withdraw from the Apprenticeship prior to completion, then:

- a. no subsequent monthly instalments of any Employer Co- Investment will fall due and the Provider shall issue a credit note for such subsequent instalments where these have been invoiced or refund in the case of any overpayment; and
- b. the Employer Co- Investment instalment for the month in which the Apprentice withdraws from learning shall remain payable.
- c. where an individual permanently withdraws from the Apprenticeship and is no longer an Apprentice, the Employer must not continue to use the Apprentice Rate of the National Minimum Wage. This does not apply to those on a Break in Learning.

#### 6. BREAK IN LEARNING

In some circumstances a Break in Learning, usually of no more than 6 months, may be agreed. In the event of a Break in Learning being agreed by all parties, then no Employer Co-investment shall fall due from the month following the start of the Break in Learning up to and including the month prior to the month in which the Apprenticeship is resumed.

A Break in Learning must be used where there is no plan for Active Learning to take place within a calendar month. The only exception to this is for those Apprentices with a term-time only contract, where we do not require a Break in Learning for the month of August. When the Training documented on the Training Plan is complete, the Practical Period is complete.

- a. Where an Apprentice takes a Break in Learning and returns to the same Apprenticeship, they will return to the same Funding Rules they were following prior to their break.
- b. An Apprentice may take a Break in Learning either with, or without a break in employment.
- c. If an Apprentice is on a Break in Learning when an Additional Payment is due, the payment will be delayed until the apprentice resumes their Apprenticeship and has reached an overall total of 90 or 365 days in learning.
- d. If an Apprentice is on a Break in Learning when a Care Leaver Bursary payment is due, the payment will be delayed until the Apprentice resumes their Apprenticeship and has reached an overall total of 60, 120 or 300 days in learning.

## **7. EARLY/LATE COMPLETIONS**

- a. Should the Apprentice take the End-Point Assessment earlier than originally planned any remaining Employer Co-investment shall fall due immediately.
- b. Should the Apprentice not complete their Apprenticeship by the Apprenticeship, the Provider shall discuss with the Employer how best to support Apprenticeship achievement Practical Period. This could include additional commercial costs.

## **8. EXAMS**

The Total Cost includes the cost of any awarding organisation examination fees and associated certification fees comprised within the Apprenticeship (first sitting only) unless otherwise agreed in writing, fees in respect of any Retakes will be recharged to the Employer.

## **9. END-POINT ASSESSMENT**

End-Point Assessment takes place at the end of an Apprenticeship once Gateway Requirements have been met. These are requirements set out in the assessment plan that must be met by the Apprentice prior to undertaking End-Point Assessment of the Apprenticeship Standard. They will include the completion of English and maths qualifications (where applicable) and any on-programme mandatory qualifications (where applicable) along with satisfactory evidence (as determined by the Employer, in consultation with the main Provider) that the Apprentice has achieved the necessary Knowledge, Skills and Behaviours set out in the Apprenticeship Standard.

The fees of the independent End-Point Assessment organisation that will conduct the End-Point Assessment (first sitting only) are included in the Total Cost to a maximum amount equal to, either, ten per cent, of the Total Cost or, where such amount is specified within the amount in the ILPR/Learner Plan (the "Maximum End-Point Assessment Cost"). The following fees will be recharged to the Employer

- a. fees that exceed the Maximum End-Point Assessment Cost; and
- b. fees in respect of any re-assessment.

## **10. PROFESSIONAL BODY MEMBERSHIP**

The Total Cost does not include any registration or membership fees for any professional body, save where these are a pre-requisite to achieving the exam components within the Apprenticeship. Should the Provider pay such fees on behalf of the Apprentice or the Employer in connection with the Apprenticeship, the amount thereof shall be charged to the Employer.

## **11. CANCELLED VISITS**

- a. Scheduled visits (whether in-person or remote) should only be cancelled where absolutely necessary (usually by the Supervisor or their Deputy) and can never be cancelled by the Apprentice.
- b. Save in the event of sickness on the part of the Apprentice, where a scheduled visit is cancelled on less than two working days' notice, a cancellation fee shall be charged, which shall be the greater of £100 and the actual travel costs incurred by the Provider.

## **12. FEES – GENERAL**

- a. Fees are due for payment the 'End of the following month' or 60 days of the date of the invoice, save for fees expressly agreed to be payable by instalments. Fees are exclusive of VAT, which will be charged where applicable.
- b. If a fee is not paid within timescales noted in 12a, above, , or an instalment payment is not made as scheduled the Provider may suspend delivery of the Apprenticeship Standard until all such payments have been brought up to date.
- c. Where fees are overdue for the Employer (in relation to any Apprentice) then any certificates including the Apprenticeship Certificate issued to the Provider in connection with the Apprenticeship Standard shall be retained pending payment.

## **13. APPEALS AND DISPUTES PROCEDURE**

In the event of any disagreement or dissatisfaction with NLTG Services, please refer to NLTG's Complaints Procedure (available from the Publications page of the NLTG website).