

**(1) GREATER MANCHESTER COMBINED AUTHORITY**

**And**

**(2) THE BOROUGH COUNCIL OF OLDHAM**

**GRANT FUNDING AGREEMENT**

**for the Devolved GM Adult Education Budget  
Funding Year 2022/23**

**To operate from the 1<sup>st</sup> August 2022 to 31<sup>st</sup> July 2023**



**Grant Profile** Schedule) and the Greater Manchester Combined Authority Adult Education Budget: Funding and Performance Management Rules for the 2022 to 2023 funding year (the GMCA AEB Funding and Performance Management Rules). The Maximum Grant which is payable by GMCA to the Council for the Funding Year from 1 August 2022 to 31 July 2023 is **£2,804,560.02 (Two Million, Eight Hundred and Four Thousand, Five Hundred and Sixty Pounds and Two Pence Sterling)**. Included in the approved allocation is funding for LCRCA residents of £450.

## **IT IS AGREED AS FOLLOWS:**

### **1. Definitions**

- 1.1 In this Agreement the expressions set out in Schedule 1 (**Definitions**) shall have the meanings ascribed to them therein.
- 1.2 In this Agreement any references to Statutory Entitlements only relate to those included in GMCA Order referred to in paragraph A above.

### **2. Interpretation of the Agreement**

The meaning of the capitalised terms included in this Agreement are defined at Schedule 1.

### **3. Variation and Termination**

- 3.1 GMCA reserves the right at its absolute discretion to vary the Agreement. Any such variation shall be recorded in writing on a Variation to Agreement Form as set out in Schedule 13 (**Variation to Contract**) or other such form as determined by GMCA from time to time.
- 3.2 GMCA may give notice to terminate the Agreement with immediate effect in accordance with Schedule 3 (**Breach and Termination**) if the Council commits a Serious Breach of any of the terms of this Agreement and (if such a Serious Breach is remediable) fails to remedy that Serious Breach to the reasonable satisfaction of GMCA within the period specified by GMCA.

### **4. Effective Date**

This Agreement shall start on the Commencement Date and will end on the Expiry Date unless terminated earlier in accordance with this Agreement.

### **5. Conditions of Funding and Payment**

- 5.1 The Council shall use this Grant in accordance with the approach set out in this Agreement and the GMCA AEB Funding and Performance Management Rules and the Grant should not be used for any other purposes (e.g. for the delivery of Apprenticeship or Adult Learning Loans education provision).
- 5.2 GMCA will consider the Council's delivery of the Provision in the academic year running from 1 August 2021 to 31 July 2022 when setting the Council's allocation of Devolved GM AEB grant funding for the academic year running from 1 August 2022 to 31 July 2023. GMCA will also through a supplemental Grant Delivery and Financial Schedule

for the academic year running from 1 August 2022 to 31 July 2023 seek to influence the mix and balance of Provision to Learners to be delivered by the Council, which will reflect the delivery outcomes set out in GMCA Strategic Economic Plan.

- 5.3 GMCA will also consider any Provision that the Council delivers through a GM AEB Contract for Services as an Independent Training Provider or as a Sub-contractor in determining the final allocation of Grant for the academic year running from 1 August 2022 to 31 July 2023.
- 5.4 The Council will receive a Grant for the 2022/2023 Funding Year, underpinned by a three-year plan, which will be paid on the profile and in accordance with the information set out in Schedule 2 (**Provision and Grant Profile**).
- 5.5 Once received the Council will decide how the Grant is spent on the delivery of Provision to Learners. GMCA expects the Council to ensure that it has appropriate governance and accountability arrangements in place. A summary of the key governance and accountability requirements of GMCA is included at Schedule 5 (**Responsibilities of the Council**). In addition, the Council must fulfil all the conditions of funding imposed by GMCA in this Agreement and the GMCA AEB Funding and Performance Management Rules. At no time should delivery of Provision to Learners by the Council in the period covered by this Agreement result in the overall Maximum Grant being exceeded, unless with the prior written agreement of GMCA.
- 5.6 The principles and features of GMCA's Devolved GM AEB funding system and the requirements in respect of each type of Provision which can be delivered is set out in the GMCA AEB Funding and Performance Management Rules.
- 5.7 The rates payable by GMCA in respect of each type of Provision are set out in the GMCA AEB Funding and Performance Management Rules and may not be exceeded by the Council unless agreed in writing with GMCA.
- 5.8 The Provision is to be delivered in accordance with any specific requirements of GMCA, including but is not limited to the GMCA AEB Funding and Performance Management Rules.
- 5.9 The Council shall ensure that the Grant is not used to deliver Provision for which the Council has already received other funding to deliver (including other Public Funds). If GMCA identifies that the Council has used Grant in a way not permitted under this Agreement (or the GMCA AEB Funding and Performance Management Rules) it may require repayment of some or all of the Grant by the Council in accordance with Clause 7 (**Repayment of Grant**) or may make a deduction from GMCA's future funding allocations to the Council from the Devolved GM AEB.
- 5.10 To ensure that GMCA has information regarding the total Government Adult Funding allocated to the Council to support the Council to deliver adult education and skills training (both to adults who are residents of GMCA Area and to adults who are not residents of GMCA Area), the Council must advise GMCA in writing of any other Adult funding streams (in addition to the Grant) being received by the Council from either central Government or any public sector organisation (including but not limited to):
  - (i) funding received from any geographic areas with a Devolution Deal (e.g. the Liverpool City Region Combined Authority), including any funding received from any sub-contracting arrangements;

- (ii) funding received from any geographic areas without a Devolution Deal (e.g. Cheshire East Council) including any funding received from any sub-contracting arrangements);
- (iii) funding received from any sub-contracting arrangements which the Council has entered where the funding comes from the Devolved GM AEB;
- (iv) funding received from other institutions or providers where this funding in turn comes from central Government of any public sector organisation; or
- (v) funding received direct from central Government any of its Departments or Agencies (including European Social Fund monies).

The Council must also advise GMCA as soon as reasonably practicable of any significant changes to the Council's Adult skills funding allocations which occur during the Funding Year.

- 5.11 GMCA reserves the right to impose additional conditions of funding where it considers it is necessary to do so in order to:
- (i) secure the delivery of Provision of a reasonable quality by the Council to Learners;
  - (ii) ensure that the Grant provided by GMCA is being used effectively and efficiently; and
  - (iii) require the Council to address concerns about its financial viability.

## **6. Sub-contracted Provision**

- 6.1 The Council can as part of agreeing its Grant Delivery and Financial Schedule with GMCA make proposals to sub-contract some of the Provision which is funded by way of Grant allocated under this Agreement as stated in paragraphs 3.42 through to 3.66 of GMCA AEB Funding and Performance Management Rules. GMCA supports sub-contracting where it extends the breadth and reach of the delivery of Provision, or supports Learners with complex needs, offers opportunities to small scale niche or specialist provision of services, or creates additional opportunities enabling GMCA residents in low paid jobs to upskill or retrain, with a focus on GMCA skills shortage area.
- 6.2 The Council must obtain the prior written consent of GMCA before entering into any sub-contracting arrangements for the delivery of Provision to Learners.
- 6.3 The Council must ensure that any Sub-contractors are selected fairly and have sufficient capacity, capability and financial resources to deliver quality Provision to Learners.
- 6.4 Where the Council sub-contracts or intends to sub-contract any duties or obligations arising out of this Agreement, the Council must agree that as part of its Grant Delivery and Financial Schedule with GMCA and must provide GMCA with details of all Sub-Contractors and the information in relation to Sub-contractors in accordance with the provisions of Schedule 15 (**Sub-contracting**) of this Agreement. The Council must

notify GMCA of any within Funding Year changes to its Sub-contractors as stated in paragraphs 3.60 and 3.61 of GMCA AEB Funding and performance Management Rules. GMCA reserves the right to require the Council not to enter into, or to terminate, any sub-contract to deliver the Provision under this Agreement.

- 6.5 The Council must comply with the requirements on sub-contracting delivery of the Provision set out in Schedule 15 (**Sub-contracting**). Sub-contracting any part of the delivery of the Provision shall not relieve the Council of any obligation or duty attributable to it under this Agreement or the GMCA AEB Funding and Performance Management Rules. The Council is responsible for all the actions of its Sub-contractors connected to or arising out of the delivery of the Provision which it sub-contracts as stated in paragraph 3.55 of GMCA AEB Funding and Performance Management Rules.
- 6.6 Only one level of sub-contracting is allowed by GMCA as stated in paragraph 3.46 of GMCA AEB Funding and Performance Management Rules. Where GMCA agrees that the Council may sub-contract the delivery of any Provision under this Agreement, the Council shall ensure that there is in place a legally binding sub-contract between the Council and its Sub-contractors. If requested (in writing) the Council should make a copy of any sub-contract available to GMCA for information. Where the Council subcontracts to enable delivery of the Provision covered by this Agreement, it should contain a term to enable GMCA to enforce the terms of the sub-contract should it need to.
- 6.7 Where the Council enters into a sub-contract for the purpose of delivery of any Provision, the Council shall ensure that the sub-contract includes any terms specified in the GMCA AEB Funding and Performance Management Rules.
- 6.8 The Council shall make payment to any Sub-contractor within 15 days of receiving a valid claim for payment and ensure that any sub-contract entered into for the purpose of delivery of any Provision includes a term in the sub-contract that payment will be made within 15 days of receiving payment from GMCA.

## **7. Repayment of Grant**

- 7.1 GMCA reserves the right to require the Council to repay all or part of the Grant provided by GMCA pursuant to this Agreement in the event of a breach by the Council of the terms and conditions of funding set out in this Agreement, the GMCA AEB Funding and Performance Management Rules, or in the event that the Council fails to meet the requirements of the Grant Delivery and Financial Schedule.
- 7.2 Where a (sample) audit is undertaken on behalf of GMCA (through a third party) or directly, the Council is required to provide accurate information to support the payment of Grant made by GMCA. If any such audit identifies errors in the evidence supplied by the Council which the auditor deems are material, GMCA reserves the right at its absolute discretion to require the Council to carry out an 100% audit of all or part of the Provision and/or to recover from the Council an amount based on the error rate identified by the auditor and the total value of the Grant.
- 7.3 GMCA shall be entitled to recover any Grant sums repayable by the Council pursuant to this Agreement by deducting them from future payments due to the Council under this Agreement.
- 7.4 GMCA shall be entitled to recover any used or uncommitted Grant funds at the end of

this Agreement or require the Council to use such Grant funds for purposes as directed by GMCA. In exceptional circumstances GMCA can require through the issuing of an invoice, Grant funds to be returned by the Council.

## **8. Premises**

- 8.1 The Council shall have in place sufficient insurance for its Premises, assets and property and shall manage and develop its Premises and property with regard to good practice guidance in the further education sector and ensure that it maintains Premises which are properly equipped to deliver the Provision for which it is Grant funded by GMCA pursuant to this Agreement.
- 8.2 The Council must ensure that it complies at all times with the Law in relation to the condition of any Premises that it uses to deliver the Provision (including but not limited to the Health and Safety at Work Act 1974 and the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 ("**RIDDOR**").
- 8.3 Where the Council proposes to dispose of, lease or rent Premises, land and/or buildings which have been acquired, developed and/or refurbished or modernised with the help of capital grants from the ESFA or its predecessor bodies, or GMCA (a **Public Sector Capital Grant**) GMCA should be notified in writing of such transactions and reserves the right to require where appropriate repayment of some, or all, of the associated Public Sector Capital Grant.

## **9. European Social Fund (ESF) Funding**

- 9.1 Where notified in writing by GMCA that the Grant funding under this Agreement can be used as match funding for ESF funding, the Council must follow the ESF match funding rules that are set out in paragraphs 4.51 to 4.54 of the GMCA AEB Funding and Performance Management Rules and should include the use of the ESF logo.
- 9.2 Where requested to do so in writing by GMCA, the Council shall provide such information in such form as GMCA specifies to enable GMCA to comply with the requirements of the ESF.
- 9.3 Without prejudice to the Council's obligation to provide GMCA with information as set out at Clause 9.2, the Council shall be responsible for ESF compliance and risk management in situations when ESF is received by the Council.

## **10. Financial Reporting and Audit**

- 10.1 It is the responsibility of the Council to make sure that it complies with all relevant Law and follows the best practice recommendations of relevant accounting and audit professional bodies when preparing and publishing its Annual Report and Accounts.
- 10.2 The Council will ensure that it complies with the financial auditing and audit obligations set out in Schedule 6 (**Financial Reporting and Audit**).
- 10.3 The Council shall not disclose any matters pertaining to GMCA or the Grant in the Financial Reports and Accounts of the Council or other publication or disclosure without the prior written agreement of GMCA.

## **11. Subsidy Control and Employer Contribution**

- 11.1 The Council shall satisfy itself that the Grant to be made by GMCA pursuant to this Agreement complies with the requirements of all applicable Subsidy Control Law or relevant rules which apply in domestic UK law from 1 January 2022, as applicable and as stated in paragraphs 4.61 to 4.65 in the GMCA AEB Funding and Performance Management Rules.
- 11.2 The Council shall procure and maintain the necessary expertise and resources to ensure the Grant is used by the Council in accordance with the requirements of all applicable Subsidy Control Rules.
- 11.3 The Council agrees to collect and retain appropriate records of compliance with the Subsidy Control Rules and will supply those records to the GMCA on request, to allow the GMCA to respond to any investigation(s) instigated by the Competition and Markets Authority (**CMA**) or other competent body as set out in the Subsidy Control Act 2022.
- 11.3 In the event of finding of Subsidy Control Rules non-compliance by the CMA or other competent body, the GMCA reserves the right to require the Council to make immediate repayment of all or some of the Grant, together with interest in accordance with the CMA's reference rates.
- 11.4 The GMCA reserves the right to require the Council to obtain a contribution towards the cost of the Provision delivered under this Agreement from the employer of any Learner. Where an employer contribution is required, GMCA will confirm to the Council in writing the exact percentage of the employer contribution.
- 11.5 Where GMCA requires the Council to obtain an employer contribution towards the cost of the Provision under Clause 11.4 of this Agreement, the Council must provide evidence to GMCA that the employer contribution has been received.

## **12. National Assurance and Intervention Regime**

On 31 January 2019 the insolvency and intervention regime under the Technical and Further Education Act 2017 came into force and introduced a new insolvency regime for FE Colleges. As set out in the MOU, GMCA will work closely with, the DfE and ESFA and will gain assurance wherever possible from the quality and financial assurance processes and audits conducted by central Government and its agencies (where these agencies carry out financial assurance and audits of certain categories of providers). Schedule 7 (**ESFA, OSTED, Quality Assurance and Raising Standards**) sets out how GMCA will work with national assurance agencies (where these agencies carry out financial assurance and audits of certain categories of providers) and how this will affect the operation of this Agreement.

## **13. Notice of Concern or Withdrawal of funding**

- 13.1 As set out in the MOU, the ESFA will regularly share information with GMCA on national intervention activity where this involves any organisations which are in receipt of Devolved GM AEB funding. This information will include activity arising or planned following FE Commissioner Intervention Activity, Ofsted inspection, Minimum Standards Failure or any Notice to Improve.
- 13.2 Without prejudice to the generality of Clause 13.1, the ESFA will notify GMCA if it intends to issue the Council with a Notice of Concern or withdraw ESFA funding from



the Council for either of the reasons below:

- (i) All or any part of provision delivered by the Council to ESFA pursuant to any grant funding agreement or contract for services entered into between ESFA and the Council falls below the national Minimum Standards or other standards which may be set by the ESFA; or
- (ii) The Council is rated inadequate by the ESFA for financial health or financial control, including but not limited to receipt of an adverse opinion as the result of an Accountability Review, internal or external audit, or qualified auditors' report on its final 19+ Apprenticeship and Adult Education Budget funding claim.

13.3 Additional information on the action that will be taken should the Council receive notification from ESFA as set out in Clause 13.2 is contained in Schedule 7 (**ESFA, OFSTED, Quality Assurance and Raising Standards**).

13.4 GMCA will notify the ESFA as soon as reasonably practicable:

- (i) if GMCA intends at any time to reduce the Council allocation of Devolved GM AEB by more than the greater of £100,000 or 10 % of the Maximum Grant specified at Schedule 2 (**Provision and Grant Profile**); or
- (ii) if GMCA believes that action is being taken by the Council which could put Learner Provision or public funds at risk.

13.5 Additional information on the action that GMCA may decide to take in relation to this Agreement in the event of the occurrence of any of the circumstances outlined at Clauses 13.1 to 13.3 (inclusive) is set out in Schedule 3 (**Breach and Termination**).

#### **14. Performance Management**

The Council shall deliver the Provision to an acceptable standard of quality and comply with GMCA AEB Rules as amended from time to time. A summary of key provisions of GMCA AEB Rules is attached at Schedule 2 (**GM Devolved AEB Provision And Grant Payment Profile**).

#### **15. Learner Health, Safety and Welfare**

The Council shall ensure that Provision is delivered to Learners in safe, healthy and supportive environments, which meet the needs of Learners and comply with all relevant Law. Without prejudice to the generality of this clause 15, the Council shall ensure that it complies at all times with the requirements in relation to Learner health and safety set out in Schedule 9 ("**Learner Health and Safety**").

#### **16. Equal Opportunities**

The Council shall not unlawfully discriminate within the meaning and scope of the provisions of the Equality Act 2010, or any statutory modification or re-enactment thereof or any other statutory provision relating to discrimination in employment or the delivery of the Provision. Without prejudice to the generality of this Clause 16, the Council shall ensure that it complies at all times with the requirements in relation to equal opportunities set out in Schedule 10 (**Equal Opportunities**).

## 17. Compliance with all applicable Law

The Council shall at all times comply with all applicable Law in delivering the Provision to the Learners and carrying out its obligations under this Grant Agreement.

## 18. Retention of Documents

18.1 The Council and its Sub-Contractors shall retain original invoices; management information returns and all other documents necessary to verify the Provision delivered by itself or by its Sub-Contractors for 10 years from the end of the financial year in which the last payment of Grant is made.

18.2 Confirmation of the document destroy date which will apply to the information set out at Clause 18.1 will be notified to the Council in writing by GMCA. Without prejudice to any of the other rights under the Agreement to recover funds, GMCA will be entitled to recover from the Council any sums which it is required to repay to the ESF because of the Council's failure to comply with Clauses 18.1 and 18.2.

## 19. Data Protection and Freedom of Information

19.1 The Parties shall comply with all requirements of Data Protection Legislation, this Agreement and the provisions of Schedule 11 and will not knowingly do anything or permit anything to be done which might lead to a breach by the other party of Data Protection Legislation

19.2 Where any Personal Data is required to be shared under this Agreement in relation to the Project, the Parties shall enter into an Information Sharing Agreement in relation to any such Personal Data shared.

19. The Parties agree to comply with the requirements of Freedom of Information and EIR as set out in Schedule 11.

## 20. Confidentiality

20.1 For the purposes of this clause:

(a) **"Confidential Information"** means information of a confidential nature, including but not limited to information relating to the operations, plans, intentions, know-how, copyright and other intellectual property rights, software, market opportunities, strategies, customers and potential customers, competitors and potential customers, business and/or financial affairs of the Parties,

(b) **"Disclosing Party"** means the Party disclosing Confidential Information, and

(c) **"Receiving Party"** means the Party receiving Confidential Information.

20.2 Each Party agrees to keep Confidential Information disclosed to it by the other Party strictly confidential and not to use any such Confidential Information for any purpose other than for purposes directly related to the provision of the Grant. The Receiving Party will restrict access to Confidential Information of the Disclosing Party to such of its employees as need to know the same for the purposes set out in this clause and will not disclose any such Confidential Information to any third party without the prior

written consent of the Disclosing Party and, in the event that such disclosure is permitted, the Receiving Party will procure that such third party agrees to be bound by the terms of this clause in relation to such Confidential Information. The requirements of this clause will not apply to the disclosure of information which:

- (a) at the time of disclosure is in the public domain in the form supplied otherwise than through a breach of this Agreement, or
- (b) was lawfully within the possession of the Receiving Party prior to its disclosure by the Disclosing Party Provided that the source of such information was not bound by obligations of confidentiality in respect of such information, or
- (c) the Receiving Party is required to disclose by law and/or any court of competent jurisdiction or any governmental or regulatory body

20.3 The Parties acknowledge that damages may not be an adequate remedy in respect of a breach of this clause and that equitable reliefs including injunctions and orders for specific performance may be appropriate for the enforcement of this clause.

20.4 The Council hereby warrants that:

- (a) any person employed or engaged by it (in connection with this Agreement in the course of such employment or engagement) shall treat all Confidential Information belonging to GMCA as confidential, safeguard it accordingly and only use such Confidential Information for the purposes of this Agreement; and
- (b) any person employed or engaged by it (in connection with this Agreement in the course of such employment or engagement) shall not disclose any Confidential Information to any third party without prior written consent of GMCA, except where disclosure is otherwise expressly permitted by the provisions of this Agreement.

20.5 The Council shall take all necessary precautions to ensure that all Confidential Information obtained from GMCA is treated as confidential and not disclosed (without prior approval) or used other than for the purposes of this Agreement by any Council Personnel, servants, agents or Sub-Contractors.

20.6 Nothing in this clause 20 shall be deemed or construed to prevent GMCA from disclosing any Confidential Information obtained from the Council:

- (a) to any other Central Government or Local Government Body or Crown Body;
- (b) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
- (c) to any professional adviser, consultant, provider or other person engaged by GMCA directly in connection with this Agreement, provided that such information is treated as confidential by the receiving consultant, provider or any other person;
- (d) on a confidential basis to any proposed successor body in connection with any assignment disposal of its rights, obligations or liabilities under this Agreement.

- 20.7 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the course of the delivery of the Provision to Learners, the Council undertakes to maintain adequate security arrangements that meet the requirements of professional standards and best practice.
- 20.8 The Council will immediately notify GMCA of any breach of security in relation to Confidential Information and all data obtained in the course of the delivery of the Provision to Learners and will keep a record of such breaches. The Council will use its best endeavours to recover such Confidential Information or data however it may be recorded. The Council will co-operate with GMCA in any investigation that GMCA considers necessary to undertake as a result of any breach of security in relation to Confidential Information or data.
- 20.9 The Council shall, at its own expense, alter any security systems at any time during the Grant Term at GMCA's request if GMCA reasonably believes the Council has failed to comply with this clause 20.
- 20.10 GMCA reserves the right to publish details of this Agreement and the payments of Grant made under it to comply with the Government's transparency requirements.
- 20.11 The provisions of this clause 20 will apply for the duration of the Grant and for five years after its termination.

## **21. Branding**

- 21.1 The Council shall comply with GMCA's requirements on all and any promotional materials or activities in relation to the delivery of the Provision. This shall include but not be limited to prospectuses, direct mail advertising, TV and radio advertising, merchandising or any other literature or products.
- 21.2 The Council shall be given access to any relevant GMCA logos and statements which it is required to use. The Council will be required to use logos and statements in accordance with the terms of use and should not alter or amend such logos or statements. Logos and statements are only to be used in relation to the Provision under this Agreement. Any breach of this Clause 21 or the requirements or terms of use of which the Council is made aware are a condition of Grant funding and shall constitute a Serious Breach under Paragraph 1.2 of Schedule 3 (**Breach and Termination**) of this Agreement and could result in the Grant funding being withdrawn.
- 21.3 The Council may also be required to use logos from the DFE or other governmental funding bodies and must comply with any terms which apply to the use of such logos. The Council must ensure that the terms of this Clause 21 are contained in any sub-contract of the Provision.

## **22. Feedback and Complaints**

- 22.1 The primary responsibility for receiving feedback and investigating complaints promptly and thoroughly in respect of the Provision shall rest with the Council. The Council shall have procedures in place, which are acceptable to GMCA, to gather and act upon feedback and complaints from Learners and/or their representatives and employers and the wider community. The Council shall be responsible for resolving complaints in accordance with its own procedures and any guidance issued by GMCA.

22.2 The Council must ensure that Learners are made aware of its procedure for dealing with complaints and that the procedure is clear and accessible to Learners who wish to complain. Where a complaint has not been resolved to the satisfaction of the complainant the Council will advise the complainant of his or her right to complain to GMCA and co-operate with any investigation carried out by GMCA and act on any recommendations made by GMCA following the investigation.

### **23. Dispute Resolution**

23.1 Any dispute, difference or question arising between the Parties either during the currency of the Agreement or afterwards shall be referred to the nominated contacts for GMCA and the Council for discussion and review to try to resolve the same.

23.2 If a resolution cannot be found, then the escalation process set out in Schedule 14 (**Dispute Resolution**) should be followed.

### **24. Corrupt Gifts and Payments of Commission**

24.1 The Council shall not do (and warrants that in entering the Agreement it has not done) any of the action referred to in Schedule 12 (**Corrupt Gifts and Payments of Commission**) as "Prohibited Acts".

24.2 Without prejudice to the generality of Clause 24.1 the Council shall ensure that it complies at all times with the requirements of the Bribery Act.

### **25. Interpretation**

25.1 No failure to exercise or delay in exercising by GMCA any of its rights, powers and remedies shall operate as a waiver of any of them.

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

### **26. Governing Law and Jurisdiction**

This Agreement shall be governed by and interpreted in accordance with English law and the Parties agree to submit to the exclusive jurisdiction of the English courts.

### **27. Entire Agreement**

This Agreement constitutes the entire agreement and understanding between the Parties and supersedes any previous arrangement, understanding or agreement between the Parties whether written or oral (which shall be deemed to have terminated by mutual consent)

### **28. Headings**

Headings contained in this Agreement are for reference purposes only and should not be incorporated into this Agreement and shall not be deemed to be any indication of the meaning of the Clauses to which they relate.

## 29. Variations

Any variation to this Agreement shall only be valid if made in writing signed by duly authorised representatives of each of the Parties.

## 30. Exclusion of Agreements (Rights of Third Parties) Act 1999

A person who is not a party to this Agreement has no right under the Agreements (Rights of Third Parties) Act 1999 (the "Act") to enforce any terms of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from under that Act.

## 31. Notices

31.1 Any notice which is to be given by either Party to the other shall be in writing and served on the recipient personally by hand delivery or sent by first class recorded delivery post or by special delivery post. The notice shall be deemed to have been served on the day of delivery if delivered by hand or 2 (two) Working Days after the day on which it was posted

31.2 For the purposes of clause 31.1, the address of each Party shall be:

(a) For the GMCA:

For the attention of:

**GREATER MANCHESTER COMBINED AUTHORITY**

Address:

1st Floor, Broadhurst House, 56 Oxford Street, Manchester M1 6EU

(b) For the Council:

For the attention of:

**THE BOROUGH COUNCIL OF OLDHAM**

Address:

The Civic Centre, Oldham Council, West Street, Oldham, OL1 1UG

31.3 Either Party may change its address for service by serving a notice in accordance with this clause.

## 32. Counterparts

32.1 This Agreement may be executed in any number of counterparts and by the different Parties in different counterparts each of which when executed and delivered shall be deemed to constitute one and the same instrument. Each Party agrees that the delivery of this Agreement by electronic transmission, including copies of the executed signature pages via PDF, shall have the same force and effect as delivery of original signatures and that each Party may use such copies of the executed signature pages as evidence of the execution and delivery of this Agreement by all Parties

32.2 This Agreement may be signed by any Party by electronic signature (whatever form the electronic signature takes) and this method of signature is as conclusive of such Party's intention to be bound by this Agreement as if signed by each Party's manuscript signature.

## SCHEDULE 1

### DEFINITIONS

**“Advanced Learner Loans”** means loans which are available for GMCA residents aged 19 or above to undertake approved qualifications at level 3 to level 6, at an approved provider in England. Advanced learner loans give GMCA residents access to financial support for tuition costs similar to that available in higher education and are administered by Student Finance England.

**“Agreement”** means this Agreement for Grant agreed between the Parties including the Schedules and any other documents (or parts thereof) specified in the Agreement (including but not limited to GMCA AEB Rules) and any variations to the Agreement agreed in writing and signed by both Parties..

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

**“Bribery Act”** means 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.

**“Child”** means a person under the age of 18.

**“Combined Authority”** means a legal body established pursuant to the Local Democracy, Economic Development and Construction Act 2009, comprising two or more local authorities to undertake statutory and/or delegated functions.

**“Commencement Date”** means 1<sup>st</sup> August 2022.

**“Community Learning”** means learning which helps people of different ages and backgrounds gain a new skill, reconnect with learning, pursue an interest, learn how to support their children better, or prepare for progression to more formal courses / employment.

**“Conditions”** means the numbered clauses of the Agreement as distinct from the Schedules.

**“Confidential Information”** means any information, including Personal Data as defined by the DPA, and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, knowhow, personnel, and supplies of the Parties including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential or which ought reasonably be considered to be confidential (where or not it is marked “confidential”).

**“Council”** means the Local Authority within the GMCA Area named in the Parties clause 1.1.

**“Council’s Constitution”** means the constitution of the Council which includes the financial regulations and governance arrangements of the Council.

**“Council Lead Officer”** means the senior officer of the Council who has responsibility for ensuring that the Council complies with its obligations under this Agreement.

**“Council Personnel”** means all persons employed or engaged by the Council, together with the Council’s servants, agents, consultants and Sub-Contractors (and all persons employed by any Sub-Contractor together with the Sub-Contractor’s servants, consultants, agents) used in the performance of its obligations under this Agreement.

**“Crown Body”** means any department, office or agency of the Crown, including OFSTED, the Care Quality Commission, the Charity Commission and the Office for Students.

**“Data Protection Legislation”** means

- (i) The UK GDPR, the LED and any applicable national implementing Laws as amended from time to time
- (ii) the DPA to the extent that it relates to processing of personal data and privacy;
- (iii) all applicable Law about the processing of personal data and privacy including where applicable the guidance, best practise and codes of practice issued by the Information Commissioner as amended or superseded from time to time;

**“Controller”, “Processor”, “Data Subject” “Personal Data” “Personal Data Breach” and “Data Protection Officer” “Processing”** shall all take the meaning given in the UK GDPR and shall be interpreted accordingly.

**“Data Sharing Agreement”** means the agreement between GMCA and the Council as described in Schedule 11 (**Information and Data Protection**).

**“DfE”** means the Department of Education which incorporates its Executive Agency the ESFA.

**“DPA”** means the Data Protection Act 2018

**“Devolved GM Adult Education Budget (AEB)”** means that part of the national Adult Education Budget (AEB) which is to be spent by GMCA in the exercise of its Devolved GM Adult Education Functions, on the provision of adult education and skills training for eligible residents of GMCA Area. Pursuant to the Memorandum of Understanding, each year HM Treasury will confirm to the DfE the amount of the national AEB and the DfE will then confirm to GMCA the amount of the Devolved GM AEB which will be transferred from the DfE to GMCA. The Devolved GM AEB combines all of the Education Skills Funding Agency (**ESFA**) participation and support funds but does not include European Social Fund (**ESF**) funding; Apprenticeships Funding and Advanced Learner Loans funding;

**“Devolved GM Adult Education Functions”** means the Secretary of State functions in relation to adult education and skills training which have been transferred to GMCA pursuant to the GM AEB Order.

**“Earnings Adjustment Statement (EAS)”** means the form that providers (including the Council) need to fill in to claim funding through the Individualised Learner Record (**ILR**).

**“EIR”** means the Environmental Information Regulations 2004 (SI 2004/3391) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations

**“End Year reconciliation”** means the process by which GMCA will adjust future year



allocations of Grant to the Council to reflect previous year underperformance by the Council.

“**ESF**” means the European Social Fund.

“**ESFA**” means the Education and Skills Funding Agency, an Executive Agency of the DfE.

“**EU GDPR**” means the General Data Protection Regulation of the European Union.

“**Exempt Information**” means any information or class of information (including but not limited to any document, report, contract or other material containing information) relating to this Agreement or otherwise relating to the Council or GMCA, which potentially falls within an exemption to FOIA (as set out therein);

“**Expiry Date**” means 31 July 2023 or such other later date as is notified in writing to the Provider by GMCA in accordance with Clause 3.3.

“**FOIA**” means the Freedom of Information Act 2000 and all regulations made there under from time to time or any superseding or amending enactment and regulations.

“**FOIA notice**” means a decision notice, enforcement notice and/or an information notice as defined under FOIA.

“**Funding Year**” means the ESFA funding year which runs from the 1<sup>st</sup> August to the 31<sup>st</sup> July.

“**Further Education Commissioner**” means the individual appointed to provide independent advice to the Minister of Skills and Enterprise (the Minister) and the Chief Executive of the ESFA in respect of the capability and capacity of the existing governance and leadership of further education and sixth form colleges.

“**GM AEB Contract for Services**” means a contract for services entered into between GMCA and the Council and which is funded out of the Devolved GM AEB. The Council may be a Subcontractor under the GM AEB Contract for Services. Alternatively, the Council may have been awarded the GM AEB Contract for Services as a result of the procurement process carried out by GMCA in relation to the “procured element of the Devolved GM AEB” which is described in the GM Strategy.

“**GM AEB Order**” means The Greater Manchester Combined Authority (Adult Education Functions) Order 2018.

“**GM AEB Strategy**” means the Adult Education Budget Commissioning Strategy which sets out GMCA’s approach to managing the Devolved GM AEB during the period from 1 August 2019 to 31 July 2023.

“**GMCA AEB Funding and Performance Management Rules**” means the Greater Manchester Combined Authority Adult Education Budget: Funding and Performance Management Rules for the 2022 to 2023 funding year as amended and updated by GMCA from time to time.

“**GMCA Area**” means the area consisting of the areas of the constituent councils of GMCA, being the areas of the metropolitan district councils for the local government areas of

Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Stockport, Tameside, Trafford and Wigan.

**“Grant”** means the amount of Devolved GM AEB provided by GMCA to the Council pursuant to this Agreement and which is paid by GMCA to the Council on profile (as detailed at Schedule 2 (GM Devolved AEB Provision and Grant Payment Profile) as reimbursement for Provision to Learners delivered by the Council.

**“Grant Delivery and Financial Schedule”** means the supplemental agreement to be entered into between the Parties for the academic year running from 1 August 2022 to 31 July 2023, which will seek to influence the mix and balance of Provision to be delivered by the Council and which will reflect the Delivery Outcomes set out in GMCA Strategic Economic Plan.

**“Grant Term”** means the period from and including the Grant Commencement Date up to and including the 31 July 2023.

**“Greater Manchester Combined Authority”** (GMCA) means the legal body corporate created by The Greater Manchester Combined Authority Order 2011 as the combined authority for GMCA Area. Pursuant to the GM AEB Order, GMCA has statutory authority to undertake the statutory or delegated functions in relation to adult education and skills training which are transferred to GMCA by the GM AEB Order, including the power to enter into this Agreement for Grant.

**“Greater Manchester Strategy”** means “Greater Manchester Strategy 2021–2031 Good Lives for All”.

**“High Needs Learner”** means a learner aged 16-18, or any young person aged 18-25 subject to an Education Health and Care Plan who requires additional support.

**“Individualised Learner Record (ILR)”** means the primary data collection requested from providers for further education and work-based learning in England. The data is used widely, most notably by the government, to monitor policy implementation and the performance of the sector. It is also used by organisations that allocate funding for further education.

**“Information”** means any recorded information, held in either manual and/or electronic form.

**“Inspectorates”** means one, any or all of the inspectorates: Office for Standards in Education, Children’s Services and Skills (Ofsted), Her Majesty’s Inspectorate for Education and Training in Wales (Estyn), the Quality Assurance Agency for Higher Education, the Higher Education Funding Council for England, and the Care Quality Commission (CQC).

**“Intellectual Property”** means any rights of either Party in designs, copyright, trademarks, patents or any other form of intellectual property whether in the United Kingdom or otherwise throughout the world.

**“Law”** means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of law

**“Learner”** means any third party including any student, apprentice, trainee or person who

is a resident within GMCA Area and to whom the Council is required to deliver the Provision.

**“Learner Files”/“Evidence Packs”** means any information relating to a Learner generated by the Council, the Learner or a third party for the purpose of the delivery of the Provision.

**“Learner Support”** means funding to enable providers (including the Council) to support Learners with a specific financial hardship.

**“LED”** means Law Enforcement Directive (Directive (EU) 2016/680)

**“Maximum Grant”** means the maximum amount of Grant that GMCA has agreed to pay to the Council under this Agreement, being the sum of **£2,804,560.02 (Two Million, Eight Hundred and Four Thousand, Five Hundred and Sixty Pounds and Two Pence Sterling)**.

**“Memorandum of Understanding/MOU”** means the Memorandum of Understanding entered into between (1) The Secretary of State for Education, acting through the DFE and ESFA, and (2) GMCA which sets out the arrangements between the parties in relation to the Devolved GM AEB, including the obligations imposed on GMCA in relation to the terms and conditions which GMCA must include in its legal arrangements with parties who are funded by GMCA out of the Devolved GM AEB.

**“Minor Breach”** shall have the meaning given to it in Paragraph 1.1 of Schedule 3 (**Breach and Termination**).

**“OFSTED”** means the Office for Standards in Education, Children’s Services and Skills.

**“Parties”** means GMCA and the Council named as the Parties to this Agreement.

**“Premises”** means any property/location where the Provision is delivered to Learners.

**“Prohibited Act”** means offering, giving or agreeing to give to any officer of GMCA any gift or consideration of any kind as an inducement or reward for:

- (i) doing or not doing (or for having done or not done) any act in relation to the obtaining or performance of this Contract or any other contract with GMCA; or
- (ii) showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with GMCA;
- (iii) entering into this Contract or any other contract with GMCA where a commission has been paid or has been agreed to be paid by the Council or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to GMCA:
- (iv) committing any offence:
  - (a) under the Bribery Act;
  - (b) under legislation creating offences in respect of fraudulent acts; or
  - (c) at common law in respect of fraudulent acts in relation to this Contract or any

- other contract with GMCA;
- (d) defrauding or attempting to defraud or conspiring to defraud GMCA.

**“Provision”** means a programme of education and/skills training delivered by the Council to Learners under this Agreement.

**“Public Funds”** means all of the Council’s income and receipts from GMCA (paid out of the Devolved GM AEB); the DfE, the Education and Skills Funding Agency (ESFA) and the Higher Education Funding Council for England (HEFCE).

**“Regulatory Body”** means those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate or investigate the matters dealt with in this Agreement or any other affairs of the Council or GMCA, including, without limitation OFSTED.

**“Serious Breach”** shall have the meaning given to it in Paragraph 1.2 of Schedule 3 (**Breach and Termination**).

**“Subsidy Control Rules”** means the rules on the provision of Subsidies as set out in the Subsidy Control Act 2022.

**“Statutory Entitlements”** means the statutory entitlement to education and training which allows GMCA residents to be fully funded who are aged: 19 and over, who have not achieved a Grade A\* -C, grade 4, or higher, and study for a qualification in English or maths up to and including level 2, and 19 to 23, if they study for a first qualification at level 2 and/or level 3 and 19 and over, if they have digital skills assessed at below level 1.

**“Sub-contractors”** means other third parties to whom the Council or may sub-contract the delivery of Provision to Learners (where applicable) subject to the terms in Schedule 15 (Sub-contracting).

**“UK GDPR”** means the provisions of the EU GDPR which have been retained in UK domestic law through the European Union (Withdrawal) Act 2018 as amended by existing Law or further Law from time to time.

**“Variation”** means a change to this Agreement, including but not limited to a change to the Provision which is being delivered by the Council to Learners, which will be recorded using the Variation to Agreement Form attached at Schedule 13 (Variation to Agreement Form).

**“VAT”** means value added tax and any tax duty of a similar nature levied in addition to or in substitution for the same.

## SCHEDULE 2

### GM DEVOLVED AEB PROVISION AND GRANT PAYMENT PROFILE

1. GMCA will pay Grant to the Council in accordance with the Grant Payment Profile set out in the table at paragraph 6 below and will provide GMCA with three funding claims per Funding Year (which runs from the 1 August to the following 31 July). The grant funding claims submitted by the Council to GMCA should reflect the actual delivery of Provision by the Council as at the date of the Grant claim, and where appropriate, provide a forecast of the delivery of Provision by the Council for the remainder of the Funding Year. The Grant claim dates for the Funding Year running from 1 August 2022 to 31 July 2023 are as follows:
  - (i) The mid-year claim to be submitted by the Council to GMCA on 28 February 2023; and
  - (ii) The end-year claim to be submitted by the Council to GMCA on 30 September 2023; and
  - (iii) The final funding claim to be submitted by the Council to GMCA on 31 October 2023.
2. The Council must make its Grant claims to GMCA in accordance with the GMCA AEB Funding and Performance Management Rules. The GMCA AEB Funding and Performance Management Rules set out the points at which the Council can request any in- year reductions of Grant or requests for increase in Grant.
3. GMCA will undertake a final end of year reconciliation matching the final funding claim of the Council in respect of Grant payment against the ILR data the Council has provided to GMCA.
4. GMCA will not pay the Council for over-delivery of Provision unless such over-delivery of Provision has been previously agreed and confirmed in writing by GMCA.
5. The value of any unspent Grant funds which are retained by the Council will reduce the amount of the allocation of GM Devolved AEB which is allocated to the Council by GMCA for the following Funding Year, thereby lowering the allocation of Grant that the Council will receive from the GM Devolved AEB for the 2023/2024 Funding Year.

6 GMCA will pay Grant to the Council in accordance with the following Grant Payment Profile:

Period and Month - Year starts August	AEB Monthly Payment Profile	AEB Cumulative Payment Profile	Monthly Payment Amount
19-Aug-22	14.44%	14.44%	£404,978.47
19-Sep-22	8.58%	23.02%	£240,631.25
18-Oct-22	8.67%	31.69%	£243,155.35
18-Nov-22	7.08%	38.77%	£198,562.85
19-Dec-22	5.69%	44.46%	£159,579.46
20-Jan-23	7.44%	51.90%	£208,659.27
20-Feb-23	5.39%	57.29%	£151,165.78
17-Mar-23	5.36%	62.65%	£150,324.42
20-Apr-23	12.69%	75.34%	£355,898.67
19-May-23	10.21%	85.55%	£286,345.58
16-Jun-23	8.70%	94.25%	£243,996.72
20-Jul-23	5.75%	100%	£161,262.20

## SCHEDULE 3

### BREACH AND TERMINATION

1. For the purpose of this Agreement, the following definitions shall have the meanings set out below:

1.1 "**Minor Breach**" shall mean a delay or non-performance by either Party of its obligations under the Agreement which does not materially, adversely or substantially affect the performance or delivery of the Provision to Learners or the provision of a safe, healthy and supportive learning environment;

1.2 "**Serious Breach**" shall mean any breach defined as a Serious Breach in the Agreement or any breach or breaches which adversely, materially or substantially affect the performance or delivery of the Provision to Learners or compliance with the terms and conditions of the Agreement or the provision of a safe, healthy and supportive learning environment. Failure to comply with Law, or actions or omissions by the Council that endanger the Health or Safety of Learners (including but not limited to any failure on the part of the Council to comply with its obligations under Schedule 9 (Learner Health and Safety) or Schedule 10 (Equal Opportunities) would constitute a Serious Breach.

2. For the avoidance of doubt:

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

2.2 in the event of a breach the Party not in breach may enforce the clauses in the Agreement relating to breach (including, but not limited to this Schedule 3) even if it has not done so in the event of earlier breaches.

#### 3. **Minor Breach**

Without prejudice to any other remedy, in the event of a Minor Breach, the Parties will adopt the following procedure:

3.1 The Party not in breach shall be entitled to serve written notice on the Party in breach, giving full details of the breach and requiring the other Party to remedy the breach within a specified period.

3.2 If the Party in breach fails to remedy the Minor Breach within the time specified in the notice served under Paragraph 3.1 of this Schedule 3 or such other period as may be agreed between the Parties, it shall constitute a Serious Breach by the Party in breach.

#### 4. **Serious Breach**

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

4.1 The Party not in breach shall be entitled to serve written notice on the other

Party giving full details of the breach and requiring the other Party to remedy the breach within a specified period.

- 4.2 Where GMCA has served a notice under Paragraph 4.1 of this Schedule 3, GMCA has the right to require the Council to suspend the recruitment of Learners until GMCA has confirmed that the breach has been remedied.
- 4.3 In the event that a Serious Breach of the Agreement by the Provider cannot be remedied within the period specified in the notice served under Paragraph 4.1 of this Schedule 3 or such other period as may be agreed between the Parties, GMCA may cease funding the Council in respect of that part of the Provision to which the Serious Breach relates.
- 4.4 In the event that any Serious Breach cannot be remedied at all or within the period specified in the notice served in accordance with Paragraph 4.1 of this Schedule 3, or such other period as may be agreed between the Parties, the Party not in breach may at its sole discretion terminate the Agreement or that part of the Provision to which the breach relates with immediate effect on notice in writing to the other Party.

## **5. Termination**

- 5.1 GMCA shall be entitled to terminate this Agreement by notice to the Council with immediate effect where the Council is the subject of a statutory council insolvency in accordance with the provisions of the Technical and Further Education Act 2017.
- 5.2 Either Party may terminate this Agreement with immediate effect in the event that in the reasonable opinion of the Party wishing to terminate this Agreement, the conduct of the other in performing its obligations under this Agreement Contract amounts to a fundamental breach of the Agreement, which is incapable of remedy.
- 5.3 Either Party may terminate this Agreement with immediate effect in the event that in the reasonable opinion of the Party wishing to terminate this Agreement, the conduct of the other in performing its obligations under this Agreement amounts to a fundamental breach of the Agreement, which is incapable of remedy.
- 5.4 GMCA reserves the right to terminate this Agreement with immediate effect by giving notice in writing if:
  - 5.4.1 the outcome of any financial health and/or control assessment undertaken in relation to the Council is inadequate; and/or
  - 5.4.2 the Council fails to comply with “Financial Health” requirements of GMCA imposed under Paragraph 5 of Schedule 6 (Financial Reporting and Audit); and/or
  - 5.4.3 the Council fails to comply with “Quality Assurance” requirements of GMCA imposed under Paragraph 3 of Schedule 7 (ESFA, Ofsted, Quality Assurance and Raising Standards); and/or
  - 5.4.4 an Ofsted inspection results in the Provision to Learners in part thereof being assessed as inadequate; and/or;



- 5.4.5 GMCA assesses that the Provision to Learners delivered under this Agreement, in whole or part, are below the minimum standards as notified specified by GMCA to the Council from time to time.
- 5.5 In addition to the rights of termination under this Schedule 3 and any other clauses of this Agreement, either Party shall be entitled to terminate this Agreement in respect of all or part of the Provision to Learners provided under the Agreement by giving to the other not less than three months' notice to that effect without the need to give a reason for termination.
- 5.6 Where either Party wishes to exercise its right to terminate the Agreement pursuant to Schedule 3, both Parties shall work together to try to minimise any disruption to Learners who are receiving Provision from the Council at the date of termination of the Agreement. Where the Council wishes to exercise its right to terminate the Agreement pursuant to Schedule 3, it will use its best endeavours to continue to support any Learners who are receiving Provision from the Council at the date of termination of the Agreement.
- 5.7 Termination of the Agreement under Schedule 3 shall not prejudice or affect any right of action or remedy, which shall have accrued or shall thereupon accrue to the Parties under this Agreement.
- 5.8 Where the Council is the subject of a statutory council insolvency in accordance with the provisions of the Technical and Further Education Act 2017 GMCA must be assumed to be a creditor of the Council. The Council must take steps to ensure that GMCA is provided with details of the insolvency process, including notification of any creditors meetings. GMCA will confirm whether in fact it is a creditor within 8 weeks of being notified that the Council is the subject of a statutory council insolvency in accordance with the provisions of the Technical and Further Education Act 2017.
- 5.9 The Council shall upon termination of the Agreement immediately deliver up to GMCA all correspondence, documents, specification papers and other property belonging to GMCA, which may be in its possession or under its control.

## SCHEDULE 4

### SUBMISSION OF LEARNER DATA

1. The Council must supply the ESFA data on each Learner, in accordance with the data collections framework set out in the published '[ILR specification validation rules and appendices 2022 to 2023](#)' as amended and updated, and in accordance with the GMCA AEB Funding and Performance Management Rules as amended and updated.
2. GMCA will expect the Council to continue to supply the ESFA with data in accordance with the following:
  - 2.1 in line with agreed audit arrangements;
  - 2.2 in adherence with the Data Protection Legislation;
  - 2.3 to support Grant payments to be made by GMCA from the Devolved GM AEB;
  - 2.4 to enable GMCA to carry out reconciliation in relation to Grant payments made by GMCA from the Devolved GM AEB; and
  - 2.5 to support GMCA's management of this Agreement and allocation processes for future funding of the Council from the Devolved GM AEB.
3. Data collected must be transmitted to the ESFA through the ESFA's web portal <https://submit-learner-data.service.gov.uk/>.
4. As set out in the MOU, the ESFA will enter into data-sharing arrangements with GMCA so that GMCA will have access to the data in relation to Learners who are funded by GMCA from the Devolved GM AEB that the Provider supplies to the ESFA (the "**GM Learners' Data**"). Where GMCA is concerned about the quality of the GM Learners' Data, including the completeness or accuracy of the GM Learners' Data, provided by the Council to the ESFA, GMCA may require the Council to supply the GM Learners' Data more frequently for such a period as GMCA shall require. GMCA reserves the right to require the Council, at its own cost, to carry out such work as GMCA deems necessary to improve the quality of GM Learners' Data. GMCA reserves the right to suspend Grant payments to the Council under the Agreement where data quality gives rise to concern about the accuracy of the GM Learners' Data provided by the Council.
5. Failure to transmit complete and accurate GM Learners' Data to the ESFA in accordance with this Schedule 4 will constitute a Serious Breach of Contract in accordance with Paragraph 1.2 of Schedule 3 (**Breach and Termination**) of the Agreement.
6. Where the Council is delivering the Provision to Learners claiming out of work benefits, it must provide data to the Secretary of State with responsibility for unemployment or their nominated representative in accordance with the requirements notified to the Council. Failure to transmit complete and accurate data

to the Secretary of State under this paragraph 6 will constitute a Serious Breach of Contract in accordance with paragraph 1.2 of Schedule 3 (**Breach and Termination**) of the Agreement and may result in Grant payments for this part of the Provision to be delayed or withheld.

7. The Council must update the course information in relation to the courses which are funded by GMCA at [www.coursedirectoryproviderportal.org.uk](http://www.coursedirectoryproviderportal.org.uk) in accordance with the course directory data requirements which can be found at: [Publish to the course directory \(nationalcareers.service.gov.uk\)](http://nationalcareers.service.gov.uk)

## **SCHEDULE 5**

### **RESPONSIBILITIES OF THE COUNCIL**

1. The GMCA expects the Council to ensure that the Grant that the Council receives from the GMCA pursuant to this Agreement is used only in accordance with the Council's powers as set out in the Council's Constitution, the Council's statutory duties, and other obligations.
2. The Chief Finance Officer of the Council is responsible for ensuring the solvency of the Council under section 151 of the Local Government Act 1972. The Council is responsible for achieving value for money in all transactions involving Public Funds.
3. The Council shall inform the GMCA of the name of the Chief Finance Officer of the Council and if the Chief Finance Officer is absent from the Council for an extended period, the name of the person who will discharge the Chief Finance Officer's responsibilities during the absence.

#### **Responsibilities of the Council's Chief Finance Officer**

4. The GMCA expects that the Council shall require the Chief Finance Officer of the Council to take personal responsibility, which shall not be delegated, to assure themselves that there is full compliance with the terms of this Agreement for Grant and any associated conditions of funding.
5. If the Chief Finance Officer has evidence that the Council is acting in breach of the Agreement or any other terms and conditions of funding the Chief Finance Officer shall inform the GMCA in writing.

## SCHEDULE 6

### FINANCIAL REPORTING AND AUDIT

1. The GMCA expect to place significant reliance on the adherence by the Council to the *CIPFA Code of Practice on Local Authority Accounting in the UK*.
2. As set out in the MOU, where the Council holds contracts or grant agreements with both the ESFA and GMCA, the Council will be subject to ESFA financial health processes and assessments, in addition to any checks/due diligence conducted by GMCA. The ESFA will be the lead organisation and GMCA will be looking to secure assurance through gaining copies of the work done by the ESFA in respect of the following:
  - Use of funds (including ESFA funding and Devolved GM AEB) by the Council
  - Opinion on the annual accounts of the Council
  - Council's annual assurance report on regularity and propriety
  - Council's annual Statement of Corporate Governance and Internal Control
  - Annual Report of Council's Audit Committee
  - Targeted work carried out by ESFA on any areas of concern which the ESFA has identified in relation to the Council
  - Financial Health Assessment of the Council.
3. On receipt of the above information from the ESFA, GMCA's internal "Assurance and Audit" function will review this and discuss any concerns GMCA has with the information directly with the ESFA. As set out in the MOU, GMCA, the DfE and the ESFA will work closely to ensure that any financial, performance, or other governance concerns in relation to the Council which are brought to the attention of any of the parties are shared as soon as possible. GMCA do not believe that this process will be onerous and the ability of GMCA, the DfE and ESFA to be make decisions based on "a single version of the truth" in relation to providing assurance as to the financial, performance and governance situation of the Council will be essential in minimising any additional financial reporting and audit requirements on the Council which might otherwise arise as a result of the creation of the Devolved GM AEB.
4. The key actions that GMCA expects the Council to undertake in relation to the provision of assurance to GMCA as to the financial, performance and governance situation of the Council are as follows:
  - confirm the Council has an effective policy of risk management.
  - notify GMCA immediately the Council becomes aware of any instance of suspected fraud or financial irregularity in the delivery of the Provision including but not limited to fraud involving subcontractors.
  - investigate and report to GMCA all significant cases of internal and external fraud or suspected fraud or irregularity (as defined in the *Joint Audit Code of Practice*). GMCA reserves the right to review the Council's fraud investigation files.

- notify GMCA/DfE/ESFA immediately in writing if at any time there is a risk to the solvency and viability of the Council.
  - notify GMCA/DfE/ESFA immediately if there is a risk the Council will not be able to deliver the Provision or meet the needs of Learners.
  - notify GMCA/DfE/ESFA if there is a risk the Council cannot discharge its responsibilities in relation to its solvency and safeguarding of assets and provide evidence of financial resources sufficient to enable it to continue to deliver the Provision.
5. The Council shall supply GMCA with such financial information as GMCA may request from time to time in relation to the financial health and control arrangements of the Council.
  6. The Council agrees that GMCA may share any information which is supplied by the Council pursuant to this Schedule 6 with the DfE, ESFA, any Constituent Councils of GMCA, or any other public body involved in the provision of public money to the Council.
  7. The Council shall supply to GMCA:
    - (a) as soon as they are available, but in any event within 180-days after the end of each of its Financial Years, its audited financial statement for that Financial Year.
    - (b) as soon as they are available, but in any event within 28 days after the end of each Financial Year its unaudited financial statements for that Financial Year.

For the purpose of this paragraph 7 of Schedule 6, reference to a “Financial Year” means a financial year of the Council.

8. The Council shall provide to GMCA, promptly upon becoming aware of them:
  - (a) details of any significant claims by or against the Council under any material contracts, which, if adversely determined, would have or would be reasonably likely to have a material adverse effect on the financial health of the Council, or on the ability of the Council to deliver the Provision to Learners; and
  - (b) details of any significant litigation, arbitration or administrative proceedings which are current, threatened or pending against the Council, which if adversely determined would have or would be reasonably likely to have a material adverse effect on the financial health of the Council or on the ability of the Council to deliver the Provision to Learners.
9. The Council shall permit GMCA’s auditors to carry out examinations into the economy, efficiency and effectiveness with which the Council has used GMCA’s Grant funding in the delivery of the Provision to Learners.
10. GMCA reserves the right, at any reasonable time, and as it may deem necessary to require the Council at its own cost to provide such assurance as GMCA may require that the delivery of the Provision to Learners complies with the requirements of the Agreement.

## SCHEDULE 7

### ESFA, OFSTED, QUALITY ASSURANCE AND RAISING STANDARDS

#### 1. ESFA Notice of Concern

- 1.1 ESFA will notify GMCA if it intends to issue the Council with a Notice of Concern for either of the reasons below:
- i. All or any part of the provision delivered under by the Council under any grant funding agreement or contract for services entered into between the Council and ESFA own Agreement falls below the ESFA minimum quality standards or other standards which may be set by the ESFA.
  - ii. The Council is rated inadequate by the ESFA for financial health or financial control (including but not limited to receipt of an adverse opinion as the result of an Accountability Review, internal or external audit, or qualified auditors' report on its final 19+ Apprenticeship and Adult Education Budget funding claim).
- 1.2 The Notice of Concern issued by the ESFA will set out the reasons for the issue and any actions required will be discussed with GMCA so that any action to address the concerns can be taken together, including the timescales within which any action must be taken.
- 1.3 The Notice of Concern and any additional funding conditions will be lifted once the Council has taken the required action to address the concerns within the timescales set out.
- 1.4 If the Council fails to take the actions set out in the Notice of Concern within the timescales set out, the ESFA following a discussion with GMCA reserves the right to amend the Notice of Concern and add an additional funding conditions or issue a Notice of Withdrawal of Funding.

#### 2. ESFA Withdrawal of Funding

- 2.1 If the Council fails to comply with the Notice of Withdrawal of Funding, the ESFA will issue a Confirmation of Withdrawal of Funding following consultation with the Secretary of State who may choose to exercise his statutory intervention powers.
- 2.2 Once a Confirmation of Withdrawal of Funding has been issued the Council will be removed from the Register of Training Organisations and the ESFA will immediately secure another training provider to deliver the Provision.
- 2.3 The ESFA reserves the right to proceed straight to issuing a Notice of Withdrawal of Funding without first issuing a Notice of Concern where it considers that urgent action needs to be taken to improve the quality of the Provision to protect the interests of Learners or where the Council's financial health or financial controls put public funds at risk.

#### 3. Ofsted

- 3.1 When the Council receives notification from Ofsted that the Council is to be

inspected, the Council shall provide GMCA and the ESFA with a copy of its quality improvement activity, and any other relevant information in accordance with the required timescale of Ofsted. The Council must notify GMCA of the date of the meeting at which Ofsted give feedback on the inspection and allow GMCA's nominated representative to attend the meeting. The Council must confirm to GMCA in writing of the outcome of the inspection within 5 working days of receiving the feedback from Ofsted.

3.2 Ofsted may, at any time during the Grant Term, undertake an inspection of the Council. GMCA will consider the outcome of any such inspection as follows:

**Inadequate in part**

3.2.1 Where Ofsted has assessed the Provision to Learners delivered by the Council to be inadequate in any sector specific areas, GMCA may, in its absolute discretion take one or more of the following actions:

- (i) require the Council to accept and comply with additional obligations relating to the improvement of the Provision to Learners assessed as inadequate; and/or
- (ii) require the Provider to suspend the recruitment of Learners to, and/or to cap any growth in, the Provision to Learners which is assessed as inadequate; and/or
- (iii) give consideration to the Provision to Learners which is assessed as inadequate in its future allocations of Devolved GM AEB to the Council when finalising the amount of Devolved GM AEB Funding to be awarded to the Council in any subsequent agreement for grant funding or contract for services between the Parties; and/or
- (iv) reduce, suspend or recover payments of Grant made by GMCA to the Council in respect of that part of the Provision to Learners assessed as inadequate; and/or
- (v) terminate this Agreement in accordance with Schedule 3 (Breach and Termination).

**Inadequate overall**

3.2.2 Where GMCA is made aware that Ofsted has provisionally assessed the Provision to Learners delivered by the Council to be inadequate overall, GMCA may, in its absolute discretion take one or more of the following actions:

- (i) require the Council to accept and comply with temporary additional obligations relating to the improvement of the overall Provision to Learners, including but not limited to, requiring the Council to temporarily suspend the recruitment of Learners and/or temporarily cap any growth in the Provision to Learners which is assessed as inadequate.
- (ii) commence discussions with the Council and the Local



Authority within whose area the Council is located, either with Ofsted or not, as part of considering what actions as specified in Paragraphs 3.2.3 (i) to (v) (inclusive) of this Schedule 7 may be taken.

- 3.2.3 Where Ofsted has confirmed its assessment that the Provision to Learners is inadequate overall, GMCA may, in its absolute discretion take one or more of the following actions;
- (i) require the Council to accept and comply with additional obligations relating to the improvement of the overall Provision to Learners; and/or
  - (ii) require the Provider to suspend the recruitment to, and/or to cap any growth in, the Provision to Learners which is assessed as inadequate; and/or
  - (iii) give consideration to the assessment of inadequate in its allocations when finalising the amount of future allocations of Devolved GM AEB Funding to be awarded by GMCA to the Council in any subsequent agreement for grant funding or contract for services between the Parties; and/or
  - (iv) reduce, suspend or recover payment of Grant made by GMCA to the Council; and/or
  - (v) terminate this Agreement in accordance with Paragraph 5 of Schedule 3 (**Breach and Termination**).

3.3 The failure of the Council, as assessed by GMCA, to comply with any requirements of paragraphs 3.2.3 (i) to (v) inclusive within such time as GMCA may deem reasonable may lead to GMCA taking such actions as it deems appropriate which may include, but is not limited to, terminating in accordance with the termination provisions set out at Paragraph 5 of Schedule 3 (**Breach and Termination**).

4. GMCA will take action based on Ofsted's provisional and confirmed outcomes as set out in Paragraphs 3.2.2 and 3.2.3 above. Where GMCA is made aware that the Council has made a complaint about the graded outcome of the overall assessment by Ofsted, GMCA will continue to progress action under Paragraphs 3.2.2 and 3.2.3 above but will be mindful of the implications arising from the outcome of a complaint. GMCA will review any decisions made at such time as outcomes of any complaint are made known.

5. GMCA may, at any time during the Grant Term, undertake an assessment of the quality and delivery of the Provision to Learners which may include analysis of performance against the minimum quality standards, as published by the DfE and/or GMCA. Where GMCA assesses that the Provision to Learners, in whole or in part, falls below the required standards, GMCA may, in its absolute discretion, take one or more of the following actions:

- (i) require the Council to accept and comply with additional obligations relating to the improvement of the Provision to Learners; and/or

- (ii) require the Council to suspend the recruitment of Learners to, and/or to cap any growth in, the Provision which is identified as below the required standards; and/or
  - (iii) consider the Provision to Learners which is below the required standards in its allocations when finalising the amount of Devolved GM AEB Funding to be awarded by GMCA to the Council in any subsequent agreement for grant funding or contract for services between the Parties; and/or
  - (iv) reduce, suspend or recover Grant payment made to the Council in respect of that part of the Provision to Learners to which the failure to meet the required standards relate; and/or
  - (v) terminate this Agreement in accordance with Paragraph 5 of Schedule 3 (**Breach and Termination**) in full, or in relation to that part of the Provision to Learners failing to meet the required standards.
- 6 The failure of the Council, as assessed by GMCA, to comply with any requirements of Paragraph 5 of this Schedule 7 within such time as GMCA may deem reasonable may lead to GMCA taking such actions as it deems appropriate which may include, but is not limited to, terminating in accordance with Paragraph 5 of Schedule 3 (**Breach & Termination**).
- 7 Where the Council sub-contracts any part of the Provision to Learners under this Agreement, the Council must ensure that the Sub-Contractor is able to meet the minimum quality standards and any other quality threshold required by GMCA or identified through an inspection by Ofsted. GMCA may request evidence from the Council that the Provision to Learners delivered by the Sub-Contractor meet the requirements of this Agreement and the GMCA AEB Funding and Performance Management Rules.
8. The Council shall for those Council Personnel delivering the Provision to Learners be responsible for their professional development and training and meeting any legal requirements to ensure that they are appropriately qualified and trained.
- 9. Quality Assurance and Raising Standards**
- 9.1 The Council undertakes to GMCA that it has the resources and skills necessary to carry out the Council's obligations pursuant to this Agreement. The Council shall comply with the GMCA AEB Funding and Performance Management Rules, as amended from time to time, and any other requirements of GMCA, Ofsted, and other Regulatory Bodies which are notified to the Council.
- 9.2 The Council shall ensure that all Provision delivered to Learners pursuant to this Agreement shall be documented in accordance with the requirements of GMCA, and shall provide GMCA with copies of such documentation at the intervals specified by the GMCA AEB Funding and Performance Management Rules and on request from GMCA at any time.

- 9.3 The Council shall continuously seek to improve the Provision and raise standards to benefit the Learners. The Council shall have the primary responsibility for improving standards and will need to demonstrate to GMCA's satisfaction that it has an effective quality assurance system based on the implementation of its own quality improvement process. GMCA reserves the right to require the Council to provide GMCA or ESFA or Ofsted with evidence to support the quality improvement processes.
- 9.4 The Council shall use all reasonable endeavours to:
- (i) minimise drop-out rates and deliver high completion and achievement rates and appropriate progression;
  - (ii) meet the minimum quality standards published by the DfE and/or GMCA that apply to the Provision to Learners delivered by the Council under this Agreement;
  - (iii) ensure competent and appropriately qualified staff deliver and assess learning. The Council shall be responsible for the continuing professional development and training of its staff;
  - (iv) offer equality of access to learning opportunities and close equality gaps in learning and outcomes;
  - (v) provide a safe, healthy and supportive environment, which meets the needs of Learners;
  - (vi) provide good management and leadership of the learning process;
  - (vii) deliver value for money and financial probity; and
  - (viii) ensure all Sub-Contractors delivering Provision to Learners under this Agreement on behalf of the Council comply with the requirements set out in Paragraphs 9.4(i) to (viii) of this Schedule 7.
- 9.5 Failure to meet the requirements set out in Paragraph 9.4 of this Schedule 7 may result in GMCA assessing the Council to be in Serious Breach of the Agreement under Paragraph 5 of Schedule 3 (**Breach and Termination**).
- 9.6 Where appropriate, the Council shall confirm in writing to GMCA that their Centre Approval Status is still current. The written statement will need to confirm approved centre status for the specific Regulated Qualification Framework (RQF) titles and levels, including awarding body name(s). The Council must notify GMCA immediately in writing if it receives any sanction from an awarding body.
- 9.7 GMCA may assess the quality and delivery of the Provision to Learners and the Council's compliance with the requirements in Paragraph 9.4 (of this Schedule 7) during the Grant Term. The Council will be informed of the outcome of that process. Where GMCA assesses the Council to be in Serious Breach of this Agreement following such assessment GMCA will issue a notice in accordance with Paragraph 5 of Schedule 3 (**Breach and Termination**) which may include the following provisions:

- (i) require the Council to meet improvement indicators to improve the quality of its Provision to Learners. GMCA will meet with the Council to discuss and reach agreement on implementation of these actions and improvement indicators and to agree arrangements for monitoring and reviewing progress. In such cases reviews will take place at the frequency specified by GMCA and agreed with the Council;
- (ii) agree detailed improvement plans and measures that set out clearly the expected timescale for improvement;
- (iii) agree arrangements for more frequent monitoring of quality improvement plans.

9.8 GMCA may at their discretion agree a programme of support for the Council to assist it in taking action to improve the quality of the Provision to Learners.

## SCHEDULE 8

### ACCESS AND MONITORING

1. Save in a case of urgency, GMCA shall give the Council reasonable notice in writing of proposed visits by any person on behalf of GMCA to the Council or its Sub-contractors, to observe the delivery of the Provision to Learners.
2. For monitoring and evaluation purposes, GMCA or their representatives, the Secretary of State or their representatives, the National Audit Office, Representatives of the European Commission and the European Court of Auditors, the Inspectorates and HM Treasury shall have the right to visit all or any site(s) from which the Council delivers the Provision to Learners and to view operations relating to the Provision and to inspect relevant documents and interview Learners and the Council Personnel during these visits.
3. The Council shall, and shall ensure that its Sub-Contractors shall, permit access at any reasonable time to any of the representatives listed at Paragraph 2 in order to:
  - (i) examine, audit or take copies of any original or copy documentation, accounts, books and records of the Council and its Sub-Contractors that relate to this Agreement;
  - (ii) visit, view or assess the design, management and delivery of the Provision to Learners under this Agreement at any Premises where those operations are carried out (including those of Sub-contractors) and conduct relevant interviews, including interviews with Learners, during these visits at any reasonable time;
  - (iii) carry out examinations into the economy, efficiency and effectiveness with which the Council has used GMCA's resources in the performance of the Agreement.
4. Where reasonably required, the Council and its Sub-Contractors shall provide copies of any relevant documents required by any of the representatives listed at Paragraph 2 of this Schedule.
5. The Council shall, if required by any of the representatives stated at Paragraph 2 of this Schedule provide appropriate oral or written explanations.
6. GMCA reserves the right, at any reasonable time, and as it may deem necessary to require the Council at its own cost to:
  - (i) provide evidence of financial resources and the level of turnover sufficient to enable it to continue to perform the Agreement;
  - (ii) provide such assurance as GMCA may require that the delivery of the Provision to Learners complies with the requirements of the Agreement;
  - (iii) provide such assurance as GMCA may require that the delivery of the Provision to Learners complies with the requirements of the Agreement;
  - (iv) obtain a report by an independent accountant of GMCA's choice on;

- the financial systems and controls operated by the Council or its Sub-Contractors;
  - the accuracy and regularity of Grant funding claims in respect of payments claimed or received under the Agreement;
  - the evidence held by the Council or its Sub-Contractors to support delivery of the Provision to Learners in accordance with the terms of the Agreement.
- (v) The Council must agree the instructions for the work to be carried out pursuant to Paragraph 6 (iv) of this Schedule 8 with GMCA. The report and the work required in order to produce the report shall be carried out to the satisfaction of GMCA, and GMCA must be able to place reliance on it. The Council shall provide a copy of the interim and final report to GMCA as soon as they are available. GMCA reserves the right to require the Council to publish the report.
- (vi) provide a copy of the Council's latest audited Accounts and submit further copies of the audited Accounts as they become available.
- (vii) submit any claim for payment or management information provided to support a claim for payment to be audited by an independent auditor chosen by GMCA; and
- (viii) provide any additional evidence to support payments made under this Agreement, as GMCA shall reasonably require.
7. The Council shall in delivering the Provision to Learners comply fully with all relevant rules and regulations of GMCA in force from time to time (including, but not limited to the GMCA AEB Funding and Performance Management Rules).
8. In addition to the other requirements to provide information set out in this Agreement GMCA reserves the right to request information from the Council in order to exercise its responsibilities and/or to fulfil requirements to provide information to the Secretary of State, to account to Parliament and to meet European funding requirements. On occasion, GMCA will require urgent information from the Council.
9. The Council shall provide GMCA or agents acting on its behalf with the information it requires under any provisions of this Schedule 8 at the times and in the formats specified. This information shall be of sufficient quality to meet the purposes for which it has been requested.
10. Failure to comply with any request for information under any provisions of this Schedule 8, at all or in the required timescales, will constitute a Minor / Serious Breach of this Agreement, depending on the nature of the information requested and the urgency with which it is required by GMCA.

## SCHEDULE 9

### LEARNER HEALTH AND SAFETY

1. The Council shall provide information to GMCA, as and when specifically requested, to give assurance that adequate arrangements exist for Learner health, safety and welfare and that the Provision is delivered to Learners in safe, healthy and supportive environments, which meet the needs of the Learners. The Council acknowledges that GMCA will place reliance on the information which the Council supplies to GMCA pursuant to this Schedule 9. Where part of the Provision is delivered to Learners in an environment outside the direct control of the Council, the Council shall take all reasonable steps to ensure that adequate arrangements are in place to ensure the health and safety of Learners.
2. The Council shall make arrangements for ensuring that the Provision is delivered with a view to safeguarding and promoting the welfare of Learners (including but not limited to any Children) receiving education or training at premises under the direct control of the Council, or under the auspices of the Council in an environment outside the direct control of the Council. In doing so, the Council shall have regard to any guidance published, from time to time, by the Secretary of State for Education which sets out the expectations in relation to safeguarding practice within further education institutions. References to 'must' in any such guidance shall be treated as 'should' for the purposes of this Agreement, save for any references to legal requirements arising from the Safeguarding Vulnerable Groups Act 2006 in respect of referrals to the Disclosure and Barring Service. Failure to do so may constitute a Serious Breach of this Agreement.
3. The Council shall make arrangements for ensuring that the Provision is delivered with a view to safeguarding and promoting the welfare of High Needs Learners aged 18 to 25 receiving education or training at their institution or under the auspices of the Council in an environment outside the direct control of the Council. This must include the adoption of safer recruitment procedures. In doing so, the Council shall make those arrangements as if such Learners were Children and will have regard to any guidance published, from time to time, by the Secretary of State for Education which sets out the expectations in relation to safeguarding practice within further education institutions as if it applied to those Learners as if they were Children. References to 'must' in any such guidance shall be treated as 'should' for the purposes of this Agreement, save for any references to legal requirements arising from the Safeguarding Vulnerable Groups Act 2006 in respect of referrals to the Disclosure and Barring Service. Failure to do so may constitute a Serious Breach of this Agreement.
4. The Council must carry out appropriate disclosure and barring service checks on all overseas applicants for employment where such applicants would be employed to work in regulated activity relating to Children or vulnerable adults (as defined by the Safeguarding Vulnerable Groups Act 2006) if successful and must seek additional information about an applicant's conduct.
5. In working with other organisations/bodies, the Council shall make arrangements to co-ordinate and co-operate effectively for reasons of Learner health, safety and welfare. In particular, respective responsibilities shall be clearly identified and documented as appropriate, to ensure understanding.
6. In delivering the Provision to Learners, the Council must ensure it actively promotes

the fundamental British values of democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs and promote principles that support equality of opportunity for all.

7. In delivering the Provision to Learners, the Council must comply with the general duty on specified authorities in section 26 of the Counter-Terrorism and Security Act 2015 (the Prevent duty) and the duty on partners of a panel in section 38 of the Counter-Terrorism and Security Act 2015 (the Channel co-operation duty). In doing so, the Council will act in accordance with any guidance issued by the Secretary of State in respect of these duties. Failure to do so may constitute a Serious Breach of this Agreement.
8. The Council shall not employ or engage, or continue to employ or engage, any person who is subject to a prohibition order made under section 141B of the Education Act 2002 to carry out teaching work (as defined in regulation 3 of the Teachers' Disciplinary (England) Regulations 2012) in respect of any Learners under the age of 19 and High Needs Learners aged 18 to 25 (as if those Learners were pupils for the purposes of the definition of teaching work in regulation 3 of the Teachers' Disciplinary (England) Regulations 2012).
9. Before employing or engaging a person to carry out teaching work in respect of any Learners under the age of 19 and High Needs Learners aged 18 to 25 (as if those Learners were pupils for the purposes of the definition of teaching work in regulation 3 of the Teachers' Disciplinary (England) Regulations 2012), the Council shall take reasonable steps to ascertain whether that person is subject to a prohibition order made under section 141B of the Education Act 2002 or an interim prohibition order under regulation 14 of the Teachers' Disciplinary (England) Regulations 2012.
10. The Council shall, in circumstances where it sub-contracts the management and/or delivery of the Provision to Learners under this Agreement, ensure that all the provisions in respect of Learner Health, Safety and Welfare in this Schedule 9 are included in its contract with Sub-Contractors.
11. The Council shall inform GMCA of the death of any Learner which is a result of work undertaken whilst the Learner is in employment and whilst the Learner is in receipt of any Provision delivered by the Council under this Agreement. This shall be done by the Council informing GMCA's representative by telephone or email immediately upon the Council becoming aware of the event.
12. The Council shall report all RIDDOR reportable incidents in line with the Regulations and shall investigate or assess the circumstances of all Learner incidents within the scope of RIDDOR and follow HSE guidance 'Investigating accidents and incidents: A workbook for employers, unions, safety representatives and safety professionals' (HSG245) ISBN 0717628272. The Provider shall only use persons competent to investigate/assess Learner incidents with a view to identifying the causes of any incident and lessons to be learned.
13. The Council shall also monitor, and act on, any other harm to Learners to the extent that the Provider could reasonably be expected to do so and/or where the harm could affect the quality of the learning experience. Harm includes (but is not limited to) incidents that cause absence from learning, any loss to the Learner of any physical or mental faculty or any disfigurement and incidents of bullying and harassment.
14. The Council shall co-operate with GMCA and Department for Work and Pensions for



the purposes of the Industrial Injuries Disablement Benefit (IIDB) in respect to those Learners to which it applies.

15. The Council must be able to demonstrate that it has robust record-keeping procedures in respect of health, safety and safeguarding through checks on record keeping undertaken. Failure to do so will constitute a Serious Breach of this Agreement.
16. Where the Council refers:
  - (a) a serious safeguarding concern in relation to a Learner to the relevant Local Authority children's social care / adult social care and/or the police, or
  - (b) an allegation of abuse made by a Learner against any Council Personnel to the designated officer(s) (at the relevant Local Authority),

the Council must, as soon as practicable, inform GMCA as to the referral. Such notification must include the name of the Council, a high level summary of the incident (without sharing personal information about victims or alleged perpetrators) and confirmation of whether it is, or is scheduled to be, investigated by relevant the Local Authority and/or the police.

17. Where the Council makes a referral of a Learner for the purposes of determining whether that Learner should be referred to a panel for the carrying out of an assessment under section 36 of the Counter-Terrorism and Security Act 2015 of the extent to which that Learner is vulnerable to being drawn into terrorism, the Council shall ensure it notifies GMCA that a referral has been made.
18. Where the Council has made a referral or provided information to the Disclosure and Barring Service (the "DBS") in compliance with any duties of the DBS under the Safeguarding Vulnerable Groups Act 2006, the Council shall ensure that it informs GMCA that a referral has been made / information has been provided.

## **SCHEDULE 10**

### **EQUAL OPPORTUNITIES**

1. The Council shall not unlawfully discriminate within the meaning and scope of the provisions of the Equality Act 2010 or any statutory modification or re-enactment thereof of any other statutory provision relating to discrimination in employment or the delivery of Provision to Learners. The Council shall take all reasonable steps to ensure the observance of these statutory provisions by all Council Personnel, servants, employees or agents and all Sub-Contractors employed in the delivery of the Provision to Learners under this Agreement. The Council will comply with the detailed requirements in relation to equality of opportunity set out in paragraphs 2 to 5 of this Schedule 10.
2. The Council will, in delivering the Provision to Learners under this Agreement, demonstrate that it has had regard to the duties placed on GMCA and the Council by the Equality Act 2010. The Council must take all reasonable steps to ensure the observance of these statutory provisions by all servants, employees or agents of the Council and all Sub-Contractors employed to deliver the Provision to Learners.
3. The Council shall ensure that equality of opportunity is built into all aspects of the Provision to Learners; the business planning process; and the self-assessment process. The Council shall use analysis of data to inform future planning to improve the representation, participation and success of underrepresented and underachieving groups and challenge stereotyping. The Council shall use appropriate, specific and measurable objectives. These will be proportionate, relevant and aligned to the Provision to Learners that the Council is grant funded by GMCA to deliver.
4. GMCA may use a variety of equality information and data to support judgments about quality and eligibility for funding. These may include but are not limited to: inspection judgments for equality and diversity, judgments from the Equality and Human Rights Commission, and the success and participation rates of diverse groups of Learners.
5. The Council recognises that GMCA is subject to the public sector equality duty imposed by the Equality Act 2010. The Council will take all reasonable steps to assist GMCA to comply with its public sector equality duty under the Equality Act 2010 and to comply with any GMCA policies to ensure equality of opportunity which are notified to the Council from time to time.

## SCHEDULE 11

### FREEDOM OF INFORMATION AND DATA PROTECTION

#### 1. Freedom of Information

- 1.1 Each of the Parties acknowledge and agree that the other Party is subject to legal duties under FOIA, which may require either Party to disclose on request information relating to this Agreement or otherwise relating to the other Party.
- 1.2 Each of the Parties acknowledges and agrees that the other Party is required by law to consider each and every request made under FOIA for information.
- 1.3 Each of the Parties acknowledges and agrees that all decisions made by the other Party pursuant to a request under FOIA are solely a matter for and at the discretion of the Party which has received the FOIA request.
- 1.4 Notwithstanding anything in this Agreement to the contrary (including without limitation any obligations of confidentiality), each Party acknowledges that the other Party shall be entitled to disclose information in whatever form pursuant to a request made under FOIA, save that in relation to any information that is Exempt Information each Party shall use reasonable endeavours (but shall not be obliged) to consult the other Party and shall not:
  - (a) confirm or deny that information is held by the other Party; or
  - (b) disclose information requested

to the extent that in GMCA's opinion the information is eligible in the circumstances for an exemption and therefore GMCA may lawfully refrain from doing either of the things described in parts (a) and (b) of this paragraph.

- 1.5 Neither Party shall be liable for any loss, damage, harm or detriment to the other Party, howsoever caused, arising from or in connection with the disclosure under FOIA of any Exempt Information or other information whether relating to this Agreement or otherwise relating to the other Party.
- 1.6 Each Party shall assist the other Party as reasonably necessary to comply with its obligations under FOIA in relation to this Agreement.

#### 2. Data Protection

- 2.1 The Parties are separate Data Controllers for the data collected as part of the Services:
  - (a) GMCA is the Data Controller for data provided to it by the ESFA, and
  - (b) the Council is the Data Controller for the data collected for the provision of the Services and the data provided to the ESFA on each Learner.
- 2.2 Regarding the data for which the Council is the sole Data Controller, they will be

required to provide GMCA with statistical and/or anonymised data, the content of which will be agreed with GMCA.

- 2.3 However where the Council is providing the Services to Learners claiming out of work benefits, the Secretary of State for Work and Pensions (or their successor) is the Data Controller in relation to Personal Data which the Council is required to provide to the Secretary of State for Work and Pensions. This Paragraph 3 will be enforceable by the Secretary of State for Work and Pensions in relation to any Personal Data processed by the Council on their behalf.
- 2.4 Each Party's responsibilities in relation to the prescribed data have been outlined below for:
- a. providing information to data subjects under [Article 13 and 14](#) of the UK GDPR:  
*The Council will be required to deliver GMCA Privacy Notices to data subjects in addition to any Privacy Notice issued by the Council for their processing of collected data.*
  - b. responding to data subject requests under [Articles 15-22](#) of the UK GDPR:  
*The Council will have the responsibility to respond to any direct subject access requests about the Services.*
  - c. notifying the Information Commissioner (and data subjects) where necessary about data breaches:  
*Where a data breach occurs that applies to the information held by the Council to deliver the Services the Council will have the responsibility of notification to the Information Commissioner in compliance with Data Protection legislation requirements. However the Council will be required to advise the details of any breach to GMCA as the commissioner of the Services within 48 hours of notification to the Information Commissioner.*
  - d. maintaining records of processing under [Article 30](#) of the UK GDPR:  
*The Council will maintain records of processing for the Services, which they provide.*
  - e. carrying out any required Data Protection Impact Assessment:  
*The Council will be responsible for the creation of the DPIA for the provision of the Services by their Council Personnel. GMCA will undertake a DPIA in line with their responsibility as the commissioner of the Services and in relation to the agreements in place with ESFA and DfE. GMCA will however issue the Council with a Privacy Notice they must deliver to data subjects to ensure full transparency regarding how their information will be used.*
  - f. providing an adequate level of protection to any Personal Data:  
*As a Data Controller for data as defined in this Schedule each Party will have the responsibility to put in place adequate security controls for their data in whichever format the data is held in. This will include when the data is being moved or is at rest.*
  - g. the point of contact for data subjects:  
*The Council will be the main point of contact for data subjects participating in the Services. The details for this will be identified in the Council's transparency process.*

2.5 The Council is further required to:

- a. permit GMCA or GMCA's representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit the Council's Data Processing (within the meaning of the Data Protection Legislation) activities (and/or those of its agents, subsidiaries, and Sub-contractors) and comply with all reasonable requests or directions by GMCA to enable GMCA to verify and or procure that the Council is in full compliance with its obligations under this Grant Agreement;
- b. provide a written description of the technical and organisational methods employed by the Council for processing Personal Data (within the timescales required by GMCA); and
- c. provide GMCA with information about how the Learner Files are stored including details of the location where the Learner Files are kept and the arrangements for their security. The Council is required to notify GMCA of any changes to this information; and
- d. provide GMCA with full co-operation and assistance in relation to any complaint or request made. They will notify GMCA within 48 hours following the receipt of a complaint or request. They will then provide full details on an ongoing basis regarding the full details of the complaint or request, including their response and/or their implement/proposed resolution.

2.6 Where the Council is providing the Services to Learners claiming out of work benefits, the Secretary of State for Work and Pensions (or their successor) is the Data Controller in relation to Personal Data which the Council is required to provide to the Secretary of State for Work and Pensions. This Schedule 11 will be enforceable by the Secretary of State for Work and Pensions in relation to any Personal Data processed by the Council on their behalf.

## SCHEDULE 12

### CORRUPT GIFTS AND PAYMENTS OF COMMISSION

1. The Council shall not offer or give, or agree to give, to any member, employee or representative of GMCA any gift or consideration of any kind as an inducement or reward for doing or refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other Agreement with GMCA or for showing or refraining from showing favour or disfavour to any person in relation to this or any such Agreement. The Council shall not carry out or permit to be carried out any Prohibited Act (as defined at Schedule 1 (**Definitions**)).
2. The Council's attention is drawn to the criminal offences created by the Bribery Act 2010. Any offence by the Council or its employees or by anyone acting on its behalf under the Bribery Act 2010 in relation to this Agreement or any other agreement with GMCA shall entitle GMCA to terminate this Agreement and recover from the Council the amount of any loss resulting from such termination and/or to recover from the Council the amount of value of any gift, consideration or commission.
3. The Council shall not enter into any agreement with any political or religious organisation using any Grant funding provided by GMCA from the Devolved GM AEB under this Agreement if the effect of that agreement would be to promote a particular political or religious point of view.
4. The Council shall not hold itself out as acting on behalf of GMCA without GMCA's permission.

## SCHEDULE 13

### VARIATION TO AGREEMENT FORM

<b>GRANT AGREEMENT TITLE:</b>			
<b>VARIATION NO:</b>		<b>*EXECUTION DATE:</b>	

\* Provider not to date. Will be done on execution by the GMCA

**Between:**

- A. GREATER MANCHESTER COMBINED AUTHORITY**, 1<sup>st</sup> Floor, Tootal Buildings, 56 Oxford Street, Manchester M1 6EU (the **GMCA**); and
- B. THE BOROUGH COUNCIL OF OLDHAM**, The Civic Centre, Oldham Council, West Street, Oldham, OL1 1UG (the **COUNCIL**),

each a **Party** and together the **Parties**

**It is agreed as follows:**

1. The Parties agree that with effect from the Start Date, the Grant Agreement shall be varied by [insert details of variation]

**Start Date:**

**Proposed Completion Date:**

**Costs:**

**Extension of Time:**

2. The provisions of the Grant Agreement, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.
3. In this Variation, save where specifically provided otherwise or as may be amended hereby, all expressions are to bear the same meanings and definitions ascribed to them in the Grant Agreement.

**The Parties** have executed this Variation on the day and year above written

**SIGNED** for and on behalf of the  
**GREATER MANCHESTER  
COMBINED AUTHORITY**  
by an Authorised Signatory:

Signature .....  
Name .....  
Title .....  
Date .....

**SIGNED** for and on behalf of  
**THE BOROUGH COUNCIL OF OLDHAM**  
by an authorised signatory

Signature .....  
Name .....  
Title .....  
Date .....



## SCHEDULE 14

### DISPUTE RESOLUTION

1. Any dispute, difference or question in respect of this Agreement arising between the Parties either during the Grant Term or afterwards shall be referred to the nominated contacts for GMCA and the Council for discussion and review in order to try to resolve the same.
2. In the event of the nominated contacts being unable to resolve the relevant issue, either party may request in writing that the matter is referred to GMCA's nominated representative and the Council's representative nominated for this purpose (jointly "**the Dispute Resolution Panel**") for formal review and consideration. Any request for referral to the Dispute Resolution Panel must include details of the dispute and any proposals to resolve it.
3. The Dispute Resolution Panel will meet within 28 days of receiving a request for referral made in accordance with Paragraph 2 above.

## SCHEDULE 15

### SUB CONTRACTING

#### 1. Selection and procurement of Sub-contractors

- 1.1 The Council must get GMCA written approval before awarding a contract to a Sub-contractor for the delivery of any part of the Provision to Learners which is funded by Grant from the Devolved GM AEB under this Agreement and keep evidence of this.
- 1.2 Changes to the Council's sub-contracting plans after you have entered into this Agreement with GMCA, must be agreed with GMCA in advance as stated in paragraph 3.60 of GMCA AEB Funding and Performance Management Rules.
- 1.3 When appointing Sub-contractors the Council must avoid conflicts of interest and must:
  - 1.3.1 notify GMCA in writing about any circumstances (for example, where the Council and your proposed Sub-contractor have common directors or ownership) which might lead to an actual or perceived conflict of interest,
  - 1.3.2 not award the contract without GMCA's prior written permission, and
  - 1.3.3 keep as evidence both the Council's request for GMCA consent under Paragraph 1.3.1 and GMCA's response.
- 1.4 The Council must carry out its own due diligence checks when appointing Sub-contractors and have both the process and the results available for inspection by GMCA.
- 1.5 The Council should not use a Sub-contractor's presence on the ESFAs Register of Training Organisations, or any other public register or database, as an indicator that they are suitable to deliver to the Council's specific requirements.
- 1.6 If a Sub-contractor you are using for the delivery of Provision to Learners has not been agreed with GMCA, you must immediately end your sub-contract with that organisation.
- 1.7 GMCA would not expect to agree to the Council entering into sub-contracting arrangements for the delivery of Provision to Learners, or to the Council increasing the value of current sub-contracting arrangements for the delivery of Provision to Learners if any of the following circumstances apply:
  - 1.7.1 if Ofsted has rated the Council's leadership and management as inadequate;
  - 1.7.2 if the Council does not meet GMCA's minimum standards (as notified to the Council by GMCA from time to time);
  - 1.7.3 if the outcome of the annual financial health assessment that GMCA carries out on the Council is inadequate.

#### 2. Entering into a sub-contract

- 2.1 The Council must only award contracts for delivering Provision to Learners which is funded by Grant paid to the Council under this Agreement to legal entities. If the legal entity is a registered company, it must be recorded as 'active' on the Companies House database.
- 2.2 The Council must not award a sub-contract for the delivery of Provision to Learners without the prior written agreement with GMCA.
- 2.3 The Council must not award a sub-contract for the delivery of Provision to Learners to any organisation if:
  - 2.3.1 it has an above-average risk warning from a credit agency;
  - 2.3.2 it has passed a resolution (or the court has made an order) to wind up or liquidate the company, or administrators have been appointed, or
  - 2.3.3 its statutory accounts are overdue.
- 2.4 The Council must make sure that Learners who receive Provision through sub-contracting arrangements know about the Council and the Sub-contractor's respective roles and responsibilities in delivering the Provision.
- 2.5 The Council must have a legally binding contract with each Sub-contractor that includes all the terms set out in Paragraph 5 and the Council must have a contingency plan in place for Learners in the event that:
  - 2.5.1 the Council need to withdraw from a sub-contract arrangement;
  - 2.5.2 a Sub-contractor withdraws from the arrangement with the Council; or
  - 2.5.3 a Sub-contractor goes into liquidation or administration.
- 2.6 The Council must make sure that the terms of its sub-contracts allow the Council to:
  - 2.6.1 monitor the delivery of its Sub-contractor's activity;
  - 2.6.2 have control over its Sub-contractors; and
  - 2.6.3 monitor the quality of education and training provided by its Sub-contractors.
- 2.7 Where GMCA has any concerns regarding the Council's sub-contracting arrangements, GMCA may ask the Council to obtain an annual report from an external auditor in respect of such arrangements. The report must:
  - 2.7.1 provide assurance on the Council's arrangements to manage and control your Sub-contractors, and
  - 2.7.2 comply with any guidance issued by GMCA.
- 2.8 Where GMCA requires the Council to obtain a report in accordance with Paragraph 2.7 of this Schedule, the report must supply GMCA with a certificate signed by the external auditor and an authorised signatory to confirm the Council has received a report that provides satisfactory assurance. GMCA may ask the Council to provide a

copy of the full report.

### **3. Terms that the Council must include in contracts with Sub-contractors**

3.1 The Council must make sure its Sub-contractors:

3.1.1 meet the requirements set out in the GMCA AEB Funding and Performance Management Rules;

3.1.2 provide the Council with ILR data so the Council's data returns to GMCA accurately reflect its Sub-contractor's delivery information; and

3.1.3 give GMCA, and any other person nominated by GMCA, access to their premises and all documents relating to Devolved GM AEB.

3.1.4 give the Council sufficient evidence to allow the Council to:

- (i) assess their performance against Ofsted's Common Inspection Framework
- (ii) incorporate the evidence they provide into the Council's self- assessment report,
- (iii) guide the judgements and grades within the Council's self- assessment report;
- (iv) be satisfied that the Sub-contractors always have suitably qualified staff available to provide the education and training Provision to Learners which GMCA Grant fund through this Agreement; and
- (v) ensure that the Council's Sub-contractors co-operate with the Council to make sure there is continuity of learning if the sub-contract ends for any reason.

3.1.5 tell the Council if evidence of any irregular financial or delivery activity arises; irregular activity could include, but is not limited to:

- (i) non-delivery of Provision to Learners when funds have been paid to the Sub-contractors;
- (ii) sanctions imposed on the Sub-contractor by an awarding organisation;
- (iii) an inadequate Ofsted grade;
- (iv) complaints or allegations by Learners, people working for the Sub-contractor or other relevant parties, and
- (v) allegations of fraud;

3.1.6 are bound by European Social Fund (ESF) clauses from the Council's funding agreement with GMCA being included in the sub-contract, even if the provision being sub-contracted is not funded by the ESF;

- 3.17 do not use GMCA's grant funding to make bids for, or claims from, any European funding on their own behalf or on our behalf without written permission from GMCA; and
- 3.18 do not use payments made as match funding for ESF co-financing projects without written permission from GMCA.

#### **4. Monitoring**

- 4.1 The Council must manage and monitor all of your Sub-contractors to ensure that high-quality delivery is taking place that meets the GMCA AEB Funding and Performance Management Rules.
- 4.2 The Council must carry out a regular and substantial programme of quality-assurance checks on the education and training provided by Sub-contractors, including visits at short notice and face-to-face interviews with staff and residents. The programme must:
- include whether the Learners exist and are eligible;
  - involve direct observation of initial guidance, assessment, and delivery of Provision to Learners;
- 4.3 The findings of your assurance checks must be consistent with your expectations and the Sub-contractor's records.

#### **5. Second-level sub-contracting**

You must not agree the use of any Sub-contractor where this would require you to sub-contract education and training to a second level as stated in paragraph 3.46 of GMCA AEB Funding and Performance Management Rules. All of your Sub-contractors must be contracted directly by you having first agreed this approach with GMCA.

#### **6. Reporting sub-contracting arrangements**

- 6.1 The sub-contracting arrangements which GMCA has approved prior to the date of this Agreement are set out within the Council's Provision and Grant Payment Profile attached at Schedule 2. If the Council wishes to change your Sub-contractors after you have entered into this Agreement the Council must obtain GMCA's written approval and follow the process set out in Paragraph 3.
- 6.2 The Council must provide a fully completed delivery subcontractor declaration to GMCA by the dates stipulated by GMCA. This will be three times during the 2022 to 2023 academic year.
- 6.3 The Council must also update and reconcile your sub-contracting plan if the Council's subcontracting arrangements change during the Funding Year.

#### **7. Distributing Grant between the Council and your Sub-contractors**

- 7.1 The Council must review its sub-contracting fees and charges policy. This must be signed by the Council's governing body and/or your accounting officer.

- 7.2 The Council must publish its sub-contracting fees and charges policy annually on its website before entering into any sub-contracting agreements for the current Funding Year as stated in paragraph 3.50 of GMCA AEB Funding and Performance Management Rules .
- 7.3 As a minimum, the Council must include the following in its sub-contracting funding retention and charges policy:
- the Council's reason for subcontracting;
  - the Council's contribution to improving the Council's and your Sub-contractor's quality of teaching and learning;
  - the typical percentage range of fees the Council retains to manage Sub-Contractors, and how the Council calculates this range. GMCA will consider a retention of up to 20% of funding to manage Sub-contractors as a reasonable level and would not expect providers to retain more than this as stated in paragraph 3.45 of GMCA AEB Funding and Performance Management Rules. In exceptional cases, GMCA will consider higher retention amounts and then only if there is a compelling rationale. This will be assessed on a case-by-case basis;
  - The support Sub-contractors will receive from the Council in return for the fee the Council retains;
  - Any oversight and management of delivery which the Council will carry out with the fee the Council retains;
  - If appropriate, the reason for any differences in retention amounts or support provided to, and management and oversight of, different Sub-contractors;
  - Payment terms between the Council and your Sub-contractors; the timing of payments in relation to delivery and timescale for paying invoices and claims for funding received;
  - How and when the Council communicates and discusses your policy with current and potential Sub-contractors;
  - Timing for policy review; and
  - Where the Council publishes your policy.

**This Agreement** is hereby executed by the Authorised signatory on the date set out above

**THE COMMON SEAL of the  
GREATER MANCHESTER  
COMBINED AUTHORITY**

was hereunto affixed in  
pursuance of an Order  
of the said Authority:

.....

Authorised Signatory

Signed for and on behalf of  
**THE BOROUGH COUNCIL OF OLDHAM**

Authorised signatory: .....

Name .....

Position: .....

Date: .....