



Education & Skills
Funding Agency

Signed contract document

This contract has been signed by the authorised signatory for the Education and Skills Funding Agency, acting on behalf of the Secretary of State, and has been digitally signed by all parties.

Document reference: 10083362_EDSK-2352_v2

Signed by Nicola Wilkinson on 25 September 2019 as the provider's authorised signatory

User ID: ISP-wilkinsonn2



THIS AGREEMENT is made on the date the Agreement is digitally signed by the Provider on the Manage your education and skills funding service and shall be deemed to be effective from 01 August 2019 ("the effective date")

BETWEEN: -

- (1) **THE SECRETARY OF STATE FOR EDUCATION** acting through the Education and Skills Funding Agency an Executive Agency of the Department for Education of Cheylesmore House, Quinton Road, Coventry, CV1 2WT ("**the Department**"); and
- (2) **VALLEY COLLEGE LTD** Company No: 11055200 whose registered office is situated at Ewood Campus, Clod Lane, Haslingden, Rossendale, Lancashire, BB4 6LR ("**the Provider**").

RECITALS: -

- (A) The Department and the Provider entered into a Specialist Post-16 Institution Agreement with the Department's reference number of ESFA-16507 ("**Original Agreement**") for the purposes of delivering Education and Training.
- (B) The Department and the Provider have agreed to vary the terms of the Original Agreement as set out in this Agreement.
- (C) The Department's reference number for this Variation Agreement is 2.

IT IS AGREED as follows: -

1. **CONSIDERATION**

In consideration of each of the parties entering into this Agreement (such consideration being agreed by the parties to be good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged and agreed), the parties have agreed to vary the Original Agreement in accordance with clause 45.1.

2. **VARIATION OF THE ORIGINAL AGREEMENT**

- 2.1 The parties agree with effect from the effective date the Original Agreement shall be varied as set out in Annex 1 attached.
- 2.2 Subject to the variations set out in Annex 1, the Original Agreement shall continue in full force and effect in all respects.
- 2.3 In addition to the amendments set out in Annex 1, the Original Agreement shall be construed and interpreted with such further consequential amendments as are necessary to give effect to the amendments set out in

Annex 1 of this Agreement, as if such further amendments were also expressly set out in Annex 1.

- 2.4 Except as provided in Clause 2.3 and Annex 1, the parties agree that no other liabilities, financial or otherwise, shall accrue to the Department because of this Variation Agreement.

3. **SEVERABILITY**

The provisions of this Agreement are intended by the parties to be severable in the event that any part of it is held to be illegal or unenforceable (in whole or in part) and such part shall not affect the validity and enforceability of the remaining provisions or the remainder of the affected provision under this Agreement.

4. **AUTHORITY AND COSTS**

Each party undertakes that it has full power and authority to enter into and shall be responsible for its own costs arising in relation to this Agreement.

5. **THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

- 5.1 Subject to Clause 5.2 below, this Agreement is not intended to create any benefit, claim or rights of any kind whatsoever enforceable by any person who is not a party to this Agreement. Accordingly, the parties confirm that no term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

- 5.2 It is the intention of the parties that any other department, officer or agency of the Crown, may as required from time to time act as the Department's agent in enforcing the Department's rights under this Agreement.

6. **GOVERNING LAW AND JURISDICTION**

The parties agree that this Agreement and any dispute arising under or in any way connected with the subject matter of this Agreement (whether of a contractual or tortious nature or otherwise) shall be governed by and construed in accordance with the laws of England, and the parties submit to the jurisdiction of the English Courts.

7. **ACCEPTANCE BY THE PROVIDER**

By accepting this Agreement via the Manage your education and skills funding service the person taking this action on behalf of the Provider represents and warrants that the Provider has read and understood this Agreement, the Provider agrees to be bound by this Agreement and that he/she is duly authorised to accept this Agreement and legally bind the Provider.

This Agreement is made on the date the Agreement is digitally signed by the Provider on the Manage your education and skills funding service.

**SIGNED FOR AND ON BEHALF OF
THE SECRETARY OF STATE FOR EDUCATION**
acting through the Education and Skills Funding Agency
by Eileen Milner, Chief Executive of the Education and Skills Funding Agency

Eileen M. Milner

ANNEX 1

VARIATIONS TO ORIGINAL AGREEMENT

All references to Clauses in this Annex 1 are to Clauses in the Original Agreement.

A summary of the main changes are detailed below, these do not show spelling, punctuation and grammatical errors which have been corrected. You must refer to your revised Agreement and associated Schedules for delivery from 1 August 2019 which incorporate all amendments. A copy of the revised terms and conditions for the funding period 1 August 2019 to 31 July 2020, which incorporate the amendments detailed below will be put on GOV.UK <https://www.gov.uk/guidance/esfa-education-and-skills-contracts-2019-to-2020>

19 DEPARTMENT DATA

Clause 19.2 has been **amended** as follows:

- 19.2 The Provider must perform secure back-ups of all the Department Data and must ensure that up-to-date back-ups are stored off-site in accordance with the Business Continuity Plan. The Provider must ensure that such back-ups are available to the Department at all times upon request and are delivered to the Department at no less than monthly intervals when requested.

24 EMPLOYEES

Clause 24.9 has been **amended** as follows:

- 24.9 The Provider will require Provider Personnel to declare annually whether there has been a change in their circumstances relating to the background checks referred to in this clause 24. Where the self-declaration indicates a change in circumstances relating to those background checks, the Provider will:
- 24.9.1 assess the risk of continuing to engage such member of Provider Personnel in the delivery of the Services;
 - 24.9.2 request new background checks of such member of Provider Personnel as required by this clause 24;
 - 24.9.3 put in place appropriate actions to ensure Learners are safeguarded, including, but not limited to, extra supervision of the member of Provider Personnel, re-assignment to an area of the delivery of the Services that does not bring the member of Provider Personnel into regular contact with Learners, or removal from the delivery of the Services of the member of Provider Personnel, until such time as the Provider has received the outcome of the background checks required under clause 24.9.2 and has taken any action required as a result of the outcome of such background checks.

Clause 24.15 has been **amended** as follows:

24.15 When requested by the Department on reasonable grounds, the Provider will cease to use any Provider Personnel specified by the Department in the provision of the Services. For the purposes of this clause Provider Personnel will include external members of the board.

32 INSURANCE

Clause 32.1.2 (c) has been **amended** as follows:

(c) five million pounds (£5 million) in respect of professional indemnity cover in respect of each and every claim.

36 TERMINATION

Clause 36.11 has been **amended** as follows:

36.11 The Provider must upon notice of termination of the Agreement make available upon request to the Department all Learner files (including but not limited to e-portfolios), correspondence, documents, specification papers and other property belonging to the Department, which may be in its possession or under its control.

Clause 36.13 has been **deleted** (duplicate)

44 PUBLIC RELATIONS AND PUBLICITY

Clause 44.1 has been **amended** as follows:

44.1 The Provider must by itself, its employees or agents and procure that its sub-contractors must:

44.1.1 Inform the Department of any communications with representatives of the press, television, radio or other communications media on any matter concerning this Agreement; and

44.1.2 Not use or make use of the Department's name, logo or other branding without the prior written approval of the Department, which should not be unreasonably delayed or withheld.

Clause 44.2 has been **deleted**.

SCHEDULE 7: SECURITY & DEPARTMENT POLICIES

PART A SECURITY

Clause 1.3 has been **amended** as follows:

- 1.3 The Provider shall be able to demonstrate conformance to, and show evidence of such conformance to the ISO/IEC 27001 (Information Security Management Systems Requirements) standard, including the application of controls from ISO/IEC 27002 (Code of Practice for Information Security Controls). The Provider shall plan to work towards certification for year future funding years.

Clause 1.5 has been **amended** as follows:

- 1.5 Departmental Data being handled in the course of providing an ICT solution or Service must be segregated from all other data on the Provider's or sub-contractor's own IT equipment to protect the Departmental Data and enable the data to be identified and securely deleted when required. In the event that it is not possible to segregate any Departmental Data then the Provider and any sub-contractor will be required to ensure that it is stored in such a way that it is possible to securely delete the data in line with Clause 1.15.

The Summary of Funding 2019/20 showing the Total Funding for the Agreement is attached for information only there are no changes to the Funding.

SUMMARY OF FUNDING 2019/20

Organisation Name: VALLEY COLLEGE LTD

UKPRN: 10083362

Master Contract Number: ESFA-16507

				Allocation			
				Contract Ref	Aug 19 - Mar 20	Apr 20 - Jul 20	2019/20 Total
16 to 19 Education		16ED-2278			£68,482	£45,630	£114,112
Total Funding for this contract:							£114,112