



it pays to learn

Learning Provider Registration Agreement



Learning Provider Registration Agreement

Between The Skills Development Scotland Co. Limited and

[insert name of Learning Provider]

[insert date]

Contents

| Clause | | Page No |
|-----------------|--------------------------------------|-----------|
| 1. | Interpretation | 3 |
| 2. | Commencement and Term | 5 |
| 3. | Pre-Registration | 5 |
| 4. | Qualification | 5 |
| 5. | ILA Scotland Registration | 6 |
| 6. | Reports and Review | 6 |
| 7. | Suspension and Cancellation | 7 |
| 8. | Confidentiality | 7 |
| 9. | Limitation of Liability | 8 |
| 10. | Termination | 9 |
| 11. | Data Protection | 10 |
| 12. | Force Majeure | 10 |
| 13. | Entire Agreement | 10 |
| 14. | Waiver | 11 |
| 15. | Severability | 11 |
| 16. | Notices | 11 |
| 17. | Assignment | 11 |
| 18. | Disclaimer of Agency and Partnership | 11 |
| 19. | Variation | 11 |
| 20. | Applicable Law | 12 |
| Schedule | | 13 |
| Part 1 | Quality Standards | 13 |
| Part 2 | Registration Information Form | 14 |

Learning Provider Registration Agreement

between

THE SKILLS DEVELOPMENT SCOTLAND CO. LIMITED, a Company incorporated in Scotland with Registered Number 202659 and having its registered office at Alhambra House, 45 Waterloo Street, Glasgow G2 6HS ("SDS");

and

THE LEARNING PROVIDER designated in Section 1 of Part 2 of the Schedule or if the body designated in Section 1 of Part 2 of the Schedule is not able to enter into agreements of this type, the body designated in Section 2 of Part 2 of the Schedule, ("Learning Provider").

WHEREAS:-

- (a) SDS has been designated by the Scottish Ministers as a Learning Account Administrator for the purposes of administering the ILA Scotland Database and registering Learning Providers as ILA Scotland Registered Providers in terms of the Regulations; and
- (b) The Learning Provider wishes to be registered as an ILA Scotland Registered Provider, to have its details added to the ILA Scotland Database and to participate in ILA Scotland.

NOW THEREFORE IT IS AGREED as follows:-

1. Interpretation

- 1.1 In this Agreement, unless the context requires otherwise, the following words and phrases shall have the meanings set opposite them:-

"the Act" means the Education and Training (Scotland) Act 2000 (asp 8);

"Agreement Year" means the period of twelve months beginning on the last date of execution of this Agreement or any anniversary thereof;

"Approved Learning" means education or training which has been approved for the purposes of the Scheme and as defined by the Regulations;

"Assessment Criteria" means the criteria established by SDS and set out on the ILA Scotland website from time to time;

"Business Day" means any day on which the banks are open for business in Glasgow;

"Change in Law" means the coming into effect on or after the last date of execution of this Agreement of any Act of Parliament, Order in Council or Directive of a Competent Authority or an amendment to any Act of Parliament, Order in Council or Directive of a Competent Authority other than a commencement order or other similar Directive which brings into effect legislation enacted prior to the date of this Agreement;

"Competent Authority" means any local or national agency, authority, department, inspectorate, minister, official or public or statutory person (whether autonomous or not) of the United Kingdom (or of its government) or of the European Communities;

"Directive" means any present or future directive, request, requirement, instruction, direction or rule of any Competent Authority (but only, if not having the force of law, if it is reasonable in all the circumstances for it to be treated as though it had legal force) and includes any modification, extension or replacement thereof then in force;

“**ILA Scotland**” means all and any aspects of the Scheme operated by SDS, SAAS and the Scottish Ministers in terms of the Regulations;

“**ILA Scotland Database**” means the database of ILA Scotland Registered Providers and Approved Learning opportunities, maintained by SDS;

“**ILA Scotland Registered Provider**” means an organisation, business or individual that provides learning and/or learning materials with associated learning support and is approved by SDS in terms of this Agreement as a registered provider;

“**Individual Learning Account**” or “**ILA**” means an individual learning account in terms of the Regulations;

“**Intellectual Property**” or “**IPR**” means any and all intellectual property or industrial rights of any description anywhere in the world (whether registered, unregistered, registerable or not and any applications or rights to apply for registration of any of them) including any patents, trademarks, domain names, registered designs, copyright (including rights in computer software (including object and source code)), rights in the nature of copyright, database rights, semi-conductor topography rights, unregistered design rights, rights in and to trade names, business names, product names and logos, inventions, databases, discoveries, specifications, formulae, processes, know how, trade secrets, confidential information and any analogous or similar right in any jurisdiction;

“**Learner**” means an individual:

- i. who qualifies as a learning account holder in terms of the Regulations; and
- ii. who wishes to undertake a course provided by the Learning Provider which constitutes Approved Learning;

“**Learning Provider Confidential Information**” means all information acquired from any source by SDS whether designated confidential or not, relating to the Learning Provider, its projects, its business, finances, dealings, transactions and affairs and all designs, drawings, plans, working papers, patent documents, data, methods, processes, techniques, operating procedures, technology and know-how, including all Intellectual Property, of any description relating to the Learning Provider and its business but excluding any information relating to the Learning Provider which is in the public domain and excluding also any information which SDS is required to disclose under any Directive;

“**Learning Provider Payment Agreement**” means the formal agreement to be entered into between the Learning Provider and the Scottish Ministers, acting through SAAS, specifying the obligations of the parties to that Agreement as regards the application for, and payment of grants;

“**National Learning Opportunities Database**” means the database of learning opportunities maintained by SDS on behalf of the Scottish Ministers and accessible via SDS’s branded service, learndirect scotland and, internationally, via SDS’s partner organisations;

“**Operational Rules**” means those rules, as referred to in the Regulations, compliance with which shall be a term of payment of grants under the Scheme, and as such rules are determined by the Scottish Ministers from time to time in accordance with section 1(2)(c) of the Act, and notified to the Learning Provider by the Scottish Ministers by placing them on the ILA Scotland website at www.ilascotland.org.uk;

“**Quality Standards**” means the standards that must be met and maintained by the Learning Provider in terms of Clause 4.1, as set out in Part 1 of the Schedule and as varied by SDS from time to time in accordance with Clause 19.2;

“**Registration Information Form**” means the form to be completed by the Learning Provider as set out in Part 2 of the Schedule and as updated from time to time in accordance with Clauses 3.2 and 3.3;

“**Regulations**” means the Individual Learning Account (Scotland) Regulations 2004, made by the Scottish Ministers under the Education and Training (Scotland) Act 2000 as the same may be varied, amended or replaced from time to time;

“**SAAS**” means the Student Awards Agency for Scotland or any successor body in terms of the Regulations;

“**the Scheme**” means the Individual Learning Account Scotland Scheme, known as ILA Scotland and established pursuant to the Act and the Regulations; and

“SDS Confidential Information” means all information acquired from any source by the Learning Provider whether designated confidential or not, relating to SDS, its projects, its business, finances, dealings, transactions and affairs and all designs, drawings, plans, working papers, patent documents, data, methods, processes, techniques, operating procedures, technology and know-how, including all Intellectual Property, of any description relating to SDS and its business but excluding any information relating to SDS which is in the public domain.

1.2 In this Agreement:-

- 1.2.1 the singular includes the plural and vice versa;
- 1.2.2 references to gender include references to all genders;
- 1.2.3 unless otherwise stated, references to sub-Clauses, Clauses and to the Schedule are to sub-Clauses, Clauses and the Schedule to this Agreement;
- 1.2.4 the Clause headings are for reference only and shall not affect the construction or interpretation of this Agreement;
- 1.2.5 the Schedule of two parts is incorporated into and forms part of this Agreement;
- 1.2.6 references to statutes, any statutory instrument, regulation or order shall be construed as a reference to such statute, statutory instrument, regulation or order as amended or re-enacted from time to time; and
- 1.2.7 the words "include" or "including" are to be construed as meaning without limitation.

2. Commencement and Term

This Agreement shall commence on the last date of execution of this Agreement and shall continue thereafter unless terminated in accordance with Clause 10 (Termination).

3. Pre-Registration

- 3.1 The Learning Provider hereby confirms that all the information contained in the completed Registration Information Form contained in Part 2 of the Schedule is true and accurate and all information contained in future Registration Information Forms submitted by the Learning Provider under this Agreement shall be true and accurate.
- 3.2 SDS has the right to request updated information from the Learning Provider and the Learning Provider shall provide such information to SDS promptly and in the format requested by SDS.
- 3.3 The Learning Provider shall inform SDS forthwith if at any time during an Agreement Year the information contained in the Registration Information Form ceases to be true and accurate, and shall provide updated information to SDS promptly and in the format requested by SDS.

4. Qualification

- 4.1 The Learning Provider shall submit such course information to SDS as SDS shall request from time to time.
- 4.2 The Learning Provider shall carry out its obligations and comply with the requirements set out in the Operational Rules and the Quality Standards;
- 4.3 The Learning Provider confirms that it currently complies with the Quality Standards, that it has done so for the past 6 months and that it shall continue to comply with the Quality Standards throughout the period of this Agreement.

- 4.4 The Learning Provider shall comply with its obligations in a proper, diligent, expeditious and professional manner.
- 4.5 The Learning Provider shall procure that its employees and representatives, so far as reasonably practicable:
 - 4.5.1 make themselves available, at all reasonable times and upon reasonable notice, to SDS for the purposes of consultation and advice relating to this Agreement; and
 - 4.5.2 attend meetings as required by SDS.
- 4.6 The Learning Provider shall not hold itself out or permit any person to hold it out as being authorised to bind SDS in any way and will not do any act which might reasonably create the impression that it is so authorised.
- 4.7 The Learning Provider shall not engage in any conduct which, in the reasonable opinion of SDS, is prejudicial to SDS's business or reputation.
- 4.8 The Learning Provider confirms and undertakes that:
 - 4.8.1 the Learning Provider has full capacity and authority and all necessary licences, permits and consents (including but not limited to, where its circumstances and procedures so require, the consent of its parent company) to enter into and to perform this Agreement;
 - 4.8.2 as at the date hereof there is no material outstanding litigation, arbitration or other disputed matters to which the Learning Provider is a party which may have an adverse effect upon the fulfilment of the Learning Provider's liabilities, responsibilities and obligations pursuant to this Agreement; and
 - 4.8.3 no meeting has been convened for the winding-up, administration, dissolution or liquidation of the Learning Provider; the Learning Provider has granted no Trust Deed in favour of its creditors; no such steps are intended by the Learning Provider and, so far as the Learning Provider is aware, no petition, application or equivalent or analogous procedure under the law of the jurisdiction of its incorporation is outstanding for the sequestration, winding-up, administration, receivership, dissolution or liquidation of the Learning Provider.

5. ILA Scotland Registration

- 5.1 SDS shall review the completed Registration Information Forms received from the Learning Provider, and shall determine whether the Learning Provider satisfies the Assessment Criteria.
- 5.2 Subject always to the Learning Provider:
 - (i) satisfying the Assessment Criteria;
 - (ii) complying and continuing to comply with its obligations in terms of this Agreement, including the provisions of Clauses 3 and 4 and its obligations to maintain the Quality Standards and comply with the Operational Rules;
 - (iii) signing this Learning Provider Registration Agreement; and
 - (iv) executing a Learning Provider Payment Agreement with SAAS,SDS shall arrange for the Learning Provider to be approved as an ILA Scotland Registered Provider and registered as a standard provider of Approved Learning.
- 5.3 Following the approval of the Learning Provider as an ILA Scotland Registered Provider in accordance with Clause 5.2 SDS shall use reasonable endeavours to arrange for the Learning Provider's details as an ILA Scotland Registered Provider to be added to the ILA Scotland Database.

6. Reports and Review

- 6.1 SDS shall be entitled, at its sole discretion, to carry out after the end of an Agreement Year, or at any other time, a review of the Learning Provider's performance in relation to compliance with the Operational Rules and Quality Standards.

- 6.2 Within three months after the end of an Agreement Year the Learning Provider will provide SDS with an annual report, in a format acceptable to SDS, which will contain at least the following:-
- 6.2.1 Learning Provider's most recent, audited financial statements; and
 - 6.2.2 a report on compliance with the Operating Rules and all relevant Quality Standards during the previous Agreement Year.
- 6.3 The Learning Provider will maintain accurate records of learner attendance, progression, evaluation and compliance with this Agreement.
- 6.4 The Learning Provider agrees that SDS and/or its duly authorised representatives shall be entitled to inspect the Learning Providers premises and inspect and copy its records pursuant to this Clause 6 in relation to ILA Scotland for the purposes of monitoring compliance with this Agreement.
- 6.5 In the event that the Learning Provider is, or any arrangement is entered into or agreed whereby it may be, subject to a change of "control" within the meaning of either Section 416 or Section 840 of the Income and Corporation Taxes Act 1988 or any other material change in its management the Learning Provider shall notify SDS forthwith in writing.

7. Suspension and Cancellation

- 7.1 If the Learning Provider fails to comply with this Agreement, all or any of the Operational Rules, the Learning Provider Payment Agreement or the Quality Standards then SDS may suspend its status as an ILA Scotland Registered Provider and may mark its details upon the ILA Scotland Database as being suspended.
- 7.2 Any suspension under this Clause 7 shall continue until the earlier of either:
- 7.2.1 SDS notifying the Learning Provider that it is satisfied that the Learning Provider has taken appropriate action to ensure that the Operational Rules and the Quality Standards will be complied with in future and that any damage caused by the Learning Provider's previous failure to comply has been properly rectified; or
 - 7.2.2 the Learning Provider's status as an ILA Scotland Registered Provider being cancelled in terms of Clause 7.3.
- 7.3 If any suspension under this Clause 7 continues for more than 6 months or if the cause of the suspension cannot be rectified SDS may cancel the Learning Provider's status as an ILA Scotland Registered Provider, remove its details from the ILA Scotland Database or mark these as being cancelled and/or, at SDS's sole discretion, terminate this Agreement in accordance with Clause 10.
- 7.4 In the event of any dispute between the parties in relation to a suspension or cancellation the parties shall endeavour to resolve the dispute in good faith. Where both parties agree that it may be beneficial they will seek to resolve the dispute through mediation using the services of Core Mediation to facilitate the mediation process but this shall not prejudice a party's right to raise court or other proceedings. The Learning Provider shall be entitled to appeal any decision by SDS to suspend or cancel its registration to the Scottish Ministers via the review process provided for in terms of the Regulations.
- 7.5 Following any cancellation in terms of Clause 7.3, the Learning Provider shall require to sign a new version of this Agreement with SDS (which version shall replace this Agreement), to submit a new Registration Information Form to SDS, and to satisfy SDS that it currently complies with the Operational Rules and the Quality Standards, if it wishes to be re-considered for registration as an ILA Scotland Registered Provider.

8. Confidentiality

- 8.1 The Learning Provider shall at all times keep secret and confidential all information including SDS Confidential Information, relating to SDS, its projects, its business, finances and affairs and, in particular, but without prejudice to the foregoing generality the Learning Provider shall:-

- 8.1.1 hold the SDS Confidential Information secret and confidential on behalf of and for the exclusive benefit of SDS and shall not at any time, unless SDS otherwise decides, remove any tangible material relating to the SDS Confidential Information from the offices of SDS or such other place or places as SDS may from time to time decide as suitable for the storage or safe custody of them;
 - 8.1.2 not use, copy or divulge the SDS Confidential Information to any third party except with the express written consent of SDS, such consent not to be unreasonably withheld or delayed. Any such permitted disclosures shall in no way affect the ownership of such SDS Confidential Information; and
 - 8.1.3 on termination of the Agreement for any reason whatsoever (and notwithstanding any claim of whatever nature it may have against SDS) immediately cease use of and deliver to SDS all tangible materials relating to the SDS Confidential Information including all copies of all relevant documents whether in paper or electronic form in the possession of the Learning Provider and shall in addition, if so requested by SDS, disclose to and inform SDS to the fullest extent of all SDS Confidential Information of any description known to it in any way relating to or in connection with such matters and their current state and future proposals or development to enable the same to be continued or developed to their fullest extent.
- 8.2 Subject to Clause 8.3, SDS shall at all times keep confidential the Learning Provider Confidential Information and, in particular, but without prejudice to the foregoing generality SDS shall:
- 8.2.1 hold the Learning Provider Confidential Information secret and confidential on behalf of and for the exclusive benefit of the Learning Provider and shall not at any time, unless the Learning Provider otherwise requests, remove any tangible material relating to the Learning Provider Confidential Information from the offices of the Learning Provider; and
 - 8.2.2 not use, copy or divulge the Learning Provider Confidential Information to any third party except with the express written consent of the Learning Provider, such consent not to be unreasonably withheld or delayed, except insofar as any such information relates to any of the Schemes. Any such permitted disclosures shall in no way affect the ownership of such Learning Provider Confidential Information.
- 8.3 Notwithstanding Clause 8.2, SDS may disclose information relating to the ILA Scotland Database and ILA Scotland Registered Providers at its discretion. Nothing in this Agreement shall prevent SDS from receiving Learning Provider Confidential Information from and exchanging Learning Provider Confidential Information with SAAS and/or the Scottish Ministers.
- 8.4 Nothing contained in this Clause 8 shall prevent SDS disclosing any information which requires to be disclosed in order to comply with a legal requirement or a code of practice or other statement or document issued by Her Majesty's Government from time to time on access to official information, or which requires to be disclosed to government departments (including the National Audit Office and Audit Scotland) or to the UK Parliament (and its committees), the Scottish Parliament (and its committees) or the Scottish Government.

9. Limitation of Liability

- 9.1 Neither party excludes or limits liability to the other party for death or personal injury arising from the breach of duty of such party.
- 9.2 Subject always to Clause 9.1, the total liability of SDS to the Learning Provider for any and all breaches of this Agreement, or otherwise in relation to the subject matter of this Agreement (including that arising from negligence, delict, or otherwise) shall be limited to £10,000.
- 9.3 Subject always to Clause 9.1, neither party shall be liable to the other party in contract, delict (including negligence) or otherwise arising out of or in connection with this Agreement including by way of indemnity for:
 - 9.3.1 any loss of profits, business, revenue, contracts or anticipated savings; or

- 9.3.2 any loss of goodwill or reputation; or
 - 9.3.3 any special, indirect or consequential losses or damage.
- 9.4 The parties expressly agree that should any limitation or provision contained in this Clause be held to be invalid under any applicable statute or rule of law it shall to that extent be deemed omitted but if any party thereby becomes liable for loss or damage which would otherwise have been excluded such liability shall be subject to the other limitations and provisions set out herein.

10. Termination

- 10.1 SDS shall have the right, at its sole discretion, to terminate this Agreement forthwith where the Learning Provider has been suspended in terms of Clause 7 and has not been reinstated within 6 months, or where the Learning Provider's registration has been cancelled.
- 10.2 In addition to, but without prejudice to the whole other rights and remedies of the parties under and in terms of this Agreement, SDS may terminate this Agreement by written notice to that effect served upon the Learning Provider, such termination having immediate effect from the date of that notice, in the event that:-
- 10.2.1 the Learning Provider fails in any material respect to perform or comply with any of its obligations under this Agreement and where such failure is remediable it is not remedied to the reasonable satisfaction of SDS within 28 days of notification to the Learning Provider of the occurrence thereof, and requiring the same to be remedied; or
 - 10.2.2 an administration order is made in respect of the Learning Provider or a voluntary arrangement is proposed in respect of the Learning Provider or a resolution is passed or an order made for the winding up of either party (other than a resolution or a members' voluntary winding up for the purpose of reconstruction in terms approved by the other party) or a receiver or administrative receiver shall be appointed over the whole or any part of the Learning Provider's undertaking or assets or the Learning Provider is unable to pay its debts (within the meaning of Section 123(1) or (2) of the Insolvency Act 1986) or shall cease or threaten to cease to pay its debts as they fall due or shall make or seek to make any composition or arrangement with its creditors, or shall become bankrupt, apparently insolvent or shall have a Trustee appointed over any of its assets or, where the Learning Provider is a partnership, any of its partners suffers any of the foregoing or shall suffer any analogous event under any jurisdiction to which it is subject; or
 - 10.2.3 there is any change of control (as defined in the Income and Corporation Taxes Act 1988) of the Learning Provider or any other material change in its management which SDS reasonably believes may adversely affect the operation of ILA Scotland; or
 - 10.2.4 the Learning Provider enters into any arrangements with any third party which in SDS's reasonable opinion may prejudice the independence and impartiality of the Learning Provider in relation to ILA Scotland; or
 - 10.2.5 in SDS's reasonable opinion the Learning Provider has acted or omitted to act in a manner tending to bring SDS and/or ILA Scotland into disrepute.
- 10.3 Following any termination of this Agreement SDS shall remove the Learning Provider from the ILA Scotland Database and the Learning Provider shall immediately cease to hold itself out as an ILA Scotland Registered Provider and shall cease to use and shall destroy any marketing or other promotional materials which refer to its status as an ILA Scotland Registered Provider.
- 10.4 In addition to, but without prejudice to the whole other rights and remedies of the parties under and in terms of this Agreement, the Learning Provider may terminate this Agreement by giving at least 3 months' written notice to that effect to SDS.

- 10.5 SDS shall be entitled to terminate this Agreement immediately on giving the Learning Provider written notice where in SDS's reasonable opinion there is a fundamental change in the operation or effect of this Agreement between the parties resulting directly or indirectly by reason of a Change in Law or where the Scottish Ministers suspend or terminate the learning account scheme established under the Regulations.
- 10.6 This Agreement shall terminate automatically if the Learning Provider Payment Agreement expires or is terminated and is not replaced immediately by an agreement between the Learning Provider and SAAS or its successor body in terms of the Regulations.
- 10.7 Termination of this Agreement in accordance with the terms of this Clause 10 shall be without prejudice to any rights of either party under the provisions of this Agreement existing at the date the Agreement is terminated (including the right of either party to recover all sums due to that party up to such date of termination).
- 10.8 Notwithstanding the provisions of this Clause 10, the provisions of Clauses 1, 8, 9, 10, 11, 15, 16, 17,18, 20 shall survive termination of this Agreement for any cause.

11. Data Protection

- 11.1 The Learning Provider warrants, represents and undertakes to SDS that it will at all times comply with the provisions of the Data Protection Act 1998 as amended from time to time ("the 1998 Act") and any other data protection legislation which is in force from time to time in connection with the performance of its obligations under this Agreement which shall include, without limitation, maintaining such valid and up-to-date notification under the 1998 Act as shall be required for the purposes of this Agreement. The terms defined within the 1998 Act shall have the same meanings when used in this clause.
- 11.2 The Learning Provider will at the request of SDS promptly provide to SDS such information and such access to its premises and IT systems as SDS may require in order to ensure compliance with the provisions of this data protection clause.
- 11.3 SDS confirms that it has submitted a notification to the Office of the Information Commissioner.

12. Force Majeure

- 12.1 Any delay in or failure by either party in performance hereunder in whole or in part shall be excused if and to the extent that such delay or failure is caused by occurrences beyond that party's control including but not limited to acts of God, decrees or restraints of government, strikes, labour disputes, war, fire, riot, sabotage, terrorism and any other cause or causes whether similar or dissimilar to those already specified which cannot be controlled by such party ("Force Majeure").
- 12.2 Performance of any obligation arising under this Agreement shall be so excused for the period during which such inability of the affected party to perform is so caused but for no longer period and shall be remedied as far as possible with all reasonable despatch. Any time period for performance shall be extended by a period equal in duration to any period during which such performance is excused by this Clause.

13. Entire Agreement

This Agreement including the Schedule in two parts attached hereto and together with the Quality Standards and Operational Rules, constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes any previous understandings, arrangements, representations, negotiations or agreements previously entered into between the parties. Provided that nothing in this Clause 13 shall have effect to exclude the liability of either party for fraud or fraudulent misrepresentation.

14. Waiver

Failure, delay or neglect by either party to enforce at any time any provision of this Agreement shall not be construed nor shall be deemed to be a waiver of that party's rights hereunder nor in any way affect the validity of the whole or any part of this Agreement nor prejudice the party's rights to take subsequent action.

15. Severability

If any provision of this Agreement is declared to be void or unenforceable by any judicial or administrative authority in any jurisdiction in which this Agreement is effective, such provision will be deemed to be severable and the parties shall each use their reasonable endeavours in good faith to modify this Agreement so that the intent of this Agreement can be legally carried out.

16. Notices

- 16.1 Any notice, consent, confirmation or other information required or authorised by this Agreement to be given by either party to the other may be given by hand or sent by first class recorded delivery post to the other party at the address specified in this Agreement or such other address as may from time to time be notified in writing to the party giving such notice or other communication by the party to whom such notice or other communication is given.
- 16.2 Notices shall be deemed given, in the case of notice given by recorded delivery post, two Business Days after the date of posting.

17. Assignment

The Learning Provider shall not be entitled to assign, transfer or sub-contract any of its rights or obligations under this Agreement or purport to do so. With the consent of the Scottish Ministers, SDS shall be entitled to assign, transfer or sub-contract any of its rights or obligations under this Agreement.

18. Disclaimer of Agency and Partnership

- 18.1 This Agreement shall not, unless expressly agreed otherwise, constitute either party as an agent of the other. The parties hereto are independent contractors and shall have no power, nor will either of the parties represent that either has any power, to bind the other party or to assume or to create any obligation or responsibility, express or implied, on behalf of the other party or in the other party's name.
- 18.2 Nothing in this Agreement shall be construed as creating any relationship of partnership between the parties hereto in terms of the Partnership Act 1890 or any similar or analogous legislation in any jurisdiction to which either party is subject.

19. Variation

- 19.1 Subject to Clauses 19.2 and 19.3 this agreement shall not be amended and no variation to its terms shall be effective unless such amendment or variation is in writing and is signed by or on behalf of each of the parties.
- 19.2 Notwithstanding the foregoing, SDS may amend, vary or expand the Quality Standards from time to time and the Scottish Ministers may amend, vary or expand the Operational Rules from time to time.
- 19.3 The Learning Provider shall check the ILA Scotland website at www.ilascotland.org.uk no less than once a fortnight, to check whether there have been any changes to the Operational Rules or the Quality Standards. SDS shall endeavour to notify the Learning Provider by email following changes being made to the Operational Rules or the Quality Standards.

20. Applicable Law

This Agreement shall be governed by and construed in accordance with the laws of Scotland and the parties hereby submit to the exclusive jurisdiction of the courts in Scotland.

IN WITNESS WHEREOF this Agreement comprising this and the previous 11 pages, and the Schedule annexed hereto, is executed in duplicate as follows:-

Subscribed for and on behalf of

The Skills Development Scotland Co. Limited

by
at
on the day of 20
Authorized Signatory

in the presence of the following witness:-

Signature
Full Name
Address

Subscribed for and on behalf of

The Learning Provider

by *insert name of signatory*
 insert title of signatory
at *insert place name*
on the day of 20
Authorized Signatory

in the presence of the following witness:-

Signature
Full Name
Address

THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING AGREEMENT BETWEEN THE SKILLS DEVELOPMENT SCOTLAND CO. LIMITED AND THE LEARNING PROVIDER DESIGNATED IN PART 2 OF THE SCHEDULE

SCHEDULE

Part 1

Quality Standards

Learning Providers must be able to demonstrate that:

- they are recognised by the Scottish Funding Council as being in good standing regarding the Quality Assurance Agency for Higher Education (QAA); and/or recognition of good standing regarding the requirements of HM Inspectorate of Education (HMIE);

and/or

- they have received Scottish Qualifications Authority (SQA) approval as an SQA-approved centre;

and/or

- they have been approved as a branded learndirect scotland learning centre and hold current learndirect scotland branded status.

SDS reserves the right to consider whether other quality standards and quality marks comply with the requirements of the Scheme and may be accepted, with the consent of Scottish Ministers, for inclusion in the ILA Scotland quality standards.

SCHEDULE

Part 2

Registration Information Form

Organisational Details

Section 1: Learning Provider details

Details of the **Learning Provider** responsible for the delivery of services through the ILA Scotland scheme and which will be required to meet the requirements for scheme participation.

| | | | |
|---|----------------------|-------------------|----------------------|
| Organisation Name | <input type="text"/> | | |
| Address | <input type="text"/> | | |
| Town/City | <input type="text"/> | Postcode | <input type="text"/> |
| Registered Number (if a company or limited liability partnership) | <input type="text"/> | | |
| Organisation Telephone | <input type="text"/> | Organisation Fax | <input type="text"/> |
| Organisation E-mail | <input type="text"/> | | |
| Contact Title | <input type="text"/> | Contact Forename | <input type="text"/> |
| Contact Surname | <input type="text"/> | Contact Telephone | <input type="text"/> |
| Contact E-mail | <input type="text"/> | | |

If the Learning Provider is unable to enter into agreements of this nature, then sections 2 and 3 below must be completed and the body designated in section 2 must sign the agreement.

Section 2: Legal Authority

Please enter details of the organisation authorised to enter into the contractual arrangements contained within this agreement.

| | | | |
|---|----------------------|-------------------|----------------------|
| Organisation Name | <input type="text"/> | | |
| Address | <input type="text"/> | | |
| Town/City | <input type="text"/> | Postcode | <input type="text"/> |
| Registered Number (if a company or limited liability partnership) | <input type="text"/> | | |
| Organisation Telephone | <input type="text"/> | Organisation Fax | <input type="text"/> |
| Organisation E-mail | <input type="text"/> | | |
| Contact Title | <input type="text"/> | Contact Forename | <input type="text"/> |
| Contact Surname | <input type="text"/> | Contact Telephone | <input type="text"/> |
| Contact E-mail | <input type="text"/> | | |

Section 3: Legal Relationship

Please enter details of the relationship between the Learning Provider detailed in Section 1 above, and the body with legal authority to enter this agreement detailed in Section 2 above.

Section 4: Data Submission Contact

Please enter the details of the person(s) who will be responsible for the management of the learning opportunities information.

| | | | |
|-----------------|----------------------|-------------------|----------------------|
| Contact Title | <input type="text"/> | Contact Forename | <input type="text"/> |
| Contact Surname | <input type="text"/> | Contact Telephone | <input type="text"/> |
| Contact E-mail | <input type="text"/> | | |

Complete the following contact details only if different from overleaf:

| | | | |
|------------------------|----------------------|------------------|----------------------|
| Organisation Name | <input type="text"/> | | |
| Address | <input type="text"/> | | |
| Town | <input type="text"/> | Postcode | <input type="text"/> |
| Organisation Telephone | <input type="text"/> | Organisation Fax | <input type="text"/> |
| Organisation E-mail | <input type="text"/> | | |

Section 5: Financial Contact

Please enter the details of the person(s) whom ILA Scotland staff should contact in respect of financial matters.

| | | | |
|-----------------|----------------------|-------------------|----------------------|
| Contact Title | <input type="text"/> | Contact Forename | <input type="text"/> |
| Contact Surname | <input type="text"/> | Contact Telephone | <input type="text"/> |
| Contact E-mail | <input type="text"/> | | |

Complete the following contact details only if different from overleaf:

| | | | |
|------------------------|----------------------|------------------|----------------------|
| Organisation Name | <input type="text"/> | | |
| Address | <input type="text"/> | | |
| Town | <input type="text"/> | Postcode | <input type="text"/> |
| Organisation Telephone | <input type="text"/> | Organisation Fax | <input type="text"/> |
| Organisation E-mail | <input type="text"/> | | |

Section 6: Supplementary Learning Provider Details

For the organisation detailed in section 1 please supply the following information:

a) Date established (in format DDMMYYYY)

b) Legal status (e.g. Scottish partnership, English partnership, company limited by guarantee, company limited by shares, sole trader, limited liability partnership, university or college)

c) Does the applicant organisation have a relationship with any other learning providers, e.g. part of consortium, subsidiary or parent or partner relationships?
Yes No
If yes, please provide details.

d) Did the applicant organisation participate in the Individual Learning Account Scheme, which was closed in December 2001?
Yes No If yes, please provide your ILA Provider Reference Number

e) How many years has your organisation been providing learning? (please tick)
Less than 12 months Between 12-24 months More than 24 months

Section 7: Supplementary Evidence

f) Please supply details of your record of learning provision, including details of what services you have delivered, which organisations you have delivered such services to, and when such services were delivered. Where learning has been provided directly to individuals we may require further information in support of your application. Please continue on a separate sheet if required.

- g) Please provide photocopies of certificates for the Quality Standards as detailed in Part 1 for which you hold current certifications.

Scottish Funding Council recognition of good standing regarding Quality Assurance Agency (QAA) for Higher Education and / or recognition of good standing regarding the requirements of HM Inspectorate of Education (HMIE)

Scottish Qualifications Authority (SQA) approval as an SQA-approved centre

Approved learndirect scotland branded learning centre

Section 8: Learner Support Provision

- h) Are you a provider of distance learning only?

Yes No

If no please indicate percentage of learning provision which is distance based

 %

- i) Please indicate the forms of support you offer to learners by ticking all the relevant sections below. If you provide additional support not specified please detail at the bottom of the table.

| Support Type | Offered <input checked="" type="checkbox"/> |
|-----------------------------------|---|
| Classroom-based/group instruction | |
| One-to-one | |
| Telephone | |
| E-mail | |
| Post | |
| Instant Messaging | |
| Web forums / Conferencing | |
| Chatroom / Webinar | |
| Video Conferencing | |
| Audio Conferencing | |
| Peer group support organised | |
| 'Ask the Expert' | |
| Other (please enter details) | |

For providers offering the European Computer Driving Licence (ECDL):

j) Has your courseware or testing station been accredited by the British Computer Society?

| | | | | |
|-----------------|-----|--------------------------|----|--------------------------|
| Courseware | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| Testing Station | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |

Section 9: Financial Information

k) Date of latest audited or published accounts

l) Net Assets £

m) Net Profit before Tax £

n) Annual Turnover £

o) Please provide details of two trade references, namely your Accountant and an organisation with which you have a major trading relationship such as a major supplier

| | | | |
|----------|-------|----------|-------|
| 1 Name | _____ | 2 Name | _____ |
| Contact | _____ | Contact | _____ |
| Address | _____ | Address | _____ |
| | _____ | | _____ |
| Postcode | _____ | Postcode | _____ |
| Tel. No. | _____ | Tel. No. | _____ |
| Email | _____ | Email | _____ |

p) Sponsoring body if applicable

q) Applicant organisation's bank details for reference purposes

| | | | |
|--------------|----------------------|-----------|----------------------|
| Bank Name | <input type="text"/> | | |
| Address | <input type="text"/> | | |
| | <input type="text"/> | | |
| Town/City | <input type="text"/> | Postcode | <input type="text"/> |
| Tel No. | <input type="text"/> | | |
| Account Name | <input type="text"/> | | |
| Account No. | <input type="text"/> | Sort Code | <input type="text"/> |

r) Please provide a copy of the last two years' audited financial statements. If unavailable please provide explanation below. If there is not enough space below please submit supplementary sheets with your application.

s) Is the organisation VAT registered?

YES

NO

If yes, please provide registration number

National Learning Opportunities Database (NLOD)

All course details submitted as part of ILA Scotland will be incorporated within the NLOD.

If you do not wish your course details to be included on the NLOD, please tick this box.

Data Protection

Please tick this box to confirm that the individuals whose contact details are included in sections 1, 2, 4 and 5 have consented to their personal data being submitted to SDS, [being held on the ILA Scotland Database and the National Learning Opportunities Database] and being used to contact them in connection with ILA Scotland.

