



This represents your unique Agreement number.

040422

## Learning Provider Payment Agreement

**IMPORTANT.**

This Agreement forms part of the learning provider registration process. It allow payments to be made to learning providers who meet the criteria for registration, and who comply with the relevant rules.

Please read the entire Agreement **before** entering information. If you have any queries, please contact ILA Scotland on 0141 285 6104 or at [info@ilascotland.org.uk](mailto:info@ilascotland.org.uk)

SAMPLE

### Learning Provider Payment Agreement

Between **Student Awards Agency for Scotland** and

Please enter the Learning Provider name here.

[insert name of Learning Provider]

[insert date]

Please enter date on which you filled in this Agreement in the format DD-MM-YY.

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## Learning Provider Payment Agreement

between

**THE SCOTTISH MINISTERS (acting through the Student Awards Agency for Scotland, Gyleview House, 3 Redheughs Rigg, EDINBURGH EH12 9HH)**

and

**THE LEARNING PROVIDER designated in Part 1 of the Schedule**

WHEREAS:-

- (a) The Scottish Ministers (acting through the Student Awards Agency for Scotland "SAAS") administer the payment of grants under the Scheme;
- (b) The Learning Provider is a Learning Provider who will execute a Learning Provider Registration Agreement ("the LPRA") with a Learning Account Administrator; and
- (c) It is a condition of payment of ILA Scotland grant that the Learning Provider enters into this Learning Provider Payment Agreement with the Scottish Ministers.

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).

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

"Bank details form" means the form at Part 2 of the Schedule containing the bank details specific to your institution, for receipt of ILA grant payment.

"ILA Scotland Database" means the database of ILA Scotland Registered Providers and learning opportunities, maintained by a Learning Account Administrator.

"ILA Scotland System" means the web based system maintained by the Scottish Ministers for your organisation as a Learning Provider in terms of the ILA Scotland scheme to process all ILA Scotland scheme transactions.

"Learning Opportunity" means any course of study, instruction, education or training (including distance learning and correspondence courses) made available by a Learning Provider in terms of the Scheme.

"Individual Learning Account" or "ILA" means an individual learning account in terms of the Regulations.

"Learning Account Administrator" means Scottish Ufl Limited (a company with registered number SC204868) and having its registered office at Europa Building, 450 Argyle Street, Glasgow G2 8LG or such other Learning Account Administrator as may be designated from time to time by the Scottish Ministers for the purposes of administering the ILA Scotland Database and registering learning providers as ILA Scotland Registered Providers in terms of the Regulations.

"Operational Rules" means those rules, as referred to in the Regulations, compliance with which shall be terms 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.

The Interpretation section is intended to ensure that there is a clear description of the terms used throughout the Learning Provider Payment Agreement.

“the 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.

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

“Schedule” means the Schedule annexed and executed as relative to this Agreement.

“Web administrator contact details form” means the form contained in Part 1 of the Schedule for details of a nominated web administrator who will be responsible for transactions on the ILA Scotland system, and maintaining sub-user accounts.

## 2. Commencement and Term

This Agreement shall commence on the last date of execution of this Agreement and shall continue thereafter until terminated in accordance with clause (9) (termination).

## 3. Contact and Bank details

- 3.1 The Learning Provider shall complete and submit to the Scottish Ministers the web administrator contact details form in the Schedule Part 1. The administrator will be the responsible person for transactions in the ILA Scotland system on behalf of the Learning Provider, and will be responsible for creating and maintaining any sub user accounts. The Learning Provider will need to ensure that the nominated web account administrator is a fit and proper person to carry out that particular function.
- 3.2 The Learning Provider confirms that all information contained in Part 2 of the Schedule is accurate.
- 3.3 The Learning Provider shall inform the Scottish Ministers of any change to their bank details which render the information contained in the Bank details form inaccurate within 5 working days of the change of circumstances occurring.

## 4. Claims for Payment

- 4.1 The Learning Provider shall submit, via the web-based ILA Scotland system, each individual claim for payment of grant funds in respect of individual learning accounts on or after the date on which the learning started.
- 4.2 The Scottish Ministers may require the Learning Provider to provide such information or documentation in order for the Scottish Ministers to determine whether the claim is valid in terms of this Agreement and may reject the claim unless such information or documentation is provided.
- 4.3 The Scottish Ministers may at any time withhold from the Learning Provider access to the ILA Scotland System for the purposes of booking learning or confirming claims for payment of grant funds if the Learning Provider's approval has been suspended, withdrawn or cancelled by a Learning Account Administrator.
- 4.4 A claim for payment by the Learning Provider shall be approved for payment only if the Scottish Ministers are satisfied that:-
  - (a) the Learning Provider is approved by a Learning Account Administrator and that approval has not been withdrawn, suspended or cancelled; and
  - (b) the Learning Opportunity in respect of which a claim for funds has been made currently constitutes Approved Learning; and
  - (c) the individual learning account in respect of which the claim has been made is currently open and is in credit.

## 5. Payment of Claims

Subject to the Scottish Ministers being satisfied that a claim is valid, grant funds shall be paid to the account specified

in the Bank details form on a monthly basis and, in any event, no earlier than 31 days after the Scottish Ministers have received and validated a claim. For the avoidance of doubt, no decision or action by or on behalf of the Learning Provider shall commit the Scottish Ministers to make payments of any given amount. In addition nothing in this Agreement shall oblige the Scottish Ministers at any time to pay grant funds in excess of the sum at credit at the time that the claim is determined in the individual learning account in respect of which the claim has been made.

## 6. Audit and Compliance Monitoring

The Learning Provider shall keep and maintain adequate and proper records and books of account recording all receipts and expenditure of monies paid to it by the Scottish Ministers by way of grant under the Scheme. Such records and books of account shall be maintained for a period of at least 6 years after the date of termination or expiry of this Agreement. The Learning Provider shall afford the Scottish Ministers or their representatives, officers of the Auditor General Scotland, and such other persons as the Scottish Ministers may reasonably specify from time to time, such access to those records and books of account (including electronic information) as may be required by them at any reasonable time in response to a written request for such access from the person seeking it. The Learning Provider shall promptly provide such oral or written explanations in connection with the inspection of such records or books of account, or any entry in them or any matter arising from them as may be required by the person carrying out the inspection.

## 7. Conditions of Payment

- 7.1 The Learning Provider must provide the Approved Learning in question to the relevant individual learning account holder in accordance with the terms of the relevant Learning Provider Registration Agreement.
- 7.2 The Learning Provider must at all times comply with the Operational Rules and the terms of the Learning Provider Registration Agreement.
- 7.3 The Learning Provider shall not knowingly do or omit to do anything in relation to this Agreement or the Scheme or other activities which may bring the standing or reputation of the Scottish Ministers or the Scheme into disrepute or attract adverse publicity to the Scottish Ministers or the Scheme.

## 8. Grant Claims: Default

- 8.1 The Scottish Ministers may, at any time both before and after all or any part of a grant claim has been paid, re-assess, vary, make a deduction from, withhold, or require repayment of any grant monies or any part thereof in the event of there arising any one or more of the following:
  - 8.1.1 the Learning Provider fails to comply with any of the conditions specified in this Agreement; or
  - 8.1.2 the relevant individual learning account holder does not commence the Learning Opportunity in question; or
  - 8.1.3 the Scottish Ministers consider that any change or departure from the purposes of the Scheme warrants an alteration in the amount of the grant; or
  - 8.1.4 any written information given to the Scottish Ministers by or on behalf of the Learning Provider in connection with an application for or payment of grant or otherwise in terms of this Agreement, read as a whole, is false or misleading in any material respect, whether such information is provided before or after the payment of any grant is made; or
  - 8.1.5 the Learning Provider ceases to function or passes a resolution that it be wound up or a court makes an order that the Learning Provider be wound up, in either case other than for the purposes of reconstruction or amalgamation, or circumstances arise which would enable a court to make such an order; or
  - 8.1.6 a receiver, manager, administrator, administrative receiver, liquidator, trustee or other person acting in a similar capacity is appointed to the Learning Provider or over all or any part of the property which may from time to time be comprised in the Learning Provider's property and undertaking, or circumstances arise which would entitle a court or a creditor to appoint such a receiver, manager, administrator, administrative receiver, liquidator or trustee.

- 8.2 In the event that the Learning Provider becomes bound to pay any sum to the Scottish Ministers in terms of the preceding paragraph 8.1, the Learning Provider shall pay the Scottish Ministers the appropriate sum within 28 days of a written demand for it being given by or on behalf of the Scottish Ministers to the Learning Provider. In the event that the Learning Provider fails to pay such sum within the said period of 28 days, the Scottish Ministers shall be entitled to interest on the said sum at the rate of 2 per cent per annum above the base lending rate or the equivalent of the Royal Bank of Scotland plc prevailing at the time of the written demand, from the date of the written demand until payment in full of the said sum and interest.
- 8.3 Notwithstanding the foregoing provisions in the event that the Learning Provider is in breach of any of the conditions specified in this Agreement, the Scottish Ministers may, provided that the breach is capable of a remedy, postpone the exercise of their rights to recover any sum from the Learning Provider in terms of the said paragraph for such period as they see fit, and may give written notice to the Learning Provider requiring it to remedy the breach within such period as may be specified in such notice, and in the event of the Learning Provider failing to remedy the said breach within the period specified, the Learning Provider shall be bound to pay the said sum to the Scottish Ministers in accordance with the provisions of the foregoing paragraphs.

## 9. Termination

- 9.1 The Scottish Ministers shall be entitled to terminate this Agreement forthwith in the event that the Learning Provider's approval has been withdrawn or cancelled by the relevant Learning Account Administrator or where the relevant Learning Provider Registration Agreement expires.
- 9.2 In addition to, but without prejudice to the whole other rights and remedies of the parties under and in terms of this Agreement, the Scottish Ministers 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:-
- 9.2.1 the Learning Provider fails in any material respect to perform or comply with any of its obligations under this Agreement; or
- 9.2.2 there arise any of the situations specified in conditions 8.1.4 and 8.1.5 (inclusive); or
- 9.2.3 in the reasonable opinion of the Scottish Ministers, the Learning Provider has acted or omitted to act in a manner so as to bring the ILA Scotland scheme into disrepute.
- 9.3 The Learning Provider may terminate this Agreement upon giving 3 months' prior written notice to that effect to the Scottish Ministers.
- 9.4 Termination of this Agreement shall be without prejudice to the whole rights and claims available to either party in relation to an antecedent breach by the other of its obligations under this Agreement. In particular, but without prejudice to the foregoing generality, termination shall be without prejudice to the right of the Scottish Ministers to seek repayment of grant monies in terms of paragraph 8.1.

## 10. Confidentiality

- 10.1 Subject to 10.2 and 10.3 below, the Learning Provider shall keep confidential and shall not at any time or for any reason (other than for the purposes of complying with the provisions of this agreement) disclose or permit to be disclosed to any person, or otherwise use or permit use to be made of, any information provided to the Learning Provider by the Scottish Ministers in whatever form the information is obtained, provided or stored (all such information being hereafter referred to as "the relevant information").
- 10.2 The restriction set out at 10.1 above shall not however apply to relevant information which is or becomes public knowledge other than by breach of clause 10.1 or which is required to be released in order to comply with a legal requirement or any code of practice or other statement or document issued by Her Majesty's Government from time to time on access to official information.

- 10.3 The Scottish Ministers may make available relevant information to a relevant Learning Account Administrator, other government departments, to Parliament and to the Scottish Parliament.

### 11. Waiver

Failure, delay or neglect by the Scottish Ministers to enforce any provision of this Agreement shall not be construed nor shall be deemed to be a waiver of the Scottish Ministers' rights hereunder nor in any way affect the validity of the whole or any part of this Agreement. It is the Scottish Ministers right to take subsequent action.

### 12. 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 and modify this Agreement so that the intent of this Agreement can be legally carried out.

### 13. Notices

- 13.1 Any notice, consent, confirmation or other information required or authorised by this Agreement to be given by either party shall be in writing and may be sent by first class recorded delivery post or facsimile transmission to the other party at the address or facsimile number specified in this Agreement or such other address or such other facsimile number as may from time to time be notified in writing to the other party giving such notice or other communication by the party to whom such notice or other communication is given.
- 13.2 Notices shall be deemed to be given, in the case of notice given by recorded delivery post, 2 working days after the date of posting and in the case of notice given by facsimile, at the time when the facsimile machine acknowledges receipt thereof.

### 14. 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. The Scottish Ministers shall be entitled to assign, transfer or sub-contract any of its rights or obligations under this Agreement without the consent of the Learning Provider.

### 15. Variation

- 15.1 Subject to Clauses 15.2 and 15.3 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.
- 15.2 Notwithstanding the foregoing, the Scottish Ministers may amend, vary or expand the Operational Rules from time to time.
- 15.3 The Learning Provider shall check the ILA Scotland website no less than once a fortnight, to check whether there have been any changes to the Operational Rules. The Learning Account Administrator shall endeavour to notify the Learning Provider by email following changes being made to the Operational Rules.

**16. 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 6 pages, and the Schedule annexed hereto, is executed in duplicate as follows:-

Subscribed for and on behalf of

**The Scottish Ministers**

by [redacted]  
at [redacted]  
on the [redacted] day of [redacted] 200[redacted] [redacted] [redacted]  
Authorised Signatory

in the presence of the following witness:-

Signature [redacted]  
Full Name [redacted]  
Address [redacted]  
[redacted]  
[redacted]

This section should be left blank. It will be signed and dated by an Authorised Signatory of the Student Awards Agency for Scotland, only upon successful completion of the registration process. One copy of the Agreement will be returned to you and one will be retained by ILA Scotland.

Subscribed for and on behalf of

**The Learning Provider**

by [redacted] *insert name of signatory*  
[redacted] *insert title of signatory*  
at [redacted] *insert place name*  
on the [redacted] day of [redacted] 200[redacted] [redacted] [redacted]  
Authorised Signatory

This section must be signed and dated by an Authorised Signatory of your organisation.

in the presence of the following witness:-

Signature [redacted]  
Full Name [redacted]  
Address [redacted]  
[redacted]  
[redacted]

Full details and signature of a witness are required.

**THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING LEARNING PROVIDER PAYMENT AGREEMENT BETWEEN THE SCOTTISH MINISTERS AND THE LEARNING PROVIDER DESIGNATED BELOW**

**SCHEDULE  
Part 1  
Web administration**

The Learning Provider Name should match that entered on the Learning Provider Registration Agreement.

Learning Provider Name

Learning Provider Address

Town/City  Postcode

VAT Number (if applicable)

If you are VAT registered please provide your VAT number.

Company Registration No. (if applicable)

Please provide your Company Registration number, if applicable.

**Contact details**

**Web Administrator**

Title

Surname

Address

Town/City

Telephone

Fax

E-mail

In order that you can:

- book a learner on a course
- confirm a learner has started (using Learning Token)
- cancel a booking
- view statements

it is necessary to access a range of web services. It is therefore important that you supply accurate Web Administrator contact details. You, or your nominated administrator, should you complete this section.

Once you have been accepted as a registered provider, secure entry details will be sent directly to the contact address supplied here. In addition, a learning provider Help Guide will be available to explain how to use these services.

**Signature**

The authorised person confirming the accuracy of the web administration details must sign and date this part of the Agreement.

Print Name

Position

Signed

Date

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The Learning Provider Name should match that entered on the Learning Provider Registration Agreement and entered in Schedule Part 1. Please also ensure that the VAT and Company Registration numbers match those entered in Schedule Part 1.

### Bank details

Learning Provider Name

Learning Provider Address

  

Town/City

Postcode

VAT Number (if applicable)

Company Registration No. (if applicable)

### Banking

It is the Policy of the Scottish Executive to pay its suppliers by BACS. All suppliers who wish to deal with the Scottish Executive, its Agencies or Associated Departments are asked to provide BACS details.

Bank Name

Address

  

Town/City

Sort Code

Account No.

As payments for ILA Scotland are made directly to you through BACS, please complete this section with your bank details. Once you have been accepted as a registered ILA Scotland learning provider, you will be sent a letter confirming the bank details you have supplied. As payments will be made to the bank details on file, you are responsible for ensuring that these details are accurate. If you wish to change the details at any time, please contact us immediately on 0141 285 6104.

### Signature

Print Name

Position

Signed

Date

The authorised person confirming the accuracy of the bank details must sign and date this part of the Agreement.

## Learning Provider Payment Agreement For ILA Scotland – Notice No. 1

This notice is issued, in accordance with the terms of clause 13.1 of the **Learning Provider Payment Agreement For ILA Scotland (LPPA)**, to clarify the Scottish Ministers' interpretation of clause 6 of the LPPA.

Clause 6 of the LPPA states:

**"The Learning Provider shall keep and maintain adequate and proper records and books of account recording all receipts and expenditure of monies paid to it by the Scottish Ministers by way of grant under the Scheme. Such records and books of account shall be maintained for a period of at least 6 years after the date of termination or expiry of this Agreement."**

This clause should be read in conjunction with rule 10 of the ILA Scotland **Operational Rules and Supplementary Guidance for Learning Providers**, which states:

"You must retain, **for a period of 6 years**, the following documentary evidence in respect of any ILA Scotland grant funding claim:

- **evidence of the learner's agreement with your organisation to undertake the ILA Scotland-funded learning episode;**
- **evidence of the actual start date of learning;**
- **evidence of the receipt of the learner's personal contribution to the price of the ILA Scotland-funded learning episode;**
- **evidence of the receipt of any third party contribution to the price of the ILA Scotland-funded learning episode;**
- **the Learning Token associated with that learning episode."**

For the avoidance of doubt, **the documentary evidence, records and books of account referred to in rule 10 of the Operational Rules and clause 6 of the LPPA must be retained for a period of at least 6 years from the date of the claim for ILA Scotland grant funding to which they relate**, which period will continue to apply notwithstanding that the LPPA may have expired or have been terminated in the meantime.

November 2005

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