
Draft 2024-25 TAFE VET Funding Contract

Skills First Program

BETWEEN The State of Victoria through the Secretary of the Department of Jobs, Skills, Industry and Regions
(the **Secretary**)
ABN 83 295 188 244
2 Treasury Place
East Melbourne VIC 3002

AND The registered training organisation that has agreed to be bound by the terms of this VET Funding Contract by way of signing a contract execution form (**you** or **your**)

VERSION	DATE	COMMENTS
1.0	September 2023	

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BACKGROUND

- A. Government funded vocational education and training is dealt with under Part 3.1 of Chapter 3 of the Act.
- B. Section 3.1.2(1) of the Act provides for the Secretary to:
- a) enter into a VET funding contract with a registered training organisation in relation to the provision by the registered training organisation of vocational education and training that is funded wholly or partially by the State; and
 - b) make payments to registered training organisations that provide or intend to provide vocational education and training on any terms and conditions the Secretary thinks fit.
- C. An individual has a guaranteed place in a government-subsidised program of training if they meet, and the program of training meets, the criteria set out in section 1.2.2(2)(e) of the Act.
- D. The Skills First Program is the way that registered training organisations are contracted in Victoria to deliver government-subsidised training to individuals. We refer to contracted registered training organisations as training providers.
- E. By accepting a VET Funding Contract, you have represented that you will comply with the requirements of the Skills First program. This includes your agreement that:
- a) these requirements are significantly more onerous than the legal requirements that otherwise apply to registered training organisations. This is on the basis that government subsidisation is being provided; and
 - b) you have carried out all relevant investigations to acquaint yourself with your contractual obligations.
- F. The purpose of each VET Funding Contract is to set out the conditions under which the Department will provide funding, and that training providers must meet, including:
- a) providing quality training suitable for each individual so it enables them to be:
 - i) skilled to be job-ready;
 - ii) prepared for further education; and/or
 - iii) given access to training if they are disadvantaged learners;
 - b) record-keeping, reporting and auditing to maintain high standards of probity and accountability in the use of public funds; and
 - c) meeting the Department's expected standards of behaviour and practice.
- G. Each VET Funding Contract also includes the terms and conditions of the Department's funding for special initiatives, as described in Schedule 3 (where applicable).

ACRONYMS AND ABBREVIATIONS USED IN THIS CONTRACT**General**

ADC	Australian Disputes Centre Limited ABN 87 003 042 840
AQF	Australian Qualifications Framework
AQTF	Australian Quality Training Framework
ASQA	Australian Skills Quality Authority
AVETMISS	Australian Vocational Education and Training Management Information Statistical Standard
CEO	Chief Executive Officer (or equivalent)
GST	Goods and Services Tax
NCVER	National Centre for Vocational Education and Research
SVTS	Skills Victoria Training System
TOID	Training Organisation Identifier (or Training Provider Code)
VCE	Victorian Certificate of Education
VET	Vocational education and training
VPC	Victorian Pathways Certificate
VRQA	Victorian Registration and Qualifications Authority

Legislation

The Act	<i>Education and Training Reform Act 2006 (Vic)</i>
Corporations Act	<i>Corporations Act 2001 (Cth)</i>
GST law	<i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i>
Human Rights Charter	<i>Charter of Human Rights and Responsibilities Act 2006 (Vic)</i>
Health Records Act	<i>Health Records Act 2001 (Vic)</i>
National Act	<i>National Vocational Education and Training Regulator Act 2011 (Cth)</i>
National RTO Standards	<i>Standards for Registered Training Organisations (RTOs) 2015 (Cth) and its User Guide</i>
PDP Act	<i>Privacy and Data Protection Act 2014 (Vic)</i>

REFERENCE DOCUMENTS ISSUED BY THE DEPARTMENT OF JOBS, SKILLS, INDUSTRY AND REGIONS

Guidelines About Apprenticeship/Traineeship Training Delivery
 Guidelines About Eligibility
 Guidelines About Fees
 Literacy and Numeracy Support Implementation Guide
 The Skills First Quality Charter ('the Quality Charter')
 Victorian Purchasing Guide
 Victorian VET Student Statistical Collection Guidelines

1. DEFINITIONS AND INTERPRETATION

Definitions

1.1 In this Contract, unless the contrary intention appears:

Activity End Date means the date reported as such in a Student Statistical Report for an individual's enrolment in an individual subject.

Activity Start Date means the date reported as such in a Student Statistical Report for an individual's enrolment in an individual subject.

Apprentice has the meaning given to it in the Act.

Approved Training Scheme means a training scheme approved under section 5.5.2 of the Act.

Brokering Services means when you engage a third party to recruit individuals to participate in Skills First subsidised training in exchange for payment from you or the student. It excludes activities carried out by individuals who are your employees on your payroll, whose role includes the identification and recruitment of potential students.

Business Day means a day which is not a Saturday, Sunday or a public holiday in Melbourne, Victoria.

Business Hours means the hours from 9.00am to 5.00pm on a Business Day.

Change in Control means that any person ceases to have or commences having, directly or indirectly, Control of you, but excludes any such event resulting from the transfer of shares or other securities on a stock exchange.

Claim means any cause of action, allegation, claim, demand, debt, liability, suit or proceeding of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent or at Law (including negligence), in equity, under statute or otherwise.

Commencement Date means the later of:

- a) 1 January 2024; and
- b) the date on which this Contract is entered into by means of you taking the action we require to accept our contract offer.

Confidential Information means all confidential or commercially sensitive information of a Party (or, in the case of our Confidential Information, confidential or commercially sensitive information of the State), but does not include information that is already in the public domain (other than due to a breach of this Contract).

Contact Hour Funds means the funds we have paid, or are required to pay, you under this Contract for the Scheduled Hours of supervised training and assessment you report for a Skills First Student.

Contract means this VET Funding Contract and includes all schedules, annexures, attachments, plans and specifications and exhibits to it.

Contract Notification means a document we issue via the SVTS that either provides specific information or advice about aspects of this Contract or formally notifies you of a variation to this Contract.

Control means, with regard to an entity:

- a) the legal, financial or equitable ownership, directly or indirectly, of 50 percent or more of the share capital (or other ownership interest, if not a corporation limited by shares) of the entity;
- b) the ability to cast, or control the casting, of a majority of votes at the meeting of members of the entity; or
- c) control of, or having the capacity to control:

- i) the composition of the board or other decision-making body of the entity; or
- ii) decision making (directly or indirectly) in relation to the financial and operating policies of the entity,

whether or not the ability or control referred to in paragraph (b) or paragraph (c) is based on statutory, legal or equitable rights and whether or not it arises by means of trusts, agreements, arrangements, understandings, practices, the ownership of any interest in shares or stock of that entity or otherwise.

Department means the State of Victoria acting through the Department of Jobs, Skills, Industry and Regions (or, consistent with Clause 1.2(i), its successor or predecessor).

Deputy Secretary means the person holding, acting in, or performing the duties of Deputy Secretary of Skills and Employment in the Department.

Disallowed Person means any person (which, to avoid doubt, includes any of the types of entity specified in Clause 1.2(h)) who, since 1 January 2011:

- a) was a registered training organisation that was party to a contract with us regarding government-subsidised training which we terminated for any reason other than on a ground equivalent to one of the grounds specified in Clauses 17.4(i), 17.4(j) and 17.4(k), or a Relevant Person at such a registered training organisation;
- b) was a registered training organisation that was subject to an Other VET Funding Arrangement Termination Event, or a Relevant Person at such a registered training organisation; or
- c) was responsible, via their acts or omissions, for any of the matters raised in paragraphs (a) or (b) of this definition occurring to another person or entity.

Dispute means a dispute about this Contract.

Dispute Notice means a Notice setting out details about a Dispute that is given under Clause 15.

Dual Sector University means:

- a) Federation University Australia;
- b) Royal Melbourne Institute of Technology;
- c) Swinburne University of Technology; or
- d) Victoria University.

Enrolment Type means whether a particular program is being delivered as an Apprenticeship, a Traineeship, or neither an Apprenticeship nor Traineeship ('non-Apprenticeship/Traineeship') as specified in the Funded Programs Report and/or in Schedule 2.

Evidence of Eligibility means evidence of an individual's eligibility for Skills First subsidised training in accordance with the eligibility requirements set out in this Contract and the Guidelines About Eligibility.

Evidence of Fee Concession/Fee Waiver means evidence of a Skills First Student's entitlement to a Fee Concession or Fee Waiver for Skills First subsidised training, in accordance with the Guidelines About Fees.

Evidence of Participation means evidence of a Skills First Student's participation in learning and/or assessment that you are required to provide under Clause 9 of Schedule 1 of this Contract.

Executive Director means the person holding, acting in, or performing the duties of Executive Director, Training Market Services Division of the Department.

Executive Officer, in relation to an entity, means:

- a) a person (by whatever name called and whether or not a director of the entity) who is concerned in, or takes part in, the management of the entity;

- b) if the entity is a body corporate:
 - i) a person who owns 15% or more of the entity; or
 - ii) a person who is entitled to receive 15% or more of dividends paid by the entity;
- c) an administrator, receiver and manager, or liquidator of the entity (other than a receiver and manager, or liquidator, appointed by a court);
- d) if the entity is a body corporate, the administrator of a deed of company arrangement executed by an entity; or
- e) if the entity is a body corporate, a trustee or other person administering a compromise or arrangement made between the entity and another person or other persons.

Fee Concession means a concession on tuition fees granted, or to be granted, in circumstances where this Contract or the Guidelines About Fees specify that you must grant a concession on tuition fees to a Skills First Student.

Fee Concession Contribution means the contribution we will pay to you when you grant a Fee Concession to a Skills First Student, as detailed in Clauses 11.5 and 11.6 of Schedule 1 of this Contract.

Fee Waiver means a waiver of tuition fees granted, or to be granted, in circumstances where this Contract or the Guidelines About Fees specify that you must not charge a tuition fee, or where we otherwise direct that you must not charge a tuition fee, to a Skills First Student.

Fee Waiver Contribution means the contribution we will pay you when you grant a Fee Waiver to a Skills First Student, as detailed in Clauses 11.7 and 11.8 of Schedule 1 of this Contract.

Final Data Submission Date means the date specified via the SVTS as the deadline for the final Student Statistical Report to be submitted for a data collection year. This typically falls on or around 15 January of the next calendar year.

Foundation Skills Approved Provider List means a list of Skills First training providers that we have approved to receive funds for delivery of Foundation Skills Programs.

Foundation Skills Program means a program identified as such on the Funded Programs Report.

Free TAFE for Priority Courses List means the specific list of programs as identified on the Funded Programs Report for which TAFE Institutes and Dual Sector Universities must apply a Fee Waiver under the Free TAFE for Priority Courses initiative.

Funded Programs Report means a report we issue and approve that includes accredited vocational training programs (but not including higher education courses), as varied by us from time to time (including by adding or removing programs, or changing the 'Effective for PCD from'/'Effective from PCD to' dates in the report at any time).

Funded Scope means the specific list of programs you are entitled to be paid Funds for delivering under this Contract, as varied from time to time.

Funds means the money we have provided or are required to provide, to you under this Contract for a Skills First Student, consisting of:

- a) the Contact Hour Funds;
- b) if applicable, the Fee Concession Contribution;
- c) if applicable, the Fee Waiver Contribution; and
- d) if applicable, any special initiative payments described in a schedule to this Contract.

High Managerial Agent, in relation to an entity, means an employee or agent of the entity with duties of such responsibility that their conduct may fairly be assumed to represent the entity in relation to its business (which, where you are the relevant entity, means your business connected with the delivery of programs of training).

Hours Attended means the hours of supervised training and assessment that a Skills First Student participated in prior to their withdrawal from a subject.

Incentives means any incentives, including:

- a) financial incentives; and/or
- b) non-financial incentives, including in the form of goods, services or rewards.

Intellectual Property Rights means any intellectual property rights, including copyright, patents, trade marks, designs, circuit layout rights and rights in respect of the disclosure and use confidential information (including know-how and trade secrets), rights to apply for, and applications for, registration of any such rights, and all other intangible property rights including moral rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

Law means any statute, regulation, by-law, ordinance or subordinate legislation in force from time to time, the common law and equity as applicable from time to time and any applicable industry codes of conduct.

Literacy and Numeracy Support Units means approved literacy and numeracy support units we designate in the Literacy and Numeracy Support Implementation Guide, which are used to address individual needs of vocational learners to facilitate completion of a program of training under the Skills First Program.

Loss means any loss, damage, liability, cost or expense (including legal expenses on a full indemnity basis) of any kind suffered or incurred or agreed to be paid by way of settlement or compromise and includes any direct, indirect, special or consequential loss or damage, including loss of profits, loss of production, loss or corruption of data, loss of sales opportunity or business reputation, direct or indirect labour costs and overhead expenses and damage to property, personal injury and death.

Material Breach means any material breach of your obligations under this Contract, which (without limiting the circumstances in which a breach may be material in nature) is deemed to include:

- a) breach by you (other than a trivial breach) of any of your obligations set out in:
 - i) Clause 4.8 (act ethically);
 - ii) Clause 6.3-6.10 (subcontracting);
 - iii) Clause 10.10 (integrity of records);
 - iv) Clause 11.2 (audit participation);
 - v) Clause 1.1 of Schedule 1 (marketing and recruiting students);
 - vi) Clauses 3.1-3.3 of Schedule 1 (assessing and evidencing eligibility);
 - vii) Clauses 4.1-4.5 of Schedule 1 (Pre-Training Review);
 - viii) Clause 5 of Schedule 1 (tuition and other fees);
 - ix) Clauses 6.14-6.20 of Schedule 1 (planning for training and assessment);
 - x) Clauses 9.1-9.2 of Schedule 1 (Evidence of Participation); or
 - xi) Clause 11.18 of Schedule 1 (claims for payment); or
- b) other breach of any of your obligations under this Contract where that breach is serious or substantial in its impact on:
 - i) the benefit that we would otherwise have realised from this Contract;
 - ii) the achievement of the objectives in Clause 3.1 in relation to any of the Training Services (including any breach of your obligations under Clause 4.13); or
 - iii) any Skills First Students or prospective Skills First Students.

Maximum Payable Hours means the number of hours specified for each program in the 'Maximum Payable Hours' field in the Funded Programs Report.

Minister means the Minister for Training and Skills.

Notice means a communication given under this Contract by a Party to the other Party that must occur in accordance with Clause 14.

Other VET Funding Arrangement means:

- a) approval under the *Higher Education Support Act 2003* (Cth) to offer VET Student Loans to eligible individuals;
- b) a Smart and Skilled contract entered into with the State of New South Wales through its Department of Industry, Skills and Regional Development;
- c) a Skills Assure supplier contract entered into with the State of Queensland through its Department of Employment, Small Business and Training;
- d) a WorkReady accredited training services agreement or skills agreement entered into with the State of South Australia through its Minister for Employment, Higher Education and Skills;
- e) a Jobs and Skills WA RTO preferred provider panel contract entered into with the State of Western Australia through its Department of Training and Workforce Development;
- f) a Skills Tasmania agreement entered into with the State of Tasmania as represented by its Department of State Growth trading as Skills Tasmania;
- g) a training initiative funding agreement entered into with the Australian Capital Territory represented by the Chief Minister, Treasury and Economic Development Directorate; or
- h) any other arrangement under which a registered training organisation is approved to receive government subsidies for the provision of vocational education and training in any Australian jurisdiction (including any predecessor to, or any alteration, supplement or replacement of, any of the contracts or other arrangements referred to in paragraphs (a) to (g)).

Other VET Funding Arrangement Termination Event means, in relation to a registered training organisation, any Other VET Funding Arrangement is terminated in relation to that registered training organisation, other than a termination that affects a number of registered training organisations and is for reasons of government policy or other reasons not associated with that registered training organisation's performance under the Other VET Funding Arrangement.

Parties mean the parties to this Contract.

Personal Information means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

Personnel means:

- a) all your officers, employees, agents and contractors (including subcontractors); and
- b) in respect of each of your contractors, all officers, employees, agents and contractors (including subcontractors) of that contractor,

who are involved in any way with the delivery or support of any of the Training Services or otherwise with you fulfilling your obligations under this Contract (including Skills First Teachers and administrative staff).

Practical Placement means the placement of a Skills First Student in a workplace to develop or reinforce skills relevant to their Skills First funded training, whether or not that work experience is voluntary or mandated as a program requirement and whether or not that placement is undertaken with the Skills First Student's own employer or a host organisation.

Pre-Training Review means the process you undertake with a prospective Skills First Student to determine the most suitable and appropriate training for that individual, as described in Clauses 4.1 to 4.5 of Schedule 1.

Program Commencement Date means the date of first scheduled training for the first subject towards the completion of the program the Skills First Student has enrolled in.

Record means any 'document' within the meaning of the *Evidence Act 2008* (Vic) that you, or any of your Personnel, create, possess, or enter possession of, under or in the course of performing your obligations under this Contract.

Regulatory Standards means:

- a) the AQF;
- b) the National RTO Standards or the AQTF; and
- c) any other guidance issued from time to time by the relevant regulator (being VRQA or ASQA, as applicable) under its relevant standards.

Related Training Provider means a registered training organisation that is any of the following:

- a) an entity that Controls you, is Controlled by you or is under common Control with you (whether directly or indirectly);
- b) an entity with whom you have an arrangement, agreement or understanding for the purpose of providing the Training Services; or
- c) an entity one of whose Relevant Persons is:
 - i) a Relevant Person of you or an entity referred to in paragraph (a); or
 - ii) a 'relative' (as defined in the Corporations Act) of a person referred to in paragraph (c)(i).

Relevant Person means, in relation to an entity:

- a) any Executive Officer or High Managerial Agent of the entity; or
- b) any person or entity which exercises a material degree of control or influence over the management or direction of any material part of the business of the entity (which, where you are the entity means your business connected with the delivery of programs of training).

RPL means recognition of prior learning, being an assessment process that assesses the competency of an individual that may have been acquired through formal, non-formal (such as previously unrecognised skills and knowledge), or informal learning. This process determines the extent to which an individual has achieved the required learning outcomes of, competency outcomes of, standards for entry into, and/or partial or total completion of, a program of study. To avoid doubt, RPL does not include credit transfer or recognition of current competency.

Scheduled Hours has the same meaning as given to it in the Victorian VET Student Statistical Collection Guidelines.

Segregation of Duties means the assignment of different people in the responsibility of authorising transactions, recording transactions and maintaining custody of assets with the intention of reducing the opportunities to allow any person to be in a position to both perpetrate and conceal fraud or error due to fraud in the normal course of their duties.

Skills First Entitlement means the entitlement to a government-subsidised place in training for persons who are eligible in accordance with the criteria set out in the Act or established under the Act, and reflected in this Contract.

Skills First Program means the Victorian Government's program for funding individuals' Skills First Entitlement.

Skills First Student means an individual who is eligible for Skills First subsidised training in accordance with the eligibility requirements specified in this Contract and who you have enrolled into such training.

Skills First Teacher means an individual trainer and/or assessor who you:

- a) employ directly;
- b) engage as a Sole Trader; or
- c) engage through a subcontract arrangement which meets the conditions of Clause 6 of this Contract,

for the purpose of delivering training and/or assessment elements of the Training Services.

Skill Set means a program that is identified as such on the Funded Programs Report and may include:

- a) an accredited course with the title 'Course in...';
- b) a nationally recognised skill set;
- c) a single accredited subject; or
- d) a group of accredited subjects that we have approved.

Sole Trader means an individual who carries on business as a sole trader rather than through a company or other body corporate, corporation sole, body politic, partnership, incorporated association, unincorporated association or trust and who (if there is an ABN in relation to that business) holds the ABN in their individual capacity.

State means the Crown in right of the State of Victoria.

Statement of Fees means a document for each Skills First Student that sets out fee and other information required by the National RTO Standards and the Guidelines about Fees.

Structured Training: Off-the-job means the training and assessment that you deliver in a formal setting to Apprentices or Trainees. It is often referred to as 'trade school' or 'block release'.

Structured Training: Workplace-based means the training and assessment you organise to take place in the workplace for Apprentices or Trainees. It takes place when the Apprentice or Trainee is withdrawn from regular work duties.

Student Statistical Reports means reports you are required to provide to us in accordance with the Victorian VET Student Statistical Collection Guidelines.

TAFE Institute has the meaning given to it in the Act.

Term means the term of this Contract, as set out in Clause 2.2.

Trainee means an individual enrolled in an Approved Training Scheme that has been deemed a traineeship by the VRQA.

Training and Assessment Strategy means the document or documents you are required to create which details your plan to deliver training and assessment of a particular program, and for each cohort that particular program will be delivered to, as described in Clauses 6.1 to 6.4 of Schedule 1.

Training Contract means an agreement signed by the employer and the Apprentice or Trainee (and a parent or guardian if applicable), in accordance with the Act and Regulatory requirements.

Training Package means a set of qualifications and units of competency developed to meet the training needs of an industry, or a group of industries, and endorsed at the national level.

Training Plan means the plan for training and assessment to be delivered to a Skills First Student that you are required to create under Clauses 6.4 to 6.20 of Schedule 1.

Training Provider Group means you and any other registered training organisation that is a Related Training Provider, other than by reason of paragraph (b) of that term.

Training Services means all activities you undertake, or are required to undertake under this Contract, in relation to the delivery of Skills First subsidised training, including:

- a) student attraction activities, including marketing and advertising, in relation to any training within the Funded Scope;
- b) the provision of information about program offerings, fees, support and the impact on an individual's Skills First Entitlement;
- c) conduct of the Pre-Training Review;
- d) testing any individual's eligibility for training subsidised through the Skills First Program and any relevant Fee Concession or Fee Waiver;
- e) enrolment of individuals into a program, including undertaking any enrolment processes required under this Contract;
- f) development and documentation of a Training Plan;
- g) levying fees, including implementing any Fee Concessions or Fee Waivers;
- h) delivering training and assessment;
- i) collecting and maintaining evidence relating to (a) to (h) above, as required under this Contract;
- j) reporting data and other information to us as required under this Contract; and
- k) any other matters that reasonably relate to the conduct of the activities set out in paragraphs (a) to (j).

Victorian Skills Gateway means the Department's website for VET in Victoria.

we, us or **our** means the Department.

Interpretation

1.2 In this Contract, unless the context otherwise requires:

- a) words importing any gender include all genders;
- b) the plural includes any singular and vice versa;
- c) a reference to 'dollars' or '\$' is a reference to the lawful currency of Australia;
- d) a reference to a statute, ordinance, code or other law includes subordinate legislation, consolidations, amendments, re-enactments, and replacements of it;
- e) a reference to any legislation or statutory instrument is construed in accordance with the relevant interpretation of that legislation or statutory instrument;
- f) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time (whether or not its title remains the same);
- g) a reference to a Party includes the executors, administrators, successors and permitted assigns of that Party;
- h) a reference to a person includes a natural person, body corporate, partnership, association, governmental or local government authority or agency or other entity;
- i) a reference to a government minister, department or body, or role within a government department or body, includes any successor minister, department, body or role (or, where appropriate, any predecessor minister, department, body or role);

- j) a reference to a recital, clause, schedule or annexure is a reference to a recital, clause, schedule or annexure to this Contract;
- k) a cross-reference to a Clause is a reference to all its subclauses;
- l) where a term is defined, the definition includes all grammatical forms of that term;
- m) headings are used for reference only;
- n) terms which are defined in a schedule and which are not otherwise defined in this Contract have the meaning given to them in that schedule;
- o) acronyms, abbreviations and other terms that are identified in the 'acronyms and abbreviations' section of this Contract have the meaning given to them in that section;
- p) a reference to a document specified in the 'reference documents issued by the Department of Jobs, Skills, Industry and Regions' section of this Contract means the document of that name issued by us from time to time;
- q) the meaning of general words is not limited by specific examples introduced by 'including', 'for example', 'such as' or similar expressions;
- r) a reference to a program, or program of training, includes AQF qualifications endorsed in Training Packages and Skill Sets;
- s) a reference to a subject includes units of competency and modules;
- t) where appropriate to the context, where there are words and expressions that are not defined in this Contract but which have a meaning in the GST Law, that meaning will apply to this Contract; and
- u) where a Clause requires an action to be undertaken in accordance with the National RTO Standards, this applies regardless of whether you are registered with ASQA or VRQA.

1.3 Where there is ambiguity in the interpretation of this Contract, the objectives in Clause 3.1 will be applied to aid in the resolution of the interpretation, provided this does not limit and is not inconsistent with any of your obligations or our rights or powers under, or any other provision of, this Contract.

Schedules to this Contract

1.4 Any additional provisions or conditions set out in Schedules (as amended from time to time) form part of this Contract, including:

- a) Schedule 1 – Skills First program specifications;
- b) Schedule 2 – Individual details and conditions; and
- c) Schedule 3 – (if applicable to you) Special initiatives.

Priority

1.5 If there is any conflict or inconsistency between:

- a) any Contract Notification;
- b) any part of Schedule 2;

- c) Clauses 1 to 19 in the body of this Contract;
- d) Schedule 1;
- e) (if applicable to you) any part of Schedule 3; or
- f) any other document you must comply with under this Contract (including policies, directions or any other requirements issued under Clause 4.7),

then the provision specified higher in this Clause 1.5 will prevail over the provision specified lower to the extent of the conflict or inconsistency, except that a document specified in Clause 1.5(f) will take higher priority over this Contract if specified in a Contract Notification or in another Clause of this Contract.

Powers, functions and discretion of the Department

1.6 Our powers, functions and discretions under this Contract:

- a) may be carried out or exercised by our officers or other persons who we have delegated authority to or who we otherwise engage; and
- b) will, when they are carried out or exercised by us or any person engaged by us, be taken as having been carried out or exercised by the Secretary (or their delegate).

1.7 Except as expressly set out in this Contract, we may, in our discretion:

- a) give any approval or consent under this Contract conditionally or unconditionally, or withhold that approval or consent; and
- b) exercise any power or function conferred on us under this Contract.

1.8 No provisions in this Contract shall in any way fetter, restrict, or prevent the exercise of discretions, elections or options available to us under legislation which is applicable to us (including the Act).

1.9 It is not necessary for us to make payment before enforcing any of our rights, including any right of indemnity, conferred by this Contract.

General

1.10 This Contract is governed by the law of Victoria. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of Victoria and courts of appeal from them.

1.11 If a provision in this Contract is held to be illegal, invalid, void, voidable or unenforceable, that provision will be read down or severed, to the extent necessary to ensure that all other provisions of this Contract are enforceable.

1.12 The provisions of this Contract do not merge or terminate on completion of the transactions contemplated within it, but to the extent that they have not been fulfilled and satisfied or are capable of having effect, remain in full force and effect.

1.13 You must not assign, transfer, novate or otherwise deal with this Contract or any right under it without our prior written consent, including in accordance with Clause 6 (Subcontracting).

1.14 A Party to this Contract:

- a) is not an agent, partner, joint venturer or representative of the other Party, and must not hold itself out as such; and

- b) must not make any promise, warranty or representation or execute any contract or otherwise deal on behalf of the other Party.

Waiver of a right or obligation, or variation of this Contract

1.15 Any waiver of a right or obligation of this Contract must be in writing signed on behalf of the Party waiving the right or obligation and is effective only to the extent specifically set out in that waiver.

1.16 We may vary this Contract either:

- a) by issuing a Contract Notification or a Notice to you where:
 - i) the variation imposes no material burden upon, or causes no material disadvantage to, you and is reasonably necessary to protect our legitimate interests;
 - ii) we consider that a variation is necessary in light of a change in policy or to ensure the proper and responsible administration of the Funds and of the Skills First Program budget;
 - iii) we consider that a variation is necessary to accommodate external changes that have occurred or of which we have become aware since entry into this Contract;
 - iv) we consider a variation is necessary in light of the jobs and skills needs of a sector of the economy or geographic area of the State of Victoria; or
 - v) we consider a variation is necessary in any other circumstances, in which event we will endeavour to give you a reasonable period of advance notice of the variation, depending on the nature of the variation;
- b) in accordance with any other term of this Contract (including Clauses 5.1, 5.4 and 8.3); or
- c) in writing signed by each Party.

2. APPLICATION AND TERM OF THIS CONTRACT

2.1 This Contract applies only to Training Services for any Skills First Student who commences training between the Commencement Date and 31 December 2025.

2.2 This Contract begins on the Commencement Date and continues until the earlier of:

- a) such time as all Skills First Students in respect of whose training Funds are provided have completed or withdrawn from that training; or
- b) the termination of this Contract (in accordance with its provisions).

3. OBJECTIVES

3.1 The objectives of the Parties are that Training Services subsidised through the Skills First Program will be:

- a) high quality and relevant to industry and employers;

- b) provided to Skills First Students to:
 - i) enable them to obtain the required skills to make them job-ready;
 - ii) assist them to undertake further education; and/or
 - iii) promote/enable participation in training for disadvantaged learners; and
- c) provided by you in the best interests of Skills First Students.

4. YOUR GENERAL OBLIGATIONS

Maintain registration and standards

4.1 You must:

- a) maintain registration as a registered training organisation under the Act or the National Act;
- b) maintain a:
 - i) principal place of business in the State of Victoria at which you are based, and from which you primarily administer your training; or
 - ii) commercial property in the State of Victoria from which you deliver training;
- c) maintain at least one nationally recognised program of training on your scope of registration as a registered training organisation;
- d) maintain and use AVETMISS compliant software for reporting purposes; and
- e) deliver training within the Funded Scope:
 - i) in accordance with the requirements of the accredited course or Training Package, including with regard to program descriptions, pathways information, entry requirements and outcomes;
 - ii) consistent with any applicable Victorian Purchasing Guides; and
 - iii) in compliance with all applicable Regulatory Standards.

Requirements for Skills First Teachers

4.2 You must ensure that all training and assessment is delivered by Skills First Teachers who:

- a) hold relevant qualifications and meet standards as required by ASQA or the VRQA (as applicable); and
- b) are, if the Skills First Teacher is engaged by you through a subcontract arrangement, engaged under a subcontract arrangement that complies with Clause 6 (Subcontracting).

4.3 We may require Skills First Teachers to undergo certain professional development or training, within a timeframe we determine, and that is consistent with the relevant Regulatory Standards, and you must ensure that each Skills First Teacher complies with all such requirements.

4.4 You must sight and retain copies of documentary evidence confirming that each Skills First Teacher meets the requirements referred to in Clauses 4.2(a) and 4.3, such as transcripts and testamurs; mapping of vocational competence (where applicable); demonstration of industry currency; and/or completion of professional development requirements.

4.5 You must ensure you maintain sufficient Records to enable us to determine, at any time, which Skills First Teacher was responsible for delivering each subject in programs on the Funded Scope delivered under this Contract.

Comply with Laws

4.6 You must provide the Training Services in compliance with all applicable Laws, and bear all associated costs of complying with those Laws, including:

- a) occupational health and safety Laws;
- b) the Australian Consumer Law;
- c) privacy Laws;
- d) anti-discrimination and equal opportunity Laws;
- e) the *Disability Act 2006* (Vic);
- f) the *Working With Children Act 2005* (Vic);
- g) the Human Rights Charter, as though you are a public authority within the meaning of section 4(c) of this legislation, including not acting in a way that is incompatible with a human right protected by it or, when making a decision about performing the Training Services, failing to properly consider such a human right; and
- h) the Child Safe Standards as made under the *Child Wellbeing and Safety Act 2005* (Vic).

Comply with directions and policies

4.7 You must comply with:

- a) any applicable directions, guidelines, policies or procedures that we or the State issue from time to time (including as set out in any Contract Notifications), whether or not expressly referred to in this Contract;
- b) the Quality Charter; and
- c) the TAFE Network Statement of Priorities.

Act ethically

4.8 You must demonstrate the highest ethical standards in your dealings and conduct in providing the Training Services, including by:

- a) not doing anything (including by way of an omission) which may damage, ridicule, bring into disrepute, reduce public confidence in, or be detrimental to, the VET sector, the Skills First Program, or the Department or the State, or either of their names or reputations;
- b) behaving honestly;

- c) not making improper use of the position of trust placed in you to appropriately expend substantial amounts of public moneys for VET;
- d) not harassing, intimidating, threatening or seeking to improperly influence the exercise of any powers or functions by any person exercising powers on our behalf under this Contract;
- e) not paying, providing or offering, either directly or indirectly, Incentives to undertake training subsidised through the Skills First Program, whether to any prospective student or to any other person (such as an employer or social organisation); and
- f) not engaging, employing, contracting or otherwise dealing with any Disallowed Person in connection with this Contract.

Be accountable

4.9 You must be accountable to us for your performance under this Contract at all times, including by:

- a) demonstrating your compliance with this Contract to us on request;
- b) reporting any non-compliance with this Contract to us;
- c) ensuring that all persons you employ or engage to provide the Training Services are aware of all obligations under this Contract as appropriate;
- d) providing the Training Services at your own cost, unless otherwise provided for under this Contract;
- e) using the Funds reasonably;
- f) implementing appropriate compliance, reporting and auditing frameworks and controls, including the appropriate Segregation of Duties, for providing the Training Services and receipt of the Funds;
- g) not, in providing the Training Services, doing any act or undertaking any process which would infringe any Intellectual Property Rights of the State or any other person;
- h) participating in any performance improvement initiatives that we reasonably determine, including the introduction of performance targets to be met by you over a reasonable period; and
- i) responding to and co-operating with us in good faith in the resolution of student complaints made to us, or other issues raised with us, in relation to your delivery of the Training Services

4.10 We may contact individuals for whom you have claimed Funds, for any reason we see fit, including for any audit, review, investigation, monitoring, or evaluation, or to otherwise confirm your compliance with, and performance under, this Contract.

4.11 You must ensure that:

- a) your CEO takes responsibility for overseeing the performance of all of your obligations under this Contract;
- b) your CEO is available at all reasonable times to answer our questions and otherwise communicate with us in relation to such performance;

- c) your CEO provides an accurate, complete and reasonably detailed response to any of our requests for information relating to your performance under this Contract by:
 - i) the time we specify in the request;
 - ii) any longer timeframe we agree with you in writing; or
 - iii) if no time is specified, within a reasonable period of time from our request; and
- d) during any absence of the CEO, a person is delegated, and carries out, the responsibilities of the CEO referred to in paragraphs (a) to (c).

Stakeholders

- 4.12 You must make all reasonable efforts to work with, communicate effectively with, and maintain the confidence of, all stakeholders affected by this Contract, including maintaining strong links to industry.

Consistency with objectives

- 4.13 You must perform your obligations under this Contract consistently with, and in a manner that promotes the achievement of, the objectives in Clause 3.1, except to the extent this would limit or be inconsistent with any of your obligations or our rights or powers under, or any other provision of, this Contract.

5. SCOPE OF THE TRAINING SERVICES

Funded Scope

- 5.1 A program will be automatically added to the Funded Scope if it is added to your scope of registration as a registered training organisation, provided that (unless we otherwise agree) the program is listed on the Funded Programs Report.
- 5.2 We may add or remove a program from the Funded Scope or may otherwise alter the Funded Scope.

Foundation Skills Approved Provider List

- 5.3 To receive Funds for delivery of a Foundation Skills Program you must be on the Foundation Skills Approved Provider List and have the relevant approval to provide that program.
- 5.4 We may add or remove you from the Foundation Skills Approved Provider List, and/or vary your approvals on the Foundation Skills Approved Provider List at any time, by notifying you via the SVTS.

Additional capability or quality assurance process

- 5.5 We may introduce a capability or quality assurance process and require you to participate in it, in order for you to be able to receive Funds for delivery of particular programs or types of training that we define.
- 5.6 If you do not participate in a process we advise under Clause 5.5, or do not meet the required standard, we may notify you via the SVTS that we will remove relevant programs from the Funded Scope and/or direct you to cease enrolments in particular programs or types of training.

6. SUBCONTRACTING

Definition of subcontracting

- 6.1 You will be considered to have subcontracted any part of the Training Services if they are carried out by an individual other than:
- a) your employee or officer, acting in their capacity as such an employee or officer; or
 - b) a Sole Trader you engage directly (and to avoid doubt, not through an intermediary) in their capacity as a Sole Trader.
- 6.2 To avoid doubt, it is considered to be subcontracting to engage:
- a) an individual through a franchise, labour hire or other similar arrangement; or
 - b) any person to undertake Brokering Services.

Subcontracting of Pre-Training Review

- 6.3 You must not subcontract any aspect of the Pre-Training Review.

Subcontracting of training and assessment

- 6.4 You must not subcontract training and/or assessment without our written approval, which approval will only be granted through a process we determine.
- 6.5 You must ensure that each Skills First Student who receives training and assessment under a subcontract arrangement is aware that they are enrolled with you, not the subcontractor.
- 6.6 Where you have a subcontract arrangement under Clause 6.4 with another registered training organisation that holds a VET Funding Contract, it must be on terms that allow you to immediately terminate it if we terminate or suspend (or agree with the subcontractor a termination or suspension of) the subcontractor's VET Funding Contract.

Subcontracting generally

- 6.7 You represent and warrant to us that on every day during the Term, all subcontractors you use have appropriate qualifications and skills and are suitably experienced and capable of providing Training Services as required by this Contract.
- 6.8 We may direct you to cease, or otherwise vary the scope of, any subcontract arrangement.
- 6.9 You must ensure that any subcontract arrangement:
- a) prohibits further subcontracting by the subcontractor;
 - b) requires the subcontractor to provide all necessary assistance, documentation and information that is required under this Contract;
 - c) permits you to immediately suspend the subcontract arrangement if this Contract is suspended;
 - d) permits you to immediately terminate the subcontract arrangement if this Contract is terminated; and
 - e) otherwise permits you to comply with your obligations under this Contract (including your obligations to ensure that any subcontractor cooperates and assists with any audit, review or investigation under Clause 11).

6.10 You:

- a) must provide a copy of any executed subcontract agreement to us if requested;
- b) retain responsibility for all of your obligations under this Contract despite entry into any subcontract arrangement, and are not relieved by any subcontract arrangement of any of your liabilities or obligations under this Contract or to otherwise provide the Training Services;
- c) must ensure the suitability of the subcontractor and that any work performed by the subcontractor meets the requirements of this Contract;
- d) are liable to us for the acts, omissions or negligence of any subcontractor (or any employee, officer or agent of the subcontractor) as if they were your acts, omissions or negligence (or those of your employees, officers or agents);
- e) indemnify us (and must keep us indemnified) against any or all Loss arising from any acts or omissions by any subcontractor in connection with, or in the course of, the provision of the Training Services or any breach of this Contract (whether or not the breach is a Material Breach);
- f) acknowledge that we are not liable for, nor will we become involved in, the internal administration of subcontract arrangements or act as a mediator between you and any subcontractor; and
- g) must bear all costs associated with any subcontract arrangement.

7. REPORTING AND INFORMATION

Reporting generally

7.1 You must:

- a) use an electronic Student Management System that complies with the Victorian VET Student Statistical Collection Guidelines;
- b) provide us with accurate and complete Student Statistical Reports and other reports or information about the Training Services, in accordance with Clauses 10 and 11 of Schedule 1;
- c) provide any other information or reports we may require from time to time relating to this Contract by the time we specify, or if no time is specified, within a reasonable period of time from our request;
- d) collect new information and create new documents in a format we specify, if we require it; and
- e) provide us with any reports in accordance with Schedule 3 – special initiatives (if applicable to you).

Reporting of subcontract arrangements for Brokering Services

7.2 You must provide us with details (in a format we determine) of each subcontract arrangement you have entered into for the delivery of Brokering Services as follows:

- a) details of any subcontract arrangements entered into prior to the Commencement Date, within 30 days of the Commencement Date; and

- b) details of any further subcontract arrangement, within 30 days of entering into that arrangement.

Change in Control

- 7.3 You must notify us via the SVTS immediately upon becoming aware of any proposed Change in Control and, in any event, at least 20 Business Days before the Change in Control takes effect. Your notification must include details of the Change in Control and when it is to take effect.
- 7.4 If we receive a notification under Clause 7.3 or if we otherwise learn of you proposing to undergo or having undergone a Change in Control, we may, at our sole discretion, give you notification that we either object or do not object to the proposed Change in Control or the Change in Control (as the case may be).

Notification of events

- 7.5 If you hold an Other VET Funding Arrangement, you must promptly notify us via the SVTS if:
 - a) any restriction or reduction in scope is imposed on your entitlement to offer or deliver government-subsidised training under such an arrangement, whether or not this affects programs on the Funded Scope (except that this notification requirement does not apply if the restriction or reduction is imposed on a number of registered training organisations and is for reasons not associated with your performance under the Other VET Funding Arrangement); or
 - b) an Other VET Funding Arrangement Termination Event occurs in relation to you, or any other registered training organisation that is a member of the Training Provider Group.
- 7.6 You must immediately notify us via the SVTS of any significant changes to your ownership, CEO or operations (including your financial viability, ceasing to maintain a principal place of business in the State of Victoria, and any intention or decision to cease operations as a registered training organisation in Victoria).
- 7.7 You must promptly notify us via the SVTS if, at any time, any event occurs that may be covered by Clause 17.4(f) or any of Clauses 17.4(i) to 17.4(k).

8. PAYMENTS AND OTHER FINANCIAL ARRANGEMENTS

Payments for Training Services

- 8.1 We agree to pay the Funds in accordance with Schedule 1.
- 8.2 Our obligation to pay the Funds is conditional upon us being satisfied (and continuing to be satisfied) that:
 - a) each individual for whom Funds are claimed is a Skills First Student;
 - b) the Training Services are being provided in accordance with this Contract;
 - c) the Funds are being reasonably applied to the costs of providing Training Services to the Skills First Students for whom the Funds have been claimed; and
 - d) there are not, and will not be, any amounts payable to us by you in relation to this Contract up to the amount of those Funds.

- 8.3 We may vary the Funds for one or more Skills First Students by issuing a Notice or a Contract Notification at least 10 Business Days before the variation will take effect, including:
- a) for reasons of a change of policy; or
 - b) to ensure the proper and responsible administration of the Funds and of the Skills First Program budget,

which may include where the Skills First Student has already enrolled in and/or commenced training with you at the time the variation is made.

- 8.4 We will only pay the Funds to you and not to any other person.
- 8.5 The Funds are the full amount of funding that we will make available and you are not entitled to, and may not claim, any additional funding or assistance from us in relation to the Training Services.

Payments for special initiatives under Schedule 3

- 8.6 We will pay you payments for special initiatives as described in Schedule 3 (if applicable to you), provided you meet the applicable conditions specified in that Schedule 3.

Payments generally

- 8.7 If any day for the payment of Funds is not a Business Day, the payment will be due on the next Business Day.

Recovery of amounts

- 8.8 If you are paid any amount you are not entitled to be paid under this Contract, that amount is a debt due to us and must be promptly repaid and, in any event, must be repaid:
- a) in accordance with any applicable repayment arrangement agreed in writing between the Parties from time to time; or
 - b) in the absence of agreement under subclause (a), within 30 days after we require it.

- 8.9 If you owe us any amount under or in relation to:

- a) this Contract (including under Clause 8.8 or Clause 16); or
- b) any earlier agreement between the Parties under the Skills First Program, the Victorian Training Guarantee Program or the Skills for Victoria Program,

we may recover that amount by setting it off against any other amount which is, or becomes, due to you from us under this Contract. This may include processing a payment reversal via SVTS or another business system we use to deduct monies you owe to us from a future payment or payments.

- 8.10 Any exercise by us of our rights under Clause 8.8 or Clause 8.9 is without prejudice to any other rights or remedies available to us under this Contract.

9. GST

- 9.1 Except as otherwise provided by this Clause 9, all consideration payable under this Contract in relation to any supply is exclusive of GST.
- 9.2 If GST is payable in respect of any supply made by a Party under this Contract:

- a) the consideration payable or to be provided for that supply under this Contract but for the application of this Clause 9.2 is increased by; and
- b) the other Party must also pay to that Party at the same time and in the same manner as the consideration,

an amount equal to the GST payable by the supplier on that supply, subject to the supplier providing a tax invoice to the recipient of the supply in respect of its taxable supply (unless Clause 9.3 applies).

9.3 We, as a recipient of each taxable supply made by you, will issue a recipient created tax invoice to you. You agree that you will not issue tax invoices in respect of the Funds.

9.4 If an adjustment event occurs in relation to a taxable supply made by you under this Contract, we will provide you with a recipient created adjustment note.

9.5 You must have a valid ABN and be registered for GST throughout the Term and keep us indemnified against any loss arising out of the cancellation of your ABN or your failure to be registered for GST.

10. RECORDS

Record keeping requirements

10.1 You must make and keep accurate Records for all Training Services in sufficient detail to allow us to determine compliance with this Contract (including the accuracy of claims for payment of the Funds).

10.2 Records may be retained either in hard copy or electronic form.

10.3 You must retain (and not dispose of) any Records until three years after the Skills First Student to whom the Records relate has completed or withdrawn from the relevant program they are enrolled in.

10.4 We may, at any time, direct you to retain Records you are not then retaining, if we consider it necessary to confirm compliance with this Contract.

10.5 A requirement under this Contract for you to retain Records in a particular manner does not allow you to keep Records in a different manner to how you are required to do so under the Regulatory Standards or any other applicable Law.

10.6 A right for you to cease retaining Records under this Contract does not allow you to dispose of Records if they are required to be kept for a longer amount of time under the Regulatory Standards or any other applicable Law.

10.7 On termination or expiry of the Term, you will retain ownership and custody of your Records.

10.8 You indemnify us from, and against, any Loss due to a breach of your obligations under this Clause 10.

Security and integrity of Records

10.9 You must have effective:

- a) security measures to safeguard Records from unauthorised access or use (including access to Personal Information, or amendment of Records inconsistent with Clause 10.10), for as long as those Records are required to be retained under this Contract; and

- b) processes to ensure that you promptly dispose of Records that include Personal Information when you are obliged to do so under the PDP Act (including that any requirement to keep them under this Contract, and under the Regulatory Standards or any other applicable Law, has ceased).

10.10 You must not amend Records in a way that is not accurate. Where you need to amend a Record, through continuous improvement processes or otherwise, you must document the amendment in a way that a reasonable person could ascertain the nature of, and rationale for, the amendment in a straightforward way, including annotating when, and by whom, the amendment was made.

Accounting Records

10.11 You must:

- a) use appropriate processes and controls to fully account for administration of the Funds;
- b) keep complete Records of all financial dealings under this Contract, including all quotations, invoices and receipts, which must contain full particulars of payments you make to your subcontractors and other third parties; and
- c) keep Records in relation to the Funds in a way that would enable them to be audited by the Auditor-General of Victoria or any other entity as directed by us.

Providing access to Records

10.12 In addition to your obligations under Clause 11 (Audit, Review and Investigation), upon our request, you must promptly provide us with copies of, or make available for inspection during Business Hours at a location in Victoria we specify:

- a) any Records relevant to the Funds or the Training Services, including those relevant to determining the quality of the Training Services, or those required in accordance with Clause 7.1;
- b) Records reasonably required to allow us to satisfy ourselves as to your financial position, the use of the Funds and your capacity to deliver the Training Services;
- c) Evidence of Eligibility, Evidence of Fee Concession/Fee Waiver, Statements of Fees and Evidence of Participation;
- d) evidence of each Pre-Training Review conducted under Clauses 4.1 to 4.5 of Schedule 1;
- e) evidence that you have received the fees from Skills First Students that you reported as having charged (via the SVTS), and supporting documentation including:
 - i) invoices or statements provided to the Skills First Student; and
 - ii) bank generated transaction statements of your accounts the fees were paid into; and
- f) the information referred to in Clauses 4.4 and 4.5 in relation to Skills First Teachers.

10.13 If you fail to make a Record available if you are requested to do so under Clause 10 or 11 (within a reasonable time, or by a specified time where relevant), then for the purpose of this Contract it will be deemed not to exist and activity it would have evidenced not to have occurred. We may exercise all our available rights on that basis.

Electronic signatures

10.14 If you:

- a) are required under this Contract to procure and keep a document signed by any person (whether yourself, a person employed or engaged by you or a third party);
- b) issue a Notice under Clause 14; or
- c) sign a document binding you to this Contract, any other contract with us in connection with this Contract, or any amendment to this Contract or any other such contract,

that document may be signed by way of an 'electronic action equivalent to a signature', unless it is not permitted in the Regulatory Standards, or under any other applicable Law.

10.15 For the purposes of Clause 10.14, an electronic action by a person will be considered to be equivalent to a signature where it:

- a) identifies that person;
- b) indicates the person's agreement to the relevant information, and
- c) is as reliable as appropriate in the light of all the circumstances (including so that we can rely on the action as demonstrating the person's agreement to the relevant matters in the event of any audit, review or investigation).

11. AUDIT, REVIEW AND INVESTIGATION

Audits, reviews and investigations

11.1 We may conduct an audit, review or investigation at any reasonable time to confirm whether you are complying with this Contract, including:

- a) to establish whether and to what extent the Funds have been used in respect of Skills First Students;
- b) to investigate allegations or suspicions of misuse of the Funds;
- c) to determine the extent to which the Training Services are of high quality;
- d) as set out in Clause 12 of Schedule 1; and/or
- e) if applicable, as part of our Audit and Risk Committee's Internal Audit Plan.

11.2 In the event of an audit, review or investigation under Clause 11.1, you must, as directed:

- a) permit us to enter your premises, and areas within those premises used for the delivery of Training Services, at any time we reasonably require, including times when training and assessment is being delivered to Skills First Students;
- b) provide us with all necessary assistance, including:
 - i) access to office space, telephones, photocopy facilities and other facilities at your premises;
 - ii) access to all Personnel;

- iii) assisting us to locate, access and view Records, including all Records that you are required to keep or provide under this Contract, and including associated metadata; and
 - iv) permitting us to take copies of any Records; and
 - c) on request, reimburse us for any costs incurred in conducting the audit, review or investigation.
- 11.3 If an audit, review or investigation reveals non-compliance with this Contract, we may:
- a) exercise any of our rights under Clauses 16 (Enforcement) or 17 (Termination Rights); and/or
 - b) require you to:
 - i) provide a written response on any matter relating to the audit, review or investigation in accordance with our requirements;
 - ii) take all reasonable steps, to our satisfaction, to prevent future instances of non-compliance by implementing a management action plan you agree with us; and/or
 - iii) within six months of you being notified in writing of the recommendations arising from the audit, review or investigation, or such other timeframe we specify in writing:
 - A. advise us in writing of the steps you have taken to comply with and implement the recommendations, the management action plan and this Contract, after receiving notification of the audit findings; and
 - B. provide any documentation we require evidencing compliance with, and implementation of, the recommendations, the management action plan and this Contract.

Internal audits

- 11.4 You must conduct an internal audit of your compliance with this Contract during each calendar year, in accordance with any of our requirements.
- 11.5 The first internal audit conducted under Clause 11.4 must be completed within six months after the Commencement Date.
- 11.6 You must ensure that each internal audit is :
- a) signed by your CEO; and
 - b) provided to us on request.
- 11.7 If an internal audit reveals non-compliance with this Contract, you must:
- a) develop a rectification plan within a reasonable timeframe to rectify the non-compliance within a reasonable timeframe; and
 - b) provide us with a copy of the rectification plan on request.

Third party audits

- 11.8 You must participate in, assist with, and not prevent or unreasonably delay, an audit, review or investigation administered by the Commonwealth Government in connection with the Training Services.

12. CONFIDENTIALITY AND PRIVACY

Confidentiality

- 12.1 You must not, without our prior written approval, disclose (or permit the disclosure of) information regarding this Contract (including details of the Funds paid for any individual) or any of our Confidential Information, except:

- a) to the extent required under this Contract;
- b) to the extent required by Law;
- c) to your solicitors, barristers and/or other professional advisors in order to obtain advice in relation to your rights under this Contract, the Training Services or the Funds and provided such advisors are under a duty of confidentiality;
- d) to the extent necessary for the registration or recording of documents where required; and/or
- e) to the extent required in connection with legal proceedings,

and then only to the extent strictly necessary for that purpose.

- 12.2 We may disclose or otherwise make available (whether to the public generally or to any particular person or group of persons) any information relating to you and this Contract (including your Confidential Information), as we consider reasonably appropriate to facilitate the proper operation of the Skills First Program including:

- a) program details;
- b) government-subsidised fee information;
- c) details of the Funds paid;
- d) the results of any NCVET surveys or the results of any student or employer surveys administered by us, or on our behalf;
- e) any information that you are required to publish on your website or otherwise make publicly available under this Contract;
- f) details of any non-compliance by you with this Contract;
- g) any action taken by us under this Contract;
- h) findings and outcomes of any audits, reviews or investigations under this Contract; and
- i) fee information you report related to training subsidised through the Skills First Program.

12.3 We may disclose information referred to in Clause 12.2, and any information regarding any suspected non-compliance by you with this Contract, for the purpose of satisfying our obligations under:

- a) the *Freedom of Information Act 1982* (Vic);
- b) the *Ombudsman Act 1973* (Vic);
- c) the *Audit Act 1994* (Vic); or
- d) the requirements of Parliamentary accountability or a Minister's obligations to fulfil their duties of office,

and you must take all steps and make all efforts to assist us in complying with any of these obligations.

12.4 We may disclose information referred to Clauses 12.2 and 12.3 to the counterparty to any Other VET Funding Arrangement, any regulator who has responsibility for issuing or monitoring compliance with your status as a registered training organisation, or to another government entity in any jurisdiction that has an interest in the regulation and funding of the VET sector.

Privacy

12.5 You are bound by the information privacy principles set out in the PDP Act, and any applicable code of practice under it, for any act done or practice you engage in, under or in connection with this Contract in the same way and to the same extent as we would have been bound had we directly done that act or engaged in that practice.

12.6 In collecting any Personal Information for the purposes of this Contract, you must ensure that you have obtained all necessary consents, in accordance with all applicable Laws, including the PDP Act, the Health Records Act and (if applicable) the *Privacy Act 1988* (Cth), for:

- a) you to collect, use, hold and disclose that Personal Information, including by disclosing it to us as contemplated by this Contract (including by way of the submission of reports and other information under Clause 7 and Clauses 10 and 11 of Schedule 1, for the purposes of complying with Record disclosure obligations under Clause 10 and in the course of any audit, review or investigation under Clause 11); and
- b) us to collect, use, hold and disclose that Personal Information for the purposes of this Contract and our operation and management of the Skills First Program.

12.7 You must cooperate with us, and provide any assistance we request, in relation to:

- a) resolving any complaint we receive alleging a breach of the PDP Act or the Health Records Act about any Personal Information collected, used, held or disclosed by us that you provided to us in connection with this Contract; and
- b) providing access to or amendment of any record of Personal Information collected, used, held or disclosed in connection with this Contract following a request we receive from an individual.

12.8 If you become aware of any:

- a) breach of any of Clauses 12.5 to 12.7;

- b) unauthorised disclosure, use, modification or access, attempted unauthorised disclosure, use, modification or access, or misuse or loss of any Personal Information collected or held for the purposes of this Contract; or
- c) act or practice of yours which causes us to fail to comply with our obligations under the PDP Act or the Health Records Act,

you must notify us via the SVTS and cooperate with us in any investigation or other steps we take in response to that matter.

13. LIABILITY, INDEMNITY AND INSURANCE

13.1 You warrant and represent:

- a) the State, its servants and agents are not responsible at any time for any liabilities you incur or enter into as a result of, or arising from, your rights and obligations under this Contract or in relation to provision of the Training Services; and
- b) it is your responsibility to carry out your obligations under this Contract, receive Funds and to provide the Training Services at your own risk.

13.2 To the maximum extent permitted by Law, you indemnify (and must at all times keep indemnified) us, the State and employees, servants and agents of us or the State (referred to in this Clause 13 as **those indemnified**) from and against all Losses sustained or incurred by those indemnified and arising out of or relating to any death or injury to a person, damage to property or other loss caused (or to the extent contributed) by any act or omission of you, or your employees, servants, subcontractors or agents, in connection with this Contract or the Training Services.

13.3 Your liability to indemnify us under Clause 13.2 will be reduced proportionally to the extent that a negligent, wilfully reckless, or unlawful act or omission of those indemnified has directly caused the relevant Loss or Claim.

13.4 You must, at your own expense:

- a) take out (with reputable insurers) all appropriate insurances at an adequate level to cover the provision of the Training Services and any risk, loss or damage arising out of or caused by the performance of those Training Services. This must include workers compensation insurance as required by Law and public liability, professional liability and indemnity, and property insurances;
- b) maintain each such insurance policy throughout the Term and (in the case of insurances taken out on a claims made basis) for seven years after the expiry of the Term; and
- c) comply with insurance requirements, including conducting and improving relevant risk management practices and incident notification processes.

13.5 You must:

- a) on our request, provide us with copies of insurance certificates of currency, including details of limits on cover, and any other evidence of insurances maintained; and
- b) promptly notify us via the SVTS if any insurance is cancelled or any insurance details change.

14. NOTICES AND REPRESENTATIVES

- 14.1 A Notice issued under this Contract by a Party must be:
- a) in writing; and
 - b) signed by or on behalf of the authorised representative of the Party giving it.
- 14.2 A Notice must be issued by being either:
- a) hand delivered or sent by prepaid priority post (airmail if posted to or from a place outside Australia) to the recipient's address for Notices as follows:
 - i) for Notices to us, the Executive Director, Training Market Services, 2 Treasury Place, East Melbourne, 3002, or as varied by any Notice given by us;
 - ii) for Notices to you, the Head Office address listed in training.gov.au; or
 - b) sent by email (with a read receipt requested) to:
 - i) for Notices to us, training.market.services@education.vic.gov.au
 - ii) for Notices to you, the email address of your CEO listed in training.gov.au.
- 14.3 A Notice takes effect from the time it is received, unless a later time is specified in it, and only if it is given in accordance with Clauses 14.1 and 14.2. A Notice will be deemed to have been received by the addressee:
- a) in the case of hand delivery, at the time of delivery;
 - b) in the case of prepaid priority post, on the second Business Day (or seventh Business Day if posted to or from a place outside Australia) after posting; or
 - c) if sent by email, at the time that the sender's information system recorded that the email (including any attachments) left that information system, unless within one Business Hour, the sender is informed (by automatic notice or otherwise) that delivery has failed,
- but if the event that would otherwise give rise to deemed receipt occurs on a day that is not a Business Day or after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.
- 14.4 The authorised representative of each Party who will be responsible for issuing and receiving Notices under this Contract is as follows:
- a) our representative is the Executive Director or the Deputy Secretary; and
 - b) your representative is your CEO as listed in training.gov.au.

15. DISPUTE RESOLUTION

- 15.1 The Parties must attempt to resolve any Disputes prior to employing the dispute resolution procedure provided for in this Clause 15.
- 15.2 A Party claiming that a Dispute has arisen must promptly give the other Party a Dispute Notice. A Dispute Notice may be withdrawn at any time by the Party that gave the notice.
- 15.3 Within 10 Business Days of the date of issue of the Dispute Notice, the Parties must enter into good faith discussions in an attempt to resolve the issues between them and must not

- unreasonably delay or hinder the dispute resolution process provided for under this Clause 15.
- 15.4 If the Parties have not resolved the Dispute within 20 Business Days of the date of issue of the Dispute Notice, either Party may refer the dispute to the Minister or the Minister's nominee.
- 15.5 The Parties acknowledge and agree that the Minister or the Minister's nominee may:
- a) provide written directions to the Parties as to the resolution of the Dispute; or
 - b) make such other decisions as the Minister or the Minister's nominee considers appropriate.
- 15.6 Any decision of the Minister or the Minister's nominee that constitutes a written direction by the Minister or the Minister's nominee to a Party will be taken to be conclusive and binding on that Party.
- 15.7 Despite the existence of a Dispute, the Parties must continue to perform their obligations under this Contract.
- 15.8 This Clause 15 does not limit or otherwise affect our rights, which includes all of our rights under, this Contract, including our right to terminate it.
- 15.9 This Clause 15 does not apply to a Dispute arising under Clause 11 or Clause 17 or Clause 11 of Schedule 1.

16. ENFORCEMENT

- 16.1 We may take one or more of the actions in Clause 16.2 if:
- a) you have breached, or we reasonably suspect that you have breached or may breach, this Contract (whether or not the breach, or suspected breach or potential breach, is a Material Breach);
 - b) an event referred to in Clause 17.4 has occurred, or we reasonably suspect that such an event has occurred or may occur; or
 - c) you have breached an obligation to make a payment to us in relation to any earlier agreement between the Parties under the Skills First Program, the Victorian Training Guarantee Program and/or the Skills for Victoria Program, whether or not such amounts comprise a refund of funds we previously paid or any interest, penalty, or other moneys.
- 16.2 If we are entitled to do so under Clause 16.1, we may issue a Notice to:
- a) direct you to suspend part or all of the provision of Training Services under this Contract (whether for one individual, a group of individuals or all individuals);
 - b) withhold or suspend payment of any part of the Funds we determine is appropriate until we are satisfied that you are entitled to be paid those Funds under this Contract;
 - c) cancel your entitlement to any part or all of the Funds you have been paid or have claimed;
 - d) require you to refund such amount of the Funds previously paid as we reasonably deem appropriate (together with interest calculated daily at the rate prescribed under *Penalty Interest Rates Act 1983 (Vic)* until you have refunded the amount);

- e) require that you pay to the Secretary a monetary amount specified in, or calculated in accordance with, this Contract (in which case Clause 16.6 applies);
 - f) where Clause 16.1(a) applies, seek an order for specific performance. As set out in section 3.1.5 of the Act, the order for specific performance will be available despite anything to the contrary in a rule of, or principle at, common law or equity, even though:
 - i) adequate damages may be available for the breach of this Contract; or
 - ii) enforcement of this Contract may require personal services to be provided;
 - g) require you to pay any money we have expended to make good any non-compliance by you with this Contract; and
 - h) require you to pay any money we have paid to any auditor, reviewer or investigator, or any other authorised person, to verify the delivery, replacement or correction of any of the Training Services by you.
- 16.3 In addition to our powers under Clause 16.2, if we become aware of what we consider to be an irregularity or inconsistency regarding your operations, reporting or other obligations under this Contract, which you fail to explain to our reasonable satisfaction in the time we require, we may withhold or suspend payment of any part of the Funds that we determine appropriate until we are satisfied that you are entitled to be paid those Funds.
- 16.4 For the purposes of this Clause 16, we may exercise any of our rights under Clause 16.2(a) to (f) or Clause 16.3 as if you have breached (or we reasonably suspect you have breached) an obligation under this Contract for a population (or proportion of that population) for whom you have claimed Funds if:
- a) we have a reasonable basis to believe that a breach of an obligation under this Contract has occurred in relation to a number of individuals in a sample from the population;
 - b) that sample of individuals was randomly selected; and
 - c) that number of individuals from the sample, and that sample, are each of such a size that it is statistically valid for us to make the extrapolation to the population of individuals.
- 16.5 Where we require a payment from you under Clause 16.2 and have not recovered that amount under Clause 8.9, you must pay the amount due within 30 days, or such other timeframe we specify.
- 16.6 To avoid doubt, where you are required to pay a monetary amount to us in accordance with Clause 16.2(e) as a result of:
- a) a breach of this Contract;
 - b) a failure to meet a performance requirement specified in this Contract which does not fall within subclause (a); or
 - c) termination of this Contract,
- you will (as set out in section 3.1.4 of the Act) be obliged to make payments despite anything to the contrary in a rule of, or principle at, common law relating to liquidated damages or penalties.

17. TERMINATION RIGHTS

17.1 In addition to any other termination rights we have, we may terminate this Contract at any time by issuing a Notice to you. Such a termination will take effect 20 Business Days after the Notice takes effect under Clause 14.2, or at any later time specified in the Notice.

17.2 If we terminate this Contract under Clause 17.1, we will determine and pay:

- a) amounts that, in our reasonable opinion, are due and payable under Clause 8 as at the date of termination; and
- b) reasonable costs (but not including loss of profit or income) that, in our reasonable opinion, have been necessarily and directly incurred by you as a result of the termination, provided that you have, to our reasonable satisfaction:
 - i) used your best efforts to minimise any costs arising as a result of the termination; and
 - ii) provided adequate documentary evidence to substantiate those costs.

17.3 This Contract may be terminated at any time by written agreement between you and us.

17.4 We may terminate this Contract immediately by issuing a Notice to you if:

- a) you commit a Material Breach;
- b) you commit a breach of this Contract (whether or not it is a Material Breach) which cannot be remedied;
- c) you commit a breach of this Contract (whether or not it is a Material Breach) and you:
 - i) fail to commence action to remedy the breach within 10 Business Days after we have served a Notice requiring you to do so; or
 - ii) having commenced action to remedy the breach, fail to complete that action as soon as possible and in any event within 20 Business Days of our Notice;
- d) without limiting paragraphs (a) to (c), you fail to provide some or all of the Training Services for which Funds have been claimed and/or paid or any such Training Services are not provided to a standard satisfactory to us;
- e) there has been any fraud, or we reasonably suspect any fraud, relating to you or the Funds, or there has been any misappropriation of Funds by you or any other misleading or deceptive conduct on your part in connection with this Contract or the claiming, receipt or use of the Funds;
- f) your registration as a registered training organisation under the Act or the National Act is suspended, withdrawn, cancelled or otherwise ceases;
- g) an Other VET Funding Arrangement Termination Event occurs;
- h) an Other VET Funding Arrangement Termination Event occurs to another registered training organisation that is a member of the Training Provider Group;
- i) you are abolished under section 3.1.11(1)(b) of the Act;
- j) your Board/Council is abolished under section 3.1.12(1)(c) of the Act; and/or
- k) an administrator is appointed to you under section 3.1.21 of the Act.

18. EFFECT OF SUSPENSION OR TERMINATION

18.1 We may exercise our right to give you a direction under Clause 4.7 if:

- a) this Contract is terminated;
- b) you suspend delivery of the Training Services for any Skills First Student under a direction given by us under Clause 16.2(a); or
- c) you otherwise cease to deliver the Training Services for any Skills First Student before they have completed or withdrawn from the relevant program.

18.2 A direction referred to in Clause 18.1 may, for example, require you to:

- a) assist Skills First Students to transfer to another registered training organisation to continue the training they have commenced under this Contract; and
- b) issue statements of attainment for subjects the Skills First Student has completed.

18.3 Where this Contract was terminated under Clause 17.4(f), we may require you to refund such amount of the Funds paid at any time from the date of the relevant suspension, withdrawal, cancellation or cessation as we reasonably deem appropriate (together with interest calculated daily at the rate prescribed under the *Penalty Interest Rates Act 1983 (Vic)*, for the period between us demanding the refund and you refunding the Funds).

19. SURVIVAL

19.1 The following Clauses survive the termination or expiry of the Term of this Contract and may be enforced at any time:

a) body of this Contract:	b) Schedule 1.
1;	3.3, 3.4 and 3.5;
3;	4.6 and 4.7;
4.5, 4.10;	5.2;
6.10;	6.3 and 6.6;
8;	9;
9;	10;
10;	11; and
11.1 - 11.3 and 11.8;	12.
12;	
13;	
14;	
15;	
16;	
18; and	
19	

19.2 After the termination or expiry of the Term we will pay you any remaining Funds (subject to all of the payment conditions set out in this Contract and our rights and remedies under Clauses 8.9 and 8.10 and otherwise).

Draft 2024-25 TAFE VET Funding Contract
Schedule 1
Skills First Program Specifications

VERSION	DATE	COMMENTS
1.0	September 2023	

PURPOSE

This Schedule 1 further describes your obligations for delivering Skills First subsidised training. It must be read in conjunction with the rest of this Contract.

It is divided into three parts.

Part A includes obligations about attracting prospective students, assessing and evidencing eligibility, enrolment processes and delivering training to Skills First Students:

1. Student information and protection;
2. Skills First eligibility;
3. Assessing and evidencing eligibility
4. Pre-Training Review and enrolment requirements;
5. Tuition and other fees;
6. Planning for training and assessment;
7. Training and assessment; and
8. Practical Placements.

Part B includes obligations about reporting and making claims for payment of the Funds and our rights in relation to certain types of audits:

9. Evidence of Participation;
10. Reporting training activity, government-subsidised tuition fees and other information;
11. Determining and paying Funds; and
12. Specific audits or reviews.

Part C sets out conditions of programs and initiatives that allow you to grant eligibility exemptions or Fee Waivers:

13. Asylum Seeker VET Program;
14. Training to Support the 10-Year Industry Plan for Family Violence Prevention and Response;
15. Youth Access Initiative; and
16. Free TAFE for Priority Courses.

PART A

1. STUDENT INFORMATION AND PROTECTION

Marketing and recruiting students

1.1 You must be accurate and honest, and act in an ethical and responsible manner, when marketing (including promoting and advertising) programs on the Funded Scope and recruiting prospective students, including by:

- a) complying with all applicable Laws, including the Australian Consumer Law;
- b) ensuring that you accurately inform all prospective students about:
 - i) the nature and requirements of the training and assessment;
 - ii) financial arrangements, including the cost and other financial impacts on the prospective student;
 - iii) training hours and commitment;
 - iv) the expected outcomes of the training; and
 - v) any subcontract arrangements that will impact on who delivers the training and assessment to the prospective student;
- c) not making false, misleading or inaccurate:
 - i) comparisons between you or any of your training with other education providers or their training;
 - ii) claims of your association with any other education provider; or
 - iii) representations regarding the quality or outcomes of your training (including employment and immigration outcomes);
- d) not engaging in any unconscionable conduct, including taking advantage of any prospective student's vulnerability (including due to their age, disability or illiteracy) to recruit them into a program of training; and
- e) not marketing programs as Skills First subsidised training if you are not permitted to offer those programs in that manner under this Contract, including Foundation Skills Programs if you are not on the Foundation Skills Approved Provider List.

Promotional materials

1.2 Any promotional publication, report, signage or other material you prepare (or that any person prepares on your behalf) relating to the Training Services must:

- a) acknowledge in a prominent way that the Training Services are provided with Funds made available by the Victorian and Commonwealth Governments (for example, by stating that 'This training is delivered with Victorian and Commonwealth Government funding');
- b) not, without our prior written approval or prior written approval of the State, use any of our logos or trade marks or those of the State;
- c) ensure that such materials meet the requirements of the *Equal Opportunity Act 2010* (Vic) and related Laws, including the provision of materials encouraging individuals with disabilities to access training subsidised through the Skills First Program; and

- d) accurately identify you by your legal entity name and/or registered business name, and include your TOID.

Website and Victorian Skills Gateway

- 1.3 You must publish in a prominent place on your website:
 - a) standard tuition fees for Skills First subsidised training for each program you deliver on the Funded Scope. This must be kept up to date and include the following caveat:

'The student tuition fees as published are subject to change given individual circumstances at enrolment';
 - b) details of any other fees, including student services, amenities, goods or materials;
 - c) a list of all providers of Brokering Services;
 - d) where there is a subcontract arrangement for training and assessment, the identity of the subcontractor, and your role and the role of the subcontractor in the provision of training and assessment; and
 - e) your complaints and appeals process.
- 1.4 You must register for, and maintain, an up to date profile on, the Victorian Skills Gateway.

2. SKILLS FIRST ELIGIBILITY

- 2.1 You must read the eligibility criteria and requirements set out in this Clause 2 in conjunction with the Guidelines About Eligibility. In particular, these Guidelines set out which forms of Evidence of Eligibility we accept and provide information about how to apply the eligibility requirements in particular circumstances.

Eligibility requirements

- 2.2 To be eligible for Skills First subsidised training, an individual must be:
 - a) an Australian citizen, a holder of a permanent visa or a New Zealand citizen (the '**citizenship /permanent residence**' eligibility criterion);
 - b) enrolling in and commencing training in a program provided by you between the Commencement Date and 31 December 2025 inclusive; and
 - c) physically present in the State of Victoria at all times at which they are undertaking the training and assessment.

The only exception to this 'physical presence' requirement is where a Skills First Student is temporarily located interstate or overseas for a defined period for a Practical Placement associated with their training. During the period the Skills First Student is interstate or overseas, they may receive online training and assessment, provided that such online training and assessment only accounts for up to 50% of the total Scheduled Hours.

Limits on the amount of training that can be subsidised

2.3 In addition to meeting the eligibility requirements in Clause 2.2, a Skills First Student can only:

- a) commence a maximum of two Skills First subsidised Skill Sets in a calendar year (**the '2 Skill Sets in a year' limit**).

Where an individual is enrolled in a Skill Set(s) that is scheduled to commence at a later date in that calendar year, this Skill Set(s) must be counted for the purpose of this limit;

- b) commence a maximum of two Skills First subsidised programs that are AQF qualifications in a calendar year (**the '2 AQF qualifications in a year' limit**).

Where an individual is enrolled in a program(s) that is scheduled to commence at a later date in that calendar year, this program(s) must be counted for the purpose of this limit; and

- c) undertake a maximum of two Skills First subsidised programs at any one time (**the '2 at a time' limit**).

Eligibility exemptions

2.4 You may exempt an otherwise ineligible individual from particular eligibility requirements or limits on the amount of training that can be subsidised only if you are permitted to do so in accordance with Part C of this Schedule 1.

2.5 You must also refer to Part C of this Schedule 1 and the Guidelines About Eligibility for information about specific programs or circumstances that are not to be taken into account in determining an individual's eligibility.

Additional eligibility requirements for Apprentices and Trainees

2.6 If an individual is an Apprentice or Trainee, to be eligible for Skills First subsidised training they must be:

- a) employed in Victoria in either a full time or part time capacity under an award or registered agreement;
- b) undertaking an Approved Training Scheme; and
- c) a signatory to a Training Contract with their employer that is registered with the VRQA.

Additional eligibility requirements for individuals under 17 years of age

2.7 If an individual will be under 17 years of age at the time their training commences, unless they are undertaking training as part of a School Based Apprenticeship or Traineeship, to be eligible for Skills First subsidised training, they must have received an exemption from school attendance.

- 2.8 To receive an exemption from school attendance, an individual must participate in training on a **full-time basis**¹, or participate in a combination of training and employment. The exemption from school attendance referred to in Clause 2.7 must:
- a) clearly identify:
 - i) you as the training provider and the training to be undertaken; or
 - ii) the employer, if the individual is to undertake an Apprenticeship or Traineeship; and
 - b) be signed by:
 - i) a Department of Education Regional Director if the individual has **not yet completed Year 10**²; or
 - ii) the school principal or a Department of Education Regional Director if the individual **has completed Year 10**; or
 - iii) a Department of Education Regional Director if the individual **is not currently, or has not ever been, enrolled in a Victorian school**, for example, an individual registered for home schooling or who has previously only undertaken schooling interstate or overseas.
- 2.9 You must sight and retain evidence of the exemption from school attendance in accordance with the Guidelines About Eligibility.
- 2.10 Where a student under 17 years of age is enrolled in training on the basis that they have been granted an exemption from school attendance to undertake a specific program with you, if they stop attending that program, or complete that program, and are at that time still under 17 years of age, you must notify the relevant Regional Office of the Department of Education and (where applicable) the student's previous Victorian school that they are no longer attending training.

Eligibility exclusions

- 2.11 An individual is not eligible for Skills First subsidised training if they are:
- a) enrolled in a school (unless they are a School Based Apprentice or Trainee). This includes:
 - i) any government, non-government, independent or Catholic school; or

¹ Training on a 'full-time basis' has the meaning given in Ministerial Order No. 705, that is:

- a) a course of education or training considered to be full-time by the provider of the education or training; or
- b) an average of at least 25 hours per week, subject to the following provisions:
 - i) when computing the 25 hours, the time spent by the child in travelling to and from an education institution or employer is to be excluded; and
 - ii) normal term and public holidays of an education institution and recreation leave and other leave entitlements if the student is in employment are excluded when calculating the average number of hours spent in education, training and employment per week.

² 'completed Year 10' has the meaning given in Ministerial Order No. 705, that is:

- a) the completion of a program of study at a registered school or as part of registered home schooling in Victoria that would ordinarily entitle the student to progress to a senior secondary course;
- b) the completion of a nationally recognised VET course as equivalent to Certificate I or above;
- c) the completion of a program of study undertaken in another State, Territory or country which is equivalent to a program of study in Victoria that would ordinarily entitle the student to progress to a senior secondary course; or
- d) the completion of education in any special, similar or other circumstances approved by the Secretary of the Department of Education.

- ii) a student registered for home schooling in Victoria;
 - b) a prisoner held at a prison within the meaning of the *Corrections Act 1986* (Vic);
 - c) detained under the *Mental Health Act 2014* (Vic), the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic) or the *Sentencing Act 1991* (Vic) at the Thomas Embling Hospital; or
 - d) detained (other than on weekend detention) under the *Children, Youth and Families Act 2005* (Vic) or the *Sentencing Act 1991* (Vic) or held on remand in a youth justice facility.
- 2.12 The exclusions described in Clause 2.11(b) to (d) of this Schedule 1 **do not apply** to individuals who are:
- a) either:
 - i) young people on community based orders made under the *Children, Youth and Families Act 2005* (Vic); or
 - ii) individuals held in Judy Lazarus Transition Centre; and
 - b) able to physically access training outside of a custodial setting without supervision.

3. ASSESSING AND EVIDENCING ELIGIBILITY

Assessing eligibility

- 3.1 You must determine whether an individual is eligible to receive their Skills First Entitlement before their commencement in training.
- 3.2 You must have a clear and documented business process for determining if an individual is eligible for Skills First subsidised training. This process must include assessment of all the requirements in Clause 2 of this Schedule 1 and must comply with the Guidelines About Eligibility.

Evidencing eligibility

- 3.3 In accordance with the Guidelines About Eligibility, you must, for each Skills First Student:
- a) record your assessment of the individual's eligibility using the form we prescribe in those Guidelines, or in a form that records the same information; and
 - b) sight and retain Evidence of Eligibility.

Additional evidence requirements

- 3.4 If you grant an eligibility exemption to an individual in accordance with a program or initiative in Part C of this Schedule 1, you must sight and retain any additional evidence that is specified.
- 3.5 If you enrol an individual in a program that, as part of that program's accreditation, includes a requirement for them to provide evidence that they meet particular entry requirements, you must sight and retain a copy of that evidence.

For example, to enrol in 22567VIC Certificate I in Transition Education an individual must provide evidence of permanent cognitive impairment or intellectual disability.

4. PRE-TRAINING REVIEW AND ENROLMENT REQUIREMENTS

Pre-Training Review

- 4.1 You must conduct a Pre-Training Review for each prospective Skills First Student, as part of enrolment, or before the commencement of training, to ascertain a suitable, and the most suitable, program for that individual to enrol in.
- 4.2 You must have a clear and documented business process for conducting the Pre-Training Review. The business process must be consistent with the objectives set out in Clause 3 of this Contract.
- 4.3 The Pre-Training Review must:
- a) identify the individual's objectives for training and the likely job or further study outcomes from the development of new competencies and skills;
 - b) identify any competencies previously acquired (including through RPL, recognition of current competency (RCC) or credit transfer);
 - c) consider the individual's:
 - i) existing educational attainment and capabilities;
 - ii) literacy and numeracy skills; and
 - iii) digital capability where the proposed learning includes portions delivered online; and
 - d) identify whether the proposed learning strategies (including online learning) and materials are appropriate for that individual and, where necessary, steps to overcome any barriers.
- 4.4 You must document why you determined the program each Skills First Student enrolled in was a suitable, and the most suitable, program for that individual, with reference to the information obtained through considering all items in Clause 4.3 of this Schedule 1.
- 4.5 You must not enrol a Skills First Student in a program that is at an inappropriate level for that individual, including in Foundation Skills Programs that would not provide additional relevant competencies.
- For example, it would be inappropriate to enrol an individual assessed at Australian Core Skills Framework Level 3 in all core skills areas in either Certificate I in General Education for Adults or Certificate II in Skills for Work and Vocational Pathways.
- 4.6 If an audit reveals that any Pre-Training Review has not been completed and documented in accordance with Clauses 4.1 to 4.5 of this Schedule 1, then (without limiting the circumstances in which we may exercise such rights) we may exercise our rights under Clauses 16 and 17 of this Contract.
- 4.7 For the purpose of exercising our rights under Clause 16.2(e) of this Contract in the circumstances set out in Clause 4.6 of this Schedule 1, the monetary amount will be \$200.00 per absent, incomplete or inadequate Pre-Training Review.

Enrolment requirements

- 4.8 Before enrolling a prospective Skills First Student, you must inform them that their enrolment is under the Skills First Program and must explain how their enrolment will impact their future Skills First Entitlement.

- 4.9 You must enrol all individuals as Skills First Students in accordance with:
- a) the Victorian VET Student Statistical Collection Guidelines; and
 - b) all applicable Regulatory Standards.
- 4.10 You must ensure that your enrolment processes include asking all mandatory standard enrolment questions as described in the Victorian VET Student Statistical Collection Guidelines.
- 4.11 You must include a standard privacy notice in all enrolment forms, in accordance with the Victorian VET Student Statistical Collection Guidelines, which advises individuals how their data may be supplied to, and used by, us and Commonwealth VET Student Loan agencies.
- 4.12 You must advise prospective Skills First Students of the possibility of being contacted by NCVET or us including to request their participation in:
- a) an NCVET survey;
 - b) our annual student outcome survey; and/or
 - c) our audit, review or investigation processes.

5. TUITION AND OTHER FEES

- 5.1 You may determine the tuition fee you charge to any Skills First Student for delivery of programs on the Funded Scope, unless:
- a) the individual has an entitlement to a Fee Concession; or
 - b) there is a requirement to apply a Fee Waiver.
- 5.2 You must comply with the requirements in the Guidelines About Fees for levying tuition and other fees, including collecting and maintaining evidence to support the application of Fee Concessions and Fee Waivers.

6. PLANNING FOR TRAINING AND ASSESSMENT

Training and Assessment Strategy

- 6.1 You must have a Training and Assessment Strategy consistent with Standard 1 of the National RTO Standards and User Guide for each program you deliver on the Funded Scope.
- 6.2 You must justify and document in the Training and Assessment Strategy if a program is structured so it will be completed in a shorter time than described in the Australian Qualifications Framework. This justification must be based on the previous skills, knowledge and needs of the students, and explain how the relevant cohort:
- a) has the characteristics to achieve the required rigour and depth of training; and
 - b) can meet the competency requirements in a shorter time.
- 6.3 You must have a clear and documented business process to review, evaluate and update all Training and Assessment Strategies from time to time to ensure that they continue to comply with this Contract.

General Training Plan requirements (non-Apprentice/Trainee Skills First Students)

- 6.4 You must develop a Training Plan for each non-Apprentice/Trainee Skills First Student for each program they are enrolled in, to ensure they are fully informed about:
- a) the nature of their training and assessment; and
 - b) their obligations and those of you as the training provider.
- 6.5 You must ensure the Training Plan for a non-Apprentice/Trainee Skills First Student :
- a) is consistent with the programs or subjects to be attained and is customised (as required) for the needs of an individual; and
 - b) aligns with the relevant Training and Assessment Strategy, or documents and justifies any variation from the Training and Assessment Strategy.
- 6.6 You must have a clear and documented business process that shows how you authorise information in the Training Plan and make it available to each non-Apprentice/Trainee Skills First Student.
- 6.7 You must develop the Training Plan and provide it to the non-Apprentice/Trainee Skills First Student either before training commencement, or no later than four weeks after training commencement.
- 6.8 You are not required to issue a Training Plan under Clause 6.5 of this Schedule 1 for a Skill Set that is a single subject. However, you must ensure the Skills First Student is accurately informed of the nature and requirements of the training and assessment to make an informed decision about their enrolment.

Additional Training Plan endorsement for training conducted in a workplace

- 6.9 You must ensure that a Training Plan for a non-Apprentice or Trainee Skills First Student who is to participate in training conducted in a workplace where they are employed is agreed to and signed by the employer that manages and controls the workplace.

Form of Training Plan (non-Apprentice/Trainee Skills First Students)

- 6.10 You may provide the information in the Training Plan for a non-Apprentice/Trainee Skills First Student:
- a) in a single document or in a number of separate documents; and
 - b) either as a generic plan for a group of individuals who are undertaking the same training in the same way, or as a single plan for each individual.

Content of Training Plan (non-Apprentice/Trainee Skills First Students)

- 6.11 You must include the following in the Training Plan for a non-Apprentice/Trainee Skills First Student:
- a) your name and contact details;
 - b) title and code of program;
 - c) expected duration of the program;
 - d) title and code for each subject to be completed as part of the program;
 - e) timeframe for each subject, including the start date and end date of each subject;

- f) delivery modes to be used for each subject;
- g) method(s) of assessment for each subject;
- h) persons responsible for the delivery and/or assessment of each subject (or, where this information is not available within the timeframe for first issuing a Training Plan, it must be made available as soon as is reasonably practicable); and
- i) record of RPL and credit transfer hours granted, as relevant.

Maintenance of Training Plan (non-Apprentice/Trainee Skills First Students)

- 6.12 You must update the Training Plan for a non-Apprentice/Trainee Skills First Student according to any changes that occur during the delivery of training and/or assessment and ensure each individual receives the updated information as soon as is reasonably practicable.
- 6.13 You must monitor each non-Apprentice/Trainee Skills First Student's progress in attaining the required competencies of the program, in line with the Training Plan.

General Training Plan requirements (Apprentice/Trainee Skills First Students)

- 6.14 You must jointly develop a Training Plan with the employer and the Apprentice/Trainee for the program the Apprentice/Trainee is enrolled in under the relevant Approved Training Scheme.
- 6.15 You must ensure the Training Plan for an Apprentice/Trainee Skills First Student:
 - a) aligns with the relevant Training and Assessment Strategy, or documents and justifies any variation from the Training and Assessment Strategy;
 - b) is vocationally relevant;
 - c) reflects industry requirements; and
 - d) is supported by appropriate work within the workplace.
- 6.16 You must sign (and date) the Training Plan, and obtain the dated signatures of the employer and the Apprentice/Trainee (and the school in the case of a school-based Apprenticeship/Traineeship) on the Training Plan. You must provide a copy of the signed Training Plan to all parties.
- 6.17 You may develop the Training Plan for an Apprentice/Trainee before training commencement but in any case must develop it and ensure it is signed no later than four weeks after the commencement of training.

Content of the Training Plan (Apprentice/Trainee Skills First Students)

- 6.18 You must include the following in the Training Plan for an Apprentice/Trainee:
 - a) name and contact details of your representative, the employer and the Apprentice/Trainee (and, in the case of school-based Apprentices/Trainees, the school's representative);
 - b) title and code of program;
 - c) expected duration of the program;
 - d) title and code for each subject to be completed as part of the program;
 - e) Scheduled Hours for each subject;

- f) timeframe for each subject, including the start date and end date of each subject, and including actual dates for when training has already occurred;
- g) delivery modes and persons responsible for the delivery and/or assessment of each subject, including Structured Training: Workplace based, Structured Training off-the-job and/or detailed training activities to be undertaken as part of any workplace based training arrangements (or, where this information is not available within the timeframe for first issuing a Training Plan, it must be made available as soon as is reasonably practicable);
- h) details of the time allocated outside routine work duties for Structured Training Workplace based and/or Structured Training off-the-job;
- i) assessment method(s) for each subject;
- j) record of RPL and credit transfer hours granted, as relevant; and
- k) any other specific requirements to be met in accordance with the Training Contract or the Approved Training Scheme.

Maintenance of Training Plan (Apprentice/Trainee Skills First Students)

6.19 To facilitate competency based progression and completion, you must regularly review the Training Plan and ensure it reflects the current status of the Apprentice/Trainee's training.

6.20 You must update the Training Plan for an Apprentice/Trainee according to any changes mutually agreed with the parties to the Training Contract throughout the delivery of the training and assessment. The changes must be endorsed by the employer and Apprentice/Trainee.

For example, the employer and Apprentice/Trainee (but not you as the training provider) can:

- a) specify that completion will be available earlier than the nominal completion date of the Training Contract if all competencies have been attained; or
- b) mutually agree to apply for an extension to the Training Contract duration if all required competencies have not been attained by the nominal completion date.

7. TRAINING AND ASSESSMENT

Amount of training

7.1 The amount of training you deliver for programs on the Funded Scope must be determined with reference to the matters described in Clause 1.1 and 1.2 of Standard 1 of the National RTO Standards.

Deliver training and assessment in accordance with Training and Assessment Strategy and Training Plan

7.2 You must deliver all training and assessment in programs on the Funded Scope in accordance with the relevant Training Plan and Training and Assessment Strategy.

Requirements for assessment in a workplace

7.3 Where the Training Package or course curriculum requires that a subject be assessed in the workplace, you must visit the Skills First Student's workplace in person to carry out that assessment.

Learning materials provided online

- 7.4 You must ensure that all learning materials provided online comply with the principles of the Web Content Accessibility Guidelines 2.0.

Training delivery where other regulatory requirements apply

- 7.5 If any additional requirements in Regulatory Standards or other Laws apply to specific programs or types of training on the Funded Scope, you must comply with those requirements, including:
- a) for training delivered to Apprentices/Trainees, the requirements of the Act and the Guidelines About Apprenticeship/Traineeship Training Delivery; and
 - b) for the Diploma of Nursing, requirements set by the Nursing and Midwifery Board of Australia, including only delivering an 'Approved Program of Study'.

Issuing certificates and statements of attainment

- 7.6 You must issue recognised certificates or statements of attainment in accordance with the specifications of the relevant accredited courses and Training Packages, as well as any other applicable guidelines, regulations or legislation (including the Guidelines About Apprenticeship/Traineeship Training Delivery for completions by Apprentices/Trainees).

8. PRACTICAL PLACEMENTS

- 8.1 If a Skills First Student is to undertake a Practical Placement, you must enter into a written Practical Placement agreement.

- 8.2 The Practical Placement agreement must be made before the Skills First Student commences the Practical Placement and must be signed by:

- a) you;
- b) the employer or the organisation hosting the Practical Placement; and
- c) the Skills First Student.

- 8.3 The Practical Placement agreement must include the following information:

- a) the rights, obligations and duties of the employer or organisation hosting the Practical Placement, you as the training provider and the Skills First Student;
- b) the program name and the relevant skills required as part of that program to be developed, reinforced and/or assessed during the Practical Placement;
- c) the location and address of the Practical Placement; and
- d) the start and finish dates, the total length of the Practical Placement expressed as hours, and the maximum hours per week.

- 8.4 You must ensure the Practical Placement is sufficient and appropriate in order to meet the vocational outcomes of the subjects to which it pertains.

- 8.5 If the Practical Placement is to take place interstate, the Practical Placement agreement must:
- a) show that the duration of the Practical Placement is no more than 6 months; and
 - b) state that the Skills First Student is enrolled in training in Victoria, and as such the work undertaken during the Practical Placement is connected to Victoria.
- 8.6 You must refer to the 'Guidelines issued by the Department of Education and Training Victoria for Registered Training Organisations and Employers in relation to Post-Secondary Students undertaking Practical Placements (Updated [Practical Placement Guidelines](#)) as at 7 October 2022', in particular for information about insurance coverage for a Skills First Student undertaking a Practical Placement.

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PART B

9. EVIDENCE OF PARTICIPATION

- 9.1 You must document Evidence of Participation at the subject level for all programs on the Funded Scope that are delivered to Skills First Students.
- 9.2 You must document Evidence of Participation for each subject in a way that enables us to make a reasonable judgement about a Skills First Student's participation in learning and/or assessment.
- 9.3 We will determine if Evidence of Participation provided is sufficient to substantiate the claim that a Skills First Student participated in learning and/or assessment.
- 9.4 To be valid, Evidence of Participation must contain:
- a) the Skills First Student's name or client identifier;
 - b) a subject identifier; and
 - c) a date expressed in day/month/year format.
- 9.5 The number of items of Evidence of Participation that you must document and maintain for each subject is as follows:

If:	you must document and provide:
a) the period between the Activity Start Date and Activity End Date (inclusive) for the subject is 30 days or fewer	one item of Evidence of Participation;
b) the period between the Activity Start Date and Activity End Date for the subject is more than 30 days	two items of Evidence of Participation in compliance with the following conditions: i) one item must be dated no later than 30 days after (and no earlier than) the reported Activity Start Date; and ii) one item must be evidence of assessment for the subject as specified in Clause 9.7(d) of this Schedule 1;
c) the subject has an RPL outcome, regardless of the period between the Activity Start Date and Activity End Date	one item of Evidence of Participation which must be evidence of assessment for the subject, as specified in Clause 9.7(d) of this Schedule 1;
d) the subject has a withdrawn outcome, regardless of the period between the Activity Start Date and Activity End Date	one item of Evidence of Participation; or
e) the subject is a Literacy and Numeracy Support Unit, regardless of the period between the Activity Start Date and Activity End Date	one item of Evidence of Participation.

9.6 To avoid doubt, when a Skills First Student transfers to a superseding subject, the superseded and superseding subjects are treated as a single subject for the purposes of maintaining Evidence of Participation.

9.7 The only items of Evidence of Participation we accept are:

Item of Evidence of Participation	Explanation and minimum requirements
<p>a) Evidence of work submitted by the Skills First Student relating to engagement in the subject</p>	<p>This must be the work itself, or a copy if this is not possible.</p> <p>If the information required under Clause 9.4 of this Schedule 1 (student name or client identifier, a subject identifier and a date expressed in day/month/year format) cannot be recorded on the work itself, separate evidence must be provided to link the work to the Skills First Student, and the subject and date it was completed. For example, a delivery schedule (timetable, lesson plan or equivalent) detailing how the piece of work covers the subject in question, including due dates and milestones for completion of the work.</p>
<p>b) Skills First Teacher notes based on communication between the Skills First Teacher and Skills First Student, establishing their engagement in the learning and/or assessment activity of the subject</p>	<p>This includes personal interviews, two-way telephone conversations or e-mail exchanges, or other communication about the Skills First Student's engagement in learning and/or assessment activity of the subject.</p> <p>It may include reference to notes from another person working alongside the Skills First Teacher, for example an industry expert or workplace supervisor.</p>
<p>c) An attendance roll endorsed by you and showing that the Skills First Student attended a training session related to the subject.</p>	<p>The attendance roll must:</p> <ul style="list-style-type: none"> i) be recognised by you as a tool to record attendance used as part of your normal processes; ii) be accompanied by additional evidence to show how information is entered, updated and interpreted if the attendance roll is kept electronically; iii) be signed by the Skills First Teacher who conducted the training session, and show their name; iv) include the date of the training session; and v) show what subject was delivered at the point at which the Skills First Student is marked on the roll as having attended. <p>For clustered delivery (where a training session or assessment activity covers more than one subject), we may request additional evidence to show what subjects were delivered in each training session, such as a delivery schedule (a timetable, lesson plan or equivalent), to verify that the attendance roll provides sufficient Evidence of Participation.</p>

Item of Evidence of Participation	Explanation and minimum requirements
	<p>Where a Skills First student has only attended the first class of a program, an attendance roll for a subject delivered in that class is not sufficient Evidence of Participation, unless you provide supporting documentation demonstrating that there was engagement in the learning and/or assessment activities of the subject indicated on the roll during that class. Attendance at an induction or orientation class alone is not sufficient Evidence of Participation.</p>
<p>d) Primary documentation that provides evidence of assessment for the subject</p>	<p>The documentation must be in the form of a secure record that shows the student has completed the assessment requirements for a subject and indicates an actual result (or results in the case of a number of assessment tasks) consistent with the outcome of an assessment (for example satisfactory/not satisfactory or 'competent/not yet competent').</p> <p>For example, documentation could include a completed learner assessment tool coversheet or a subject-level assessment summary (or similar) including when viewed in an online learning management system.</p> <p>For all RPL outcomes, only the primary assessment tool used for any skills recognition assessments will be accepted.</p> <p>The documentation must be signed by the Skills First Teacher who made the assessment, to confirm the accuracy of the information.</p>
<p>e) Secure login to an online learning management system and evidence of the Skills First Student's engagement with learning and/or assessment activity required for the subject</p>	<p>Where a Skills First Student has a secure login (meaning they are issued a unique user ID and password) to an online learning management system to undertake learning and/or assessment activity for the subject, you must have:</p> <ul style="list-style-type: none"> i) a record of the login; and ii) evidence that you have checked with the student that they are continuing to engage in the subject. <p>A login record indicating the Skills First Student received training materials alone is not sufficient Evidence of Participation. Evidence of engagement with learning and/or assessment activity should also be provided, for example participation in a discussion forum, completion of an online quiz, completion of an online reflection task or similar activities.</p>
<p>f) In flexible and distance modes of learning, communication between you and the Skills First Student confirming that the Skills First Student has commenced engagement in learning and/or assessment activity</p>	<p>This must include evidence that you have checked with the Skills First Student that they are continuing to engage in the subject.</p>

Item of Evidence of Participation	Explanation and minimum requirements
g) In extreme circumstances (for example, fire, flood or other equivalent circumstances), a statutory declaration from the relevant Personnel attesting to the Skills First Student's engagement in learning and/or assessment activity	If extreme circumstances prevent you from retaining any of the items of Evidence of Participation in paragraphs (a) to (f), you must contact us for further information and comply with the requirements directed by or agreed with us.

Verifying Evidence of Participation

- 9.8 In undertaking an audit, review or investigation of Evidence of Participation, we may use judgement when a single item of Evidence of Participation is provided to verify participation in more than one subject.
- 9.9 We will not accept documents such as 'catch all' sets of questions as Evidence of Participation in the absence of other evidence of learning and/or engagement in the subject. These sets of questions are typically completed on the first day of an individual's attendance, covering all subjects within the cluster, and are not considered to demonstrate engagement in learning and/or assessment activity.

10. REPORTING TRAINING ACTIVITY, GOVERNMENT-SUBSIDISED TUITION FEES AND OTHER INFORMATION

Data submitted to SVTS must be timely and accurate

- 10.1 You must:
- a) submit accurate and complete Student Statistical Reports to us via the SVTS at least once every calendar month per data collection year;
 - b) include in each Student Statistical Report full details for all training activity already delivered within the data collection year, including government-subsidised and fee for service training activity. This includes delivery already commenced and/or completed in the current data collection year; and reporting of program completions; and
 - c) resubmit correct data by no later than the following month's Student Statistical Report if any data you previously submitted as part of Student Statistical Reports is incorrect.
- 10.2 You must ensure that all required data is included and correct in the final Student Statistical Report for each calendar year into which the Term extends and submit it to us via SVTS by no later than (whichever is the earlier date):
- a) 5pm on the Final Data Submission Date; or
 - b) one month after the expiry of the Term or termination of this Contract.
- 10.3 You must ensure that reporting of key information about a Skills First Student and their program of training is accurate and complete at all times, including through the following data items:
- a) name and contact details of the Skills First Student as required in the NAT00085 file;

- b) the Delivery Mode Identifier, Outcome Identifier – National, Activity Start Date and Activity End Date as required in the NAT00120 file; and
- c) Training Organisation Delivery Location Identifier as required in the NAT00120 file, and associated delivery location details as provided in the NAT00020 file.

Data submitted to SVTS must be certified and approved

10.4 Before submitting a Student Statistical Report under Clauses 10.1 and 10.2 of this Schedule 1, your CEO (or their nominee) must certify, by confirming through the SVTS submission screen or any other mechanism made available through SVTS, that:

- a) all of the data to be submitted is, to the best of their knowledge, accurate and complete; and
- b) they have made all reasonably necessary inquiries to satisfy themselves of the accuracy and completeness of the data.

10.5 Submitting a Student Statistical Report in accordance with Clause 10.4 of this Schedule 1 means we are entitled to rely on all data contained in it as having been approved by your CEO.

Reporting of the Victorian Student Number

10.6 You must comply with VET Provider reporting requirements for the Victorian Student Number (VSN) as specified by the Victorian Curriculum Assessment Authority, and must accurately report the VSN to us in Student Statistical Reports.

Reporting of withdrawals

10.7 You must report a Skills First Student's withdrawal from a program or subject in accordance with the requirements in the Victorian VET Student Statistical Collection Guidelines, by the earlier of:

- a) two months after the date of withdrawal; or
- b) the Final Data Submission Date.

Reporting of Literacy and Numeracy Support Units

10.8 You must report Literacy and Numeracy Support Units using the LNSUPPORT program code and in accordance with the requirements set out in the Literacy and Numeracy Support Implementation Guide.

11. DETERMINING AND PAYING FUNDS

Contact Hour Funds

11.1 Subject to the conditions and limitations set out in this Contract, we will pay you Contact Hour Funds by:

- a) multiplying the number of Scheduled Hours of training and assessment that you report under this Schedule 1 as delivered, or to be delivered, to a Skills First Student; with
- b) the applicable hourly rate per Scheduled Hour as identified in Clause 11.2 of this Schedule 1.

- 11.2 The hourly rate per Scheduled Hour is the rate specified in either the 'Subsidy' or 'RPL Subsidy' field of the Funded Programs Report (for the relevant payment year, Program Commencement Date and Enrolment Type), adjusted for the following loadings where applicable (including in accordance with Clause 11.3 of this Schedule 1):
- a) **Indigenous loading** – where the Skills First Student self-identifies as being of Aboriginal or Torres Strait Islander descent (and is reported as such through the 'Indigenous Student Identifier' field of the Student Statistical Report) the 'Subsidy' or 'RPL Subsidy' will be increased by 50%;
 - b) **Disengaged youth loading** – where the Skills First Student:
 - i) is aged 15-19 years as at 1 January in the year of commencement of training;
 - ii) does not hold a senior secondary certificate or an accredited qualification at AQF level II or above; and
 - iii) is eligible for a Fee Concession in accordance with Clauses 3.8, 3.12(a) and 3.12(b) of the Guidelines About Fees,the 'Subsidy' or 'RPL Subsidy' will be increased by 30%;
 - c) **VCE and VPC loading** – where the Skills First Student:
 - i) meets the requirements for the Disengaged Youth loading in subclauses (b)(i) and (ii); and
 - ii) is undertaking training in the VCE or the VPC, for subjects reported against the VCE or VPC program codes,the 'Subsidy' or 'RPL Subsidy' will be increased by 10%; and/or
 - d) **Regional loading** – where a subject is delivered to a Skills First Student in a delivery location reported with a regional postcode (as determined by us), the 'Subsidy' or 'RPL subsidy' will be increased by 10%.

The regional loading does not apply to online training and assessment or to distance education, which is deemed have occurred if the Predominant Delivery Mode reported is 'E' (external delivery). The only exception is for training delivery where the student's usual residential address is reported with a regional postcode (as determined by us).

- 11.3 If more than one of the loadings in Clause 11.2 of this Schedule 1 applies, we will apply the loadings cumulatively. For example, if the conditions for both the Indigenous Loading and the Regional Loading are met, the hourly rate would be increased by 50%, and then that increased rate would be increased by a further 10%.
- 11.4 Where a Skills First Student withdraws from a subject, we will calculate Contact Hour Funds for their enrolment in that subject based on the Hours Attended, not the Scheduled Hours.

Fee Concession Contribution

- 11.5 We will pay a Fee Concession Contribution where you have:
- a) granted a Fee Concession to a Skills First Student in accordance with the Guidelines About Fees; and
 - b) reported that Fee Concession in accordance with the Victorian VET Student Statistical Collection Guidelines.

- 11.6 We will calculate the Fee Concession Contribution amount payable by:
- a) multiplying the number of Scheduled Hours for which you are entitled to be paid Contact Hour Funds for the Skills First Student; with
 - b) the lesser of:
 - i) four times the actual hourly tuition fee paid by the Skills First Student as reported by you via the Client Tuition Fee field of the Student Statistical Report; or
 - ii) the 'Maximum Fee Concession Contribution per hour' for the Program, Enrolment Type and relevant concession type as identified in the Funded Programs Report.

Fee Waiver Contribution

- 11.7 We will pay a Fee Waiver Contribution where you have:
- a) granted a Fee Waiver to a Skills First Student in accordance with the Guidelines About Fees; and
 - b) reported that Fee Waiver in accordance with the Victorian VET Student Statistical Collection Guidelines.

11.8 We will:

- a) calculate the Fee Waiver Contribution for Fee Waivers granted in accordance with Clause 16 of this Schedule 1 (**Free TAFE for Priority Courses initiative**) by:
 - i) multiplying the applicable 'Free TAFE Contribution per Hour' (fixed value) for the program (as identified on the 'Free TAFE Fee Waiver Reimbursement Schedule'); with
 - ii) the number of Scheduled Hours for which you are entitled to be paid the Contact Hour Funds for the Skills First Student,

and adding a Free TAFE Fee Waiver regional loading of 10% where a subject is delivered to a Skills First Student in a delivery location reported with a regional postcode (as determined by us).

The Free TAFE Fee Waiver regional loading does not apply to online training and assessment or to distance education, which is deemed have occurred if the Predominant Delivery Mode reported is 'E' (external delivery). The only exception is for training delivery where the student's usual residential address is reported with a regional postcode (as determined by us); and
- b) calculate **all other Fee Waivers** by:
 - i) multiplying the number of Scheduled Hours for which you are entitled to be paid Contact Hour Funds for the Skills First Student; with
 - ii) the applicable 'Fee Waiver Contribution per Hour' (fixed value) for the program (as identified on the Funded Programs Report).

Payment of Funds

- 11.9 We will pay you Contact Hour Funds monthly in arrears on the basis of Student Statistical Reports you submit to us in accordance with this Contract.

11.10 We will calculate Contact Hour Funds at the subject level, and you will be paid for the Scheduled Hours reported for the subject in equal instalments over the number of months of scheduled delivery. Each monthly instalment will be for a whole number of Scheduled Hours. If the total number of Scheduled Hours divided by the number of months of scheduled delivery is not a whole number, we will apportion payment in a reasonable manner we determine.

11.11 If you deliver a program to a Skills First Student and, in our view:

- a) you have another program on the Funded Scope that would meet the needs of the Skills First Student;
- b) a lower subsidy applies to the other program (as listed on the Funded Programs Report); and
- c) payment of the Funds would not be contrary to Clause 11.26 of this Schedule 1 (claims for Funds cannot be made for training and assessment inconsistent with packaging rules or vocational intent),

then we may:

- d) calculate the Funds to be paid based on the other program; and
- e) re-calculate any Funds already paid based on the subsidy that applies to the other program, and take other action as we see fit in respect of any difference between the amount paid and the re-calculated amount.

Relationship between reporting and payments

11.12 We are only liable to pay Funds to you for training activity that you report in accordance with Clause 10 of this Schedule 1.

11.13 When you lodge a Student Statistical Report, it is considered to be a claim for payment and constitutes a representation that you:

- a) have delivered the reported hours of training and/or assessment in accordance with this Contract;
- b) have Evidence of Participation in accordance with this Contract for each Skills First Student; and
- c) are otherwise entitled to payment for those hours of training and/or assessment under this Contract.

11.14 We are not liable to pay Funds for a subject unless you have created a valid claim for payment for that subject within 60 days of the Activity Start Date. A valid claim for payment is created when you have lodged one or more Student Statistical Report(s) for a subject where the record for that subject in the SVTS has passed validation rules consistent with the requirements of this Contract and has not been assigned a validation error.

11.15 We may recover any Funds paid for any relevant subject where no valid final 'Outcome identifier – National' is reported after the Activity End Date, by the earlier of:

- a) 90 days after the Activity End Date; or
- b) the Final Data Submission Date.

11.16 Where Funds are recovered under Clause 11.15 of this Schedule 1, if a valid final 'Outcome identifier – National' is subsequently reported for that subject by the Final Data Submission

Date, then we will pay you Funds to which you are entitled. We are not liable to pay any Funds for a subject under these circumstances after the Final Data Submission Date.

- 11.17 Where you change any of the data reported for a subject in a Student Statistical Report and that change causes the total amount of Funds payable, and/or the amount of any instalment of Funds calculated under Clause 11.10 of this Schedule 1, to be either higher or lower than the amount calculated using the data in the earlier report, then:
- a) **if the amount is higher**, we will (subject to our other rights under this Contract) adjust the Funds so that you receive the correct total amount by the date of payment for the reporting period in which the relevant Activity End Date occurs (or as soon as reasonably possible thereafter). This will take place in a manner determined by us (which may or may not involve a change in the amount of Funds paid for any outstanding payment that exists at the time the Student Statistical Report containing the updated data is submitted); or
 - b) **if the amount is lower**, (without limiting Clause 8.8 of this Contract) we may recalculate the amount of Funds due at any time (including by recalculating the amount payable as a result of any claims you have already submitted) and determine that the amount of any overpayment of Funds is a debt due to us under Clause 8.8 of this Contract.
- 11.18 You must ensure Student Statistical Reports reflect actual training activity that is supported by Evidence of Participation and must not make a claim for payment for training activity that has not occurred (or is not reasonably expected to occur) within the reported Activity Start Date and Activity End Date. For example, you must not report:
- a) an Activity Start Date for a subject that is before its actual commencement so that you are paid in advance; and/or
 - b) an Activity End Date for a subject that is before its completion so that you are paid in full before completion.
- 11.19 You must support all claims for payment in your reporting, including using the correct 'Funding Source Identifier' in accordance with the Victorian VET Student Statistical Collection Guidelines, and accurately reporting if the Skills First Student is an Apprentice or Trainee.

Restrictions on payments of Funds

- 11.20 We are not liable to pay Funds for programs other than those that are on the Funded Programs Report and the Funded Scope. To avoid doubt, Funds will only be paid where the Program Commencement Date for the program falls within the 'Effective for PCD from' and 'Effective for PCD to' dates for the program specified in the Funded Programs Report and on the Funded Scope.
- 11.21 We are not liable to pay Funds for training and/or assessment delivered by a person who did not at all relevant times comply with the Skills First Teacher requirements set out in Clauses 4.2 and 4.3 of this Contract.
- 11.22 We are not liable to pay Funds for RPL undertaken as part of enrolment in a Foundation Skills Program, or the Certificate I in Vocational Preparation.
- 11.23 We are not liable to pay Funds for recognition of current competency (RCC) or credit transfer.
- 11.24 We are not liable to pay the Contact Hour Funds in excess of the Maximum Payable Hours for a program.

11.25 We are not liable to pay the Contact Hour Funds:

- a) in excess of two times the nominal hours per subject as published in the Victorian Purchasing Guide; and
- b) in excess of the nominal hours per subject as published in the Victorian Purchasing Guide for RPL.

11.26 We are not liable to pay any Funds for training or assessment that is inconsistent with the packaging rules or vocational intent of the program, as specified in the Training Package or accredited course documentation.

11.27 We are not liable to pay Funds for a Skills First Student's participation in a subject where the Activity End Date is after the 'Subsidised Training End Date' as identified for the program in the Funded Programs Report.

11.28 We are not liable to pay Funds where a claim is lodged for an Apprentice or Trainee, but relevant information reported via the Student Statistical Report does not match the information about the student and Training Contract as recorded in the Epsilon database.

11.29 We are not liable to pay Funds where a claim is lodged for an Apprentice or Trainee, but the training activity occurs after the nominal end date of the Training Contract.

12. SPECIFIC AUDITS OR REVIEWS

12.1 Under Clause 11 of this Contract (Audit, Review and Investigation), we may audit Evidence of Participation, Evidence of Eligibility and/or Evidence of Fee Concession/Fee Waiver at any time.

12.2 To avoid doubt, where we take any action under Clause 16 (Enforcement) of this Contract in relation to audits of the type referred to in Clause 12.1 of this Schedule 1, this does not limit any of our other rights under Clauses 16 and 17 (Termination Rights) of this Contract.

Evidence of Participation audit

12.3 We may conduct an Evidence of Participation audit, using a statistically valid sample size that we determine. If the audit reveals subjects without satisfactory Evidence of Participation (**exceptions**) in accordance with this Contract (including Clause 9 of this Schedule 1) and the percentage of exceptions exceeds a threshold that we determine, we may take action under Clause 16 (Enforcement) of this Contract.

12.4 For the purpose of Clause 12.3 of this Schedule 1, if we:

- a) apply a monetary amount under Clause 16.2(e), that amount will be 10 per cent of the total Funds claimed by and/or paid to you across the total population of subjects from which the statistically valid sample has been drawn, multiplied by the percentage of exceptions; and/or
- b) require a refund of the Funds under Clause 16.2(d), the value of Funds sought may be up to the percentage of exceptions above the threshold, multiplied by the total Funds claimed by and/or paid to you across the total population of subjects from which the statistically valid sample has been drawn.

Evidence of Eligibility audit

12.5 If an Evidence of Eligibility audit reveals that you do not have sufficient documentation to demonstrate you have correctly assessed an individual's Skills First Entitlement (in accordance with Clause 3 of Schedule 1) and you have claimed Funds for that individual (**exception**), then we may take action under Clause 16 (Enforcement) of this Contract.

- 12.6 For the purpose of Clause 12.5 of this Schedule 1, if we apply a monetary amount under Clause 16.2(e), that amount will be 10 per cent of the total Funds claimed by and/or paid to you for each enrolment for which an exception has been identified.

Evidence of Fee Concession/ Fee Waiver audit

- 12.7 If an Evidence of Fee Concession/Fee Waiver audit reveals that you do not have sufficient documentation to demonstrate you have correctly assessed a Skills First Student's entitlement to receive a Fee Concession or Fee Waiver (in accordance with this Contract, including Clause 5 of this Schedule 1), and you have claimed Funds for that individual (**exception**) then we may take action under Clause 16 (Enforcement) of this Contract.
- 12.8 For the purpose of Clause 12.7 of this Schedule 1, if we apply a monetary amount under Clause 16.2(e), that amount will be 10 per cent of the total Fee Concession Contribution or Fee Waiver Contribution claimed by and/or paid to you for each enrolment where an exception has been identified.

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PART C

13. ASYLUM SEEKER VET PROGRAM

Program settings

- 13.1 You may exempt an individual from the **citizenship/permanent residence** eligibility criterion (as set out in Clause 2.2(a) of this Schedule 1) if they:
- a) either:
 - i) are referred to training via the Asylum Seeker Resource Centre or the Australian Red Cross Victims of Human Trafficking Program and they present a 'Referral to Government Subsidised Training – Asylum Seekers' form;
 - ii) hold, or are a dependant of an individual who holds, a valid humanitarian, protection or refugee visa;
 - iii) hold a bridging visa and have lodged an application for a humanitarian, protection or refugee visa; or
 - iv) hold a bridging visa and have lodged an application under section 417 or section 48B of the *Migration Act 1958* (Cth) which is yet to be determined; and
 - b) have study and if relevant, work rights.
- 13.2 You must sight and retain evidence of the student's entitlement to receive an exemption under Clause 13.1 of this Schedule 1 in accordance with the Guidelines About Eligibility.
- 13.3 You must grant a Fee Concession to a Skills First Student enrolled under the Asylum Seeker VET Program in accordance with Clause 5 of this Schedule 1.

14. TRAINING TO SUPPORT THE 10-YEAR INDUSTRY PLAN FOR FAMILY VIOLENCE PREVENTION AND RESPONSE

Purpose

- 14.1 This Clause 14 sets out eligibility exemptions and a Fee Waiver for training to support the Victorian Government's 10-year Industry Plan for family violence prevention and response.

Eligibility exemptions

- 14.2 The '22510VIC – Course in Identifying and Responding to Family Violence Risk' is aimed at both existing professionals potentially delivered as stand-alone training, and pre-service students for inclusion as part of a broader community service related program.
- 14.3 Under this Clause 14, if you have the program on your Funded Scope, you may exempt an individual seeking to enrol in 22510VIC – Course in Identifying and Responding to Family Violence Risk from the:
- a) '**2 Skill Sets in a year**' limit (Clause 2.3(a) of this Schedule 1); and/or
 - b) '**2 at a time**' limit (Clause 2.3(c) of this Schedule 1).

Fees

- 14.4 You must grant a Fee Waiver for enrolments in 22510VIC - Course in Identifying and Responding to Family Violence Risk in accordance with the Guidelines About Fees.

Impact of participating in this initiative on an individual's future Skills First Entitlement

- 14.5 As part of the Pre-Training Review, and before the commencement of training, you must advise a Skills First Student that commencement in, or completion of, 22510VIC – Course in Identifying and Responding to Family Violence Risk under this Clause 14 will not impact their future Skills First Entitlement and will not be taken into account when assessing whether they meet the:
- a) '2 Skill Sets in a year' limit (Clause 2.3(a) of this Schedule 1); and/or
 - b) '2 at a time' limit (Clause 2.3(c) of this Schedule 1).

15 YOUTH ACCESS INITIATIVE

Purpose

- 15.1 The Youth Access Initiative is to support participation in training by young people (24 years of age or under) who:
- a) have been, or are currently on, Youth Justice Orders or Child Protection Orders;
 - b) are residents of an Education First Youth Foyer;
 - c) have been, or are currently supported by, the Refugee Minor Program; or
 - d) have participated, or are currently participating in, the Children's Court Youth Diversion Service.

Initiative settings

- 15.2 You must grant a Fee Waiver to a Skills First Student who meets the criteria in Clause 15.1 of this Schedule 1 and who is referred to training by:
- a) the Department of Families, Fairness and Housing;
 - b) the Department;
 - c) the Department of Justice and Community Safety; or
 - d) a referring agency, which is defined for this purpose as an organisation based in the State of Victoria that currently receives funding or is contracted by the Victorian Government or the Commonwealth Government to provide services to children, youth and/or families.
- 15.3 For the purpose of the Youth Access Initiative:
- a) Youth Justice Order means:
 - i) a community sentence, which includes:
 - A. an undertaking;
 - B. a youth control order;
 - C. a probation order;
 - D. a youth supervision order;
 - E. a youth attendance order; or

F. a youth parole order; or

ii) a custodial sentence, which includes:

A. a youth residential centre order; or

B. a youth justice centre order,

each as defined in, or issued or given under, the *Children, Youth and Families Act 2005* (Vic);

b) Child Protection Order has the meaning given to protection order in the *Children, Youth and Families Act 2005* (Vic), which includes:

i) a temporary assessment order;

ii) an interim accommodation order;

iii) a family preservation order;

iv) a family reunification order;

v) a care by Secretary order;

vi) a long-term care order;

vii) a permanent care order; or

viii) an undertaking; and

c) a resident of an Education First Youth Foyer means a resident of one of the following Education First Youth Foyers: Broadmeadows, Lilydale, Glen Waverley, Shepparton or Warrnambool.

15.4 To avoid doubt, the eligibility exclusions in Clause 2.11 of this Schedule 1 (including for prisoners held in a prison, or detained or held in remand, as described in Clause 2.11) apply to individuals seeking to participate in this initiative.

15.5 You must sight and retain evidence of an individual's entitlement to receive a Fee Waiver under the Youth Access Initiative in accordance with the Guidelines About Fees.

Your responsibilities

15.6 You must:

a) work with referring agencies in your region to ensure strong working relationships and:

i) provide the referring agencies with up to date advice on appropriate programs for referral purposes;

ii) ensure you make available to the referring agencies up to date information on program availability, prerequisite requirements and costs (any other costs which are not student tuition fees), to assist agencies in the placement of young people in appropriate programs; and

iii) provide information to the referring agencies to support eligible young people and referring agencies to make informed choices for referral and follow up processes;

- b) make every reasonable effort to place individuals referred under this program into suitable programs, by offering training in the recommended program for the individual in the current student intake, or if not possible, in the next student intake (subject to meeting any program entry requirements);
- c) participate fully with us and the Victorian Government, referring agencies and any other relevant body in assisting a referred student to undertake accredited training; and
- d) provide information to individuals referred to training under this program about services and support available to them.

16. FREE TAFE FOR PRIORITY COURSES

Fee Waiver entitlement

- 16.1 You must grant a Fee Waiver to an individual who commences a program on the Free TAFE for Priority Courses List (a 'Free TAFE priority course').

To avoid doubt, an individual may commence a Free TAFE priority course and choose to not access their Fee Waiver for that program if they wish to use it instead for another a Free TAFE priority course at another time.

- 16.2 An individual may only receive a Fee Waiver for a commencement in one Free TAFE priority course (the '**one Free TAFE Fee Waiver in a lifetime**' limit). This limit does not apply if the individual is eligible for any of the exceptions in Clauses 16.7, 16.8 or 16.9 of this Schedule 1.

To avoid doubt, Free TAFE short courses do not count towards the 'one Free TAFE Fee Waiver in a lifetime' limit.

- 16.3 An individual cannot receive a Fee Waiver for commencement in a Free TAFE priority course that is delivered as an Apprenticeship.
- 16.4 All other Skills First eligibility requirements apply as specified in this Contract and the Guidelines About Eligibility.

Confirm entitlement prior to granting Fee Waiver

- 16.5 Prior to granting a Fee Waiver under this Clause 16, you must, in accordance with the Guidelines About Eligibility, seek confirmation from the individual whether they have received a Fee Waiver under this Clause 16 for any Free TAFE priority course other than the program they are seeking to enrol in.

- 16.6 To avoid doubt, an individual who has received a Fee Waiver under this Clause 16 for a Free TAFE priority course is eligible to continue receiving the Fee Waiver for the duration of that program where they:

- a) commenced it at another TAFE or Dual Sector University and are recommencing; or
- b) are transitioning to a superseding training package qualification or a replacement accredited course.

Exceptions to 'one Free TAFE Fee Waiver' in a lifetime limit

- 16.7 If an individual received a Fee Waiver for a commencement under the JobTrainer initiative, this does not count towards their 'one Free TAFE Fee Waiver in a lifetime' limit.

- 16.8 An individual who **completes** a Free TAFE priority course that is identified on the Funded Programs Report as a Free TAFE pathway may receive an additional Fee Waiver for another program in the same pathway. This applies whether the program they completed was government-subsidised or fee for service.

To avoid doubt, the individual may receive an additional Fee Waiver for multiple programs in the same pathway, but they must complete each program before receiving each additional Fee Waiver.

- 16.9 An individual who **completes** any other Free TAFE Priority course may receive an additional Fee Waiver to do the Certificate IV in Training and Assessment. This applies whether the Free TAFE priority course they completed was government-subsidised or fee for service.

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