

# Written Agreement of Services

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# Written Agreement of Services

This agreement is made between:

**The Guernsey Institute** - The States of Guernsey acting by and through the Guernsey Institute of Further Education whose address for service is at Coutanchez Campus, Route des Coutanchez, St Peter Port, GY1 2TT

and

**The Employer** - {{Company name}}, {{Company address}}

## Background

1. The Guernsey Institute - Apprenticeships is an initiative of The Guernsey Institute, supported and funded by the Committee *for* Education, Sport and Culture and which seeks to bring together Employers, Apprentices and the Training Provider to provide an integrated Apprenticeship scheme of off-the-job learning with on-the-job work experience under the name of The Guernsey Institute - Apprenticeships.
2. This Agreement records the terms and conditions upon which
  - (a) the Employer shall be appointed a registered employer on The Guernsey Institute - Apprenticeships; and
  - (b) The Guernsey Institute and the Employer shall work together in respect of each Apprentice enrolled on the scheme.
3. The Employer acknowledges the importance of complying with its obligations under this Agreement in particular with securing the overriding well-being of each Apprentice.

## Agreement essentials

### 1. Agreement Objectives

- 1.1 The following key Agreement objectives shall underpin both Parties' approach to the implementation and performance of this Agreement:
  - 1.1.1 to work together to provide a well-structured and quality Apprenticeship to each Apprentice incorporating both educational learning and practical skills training so as to provide the Apprentice with essential employment skills and to challenge and realise their potential;
  - 1.1.2 to provide a safe work and learning environment in accordance with good practice;
  - 1.1.3 to deliver quality training to apprentices through The Guernsey Institute, supporting Guernsey's employment needs through a flexible and responsive provision.
- 1.2 Both Parties agree to use all reasonable and proper efforts in the implementation of

this Agreement and the performance of their obligations to promote and apply these Agreement Objectives.

## 2. The Guernsey Institute obligations

The Guernsey Institute agrees with the Employer that it will in relation to each apprentice:

- 2.1 Provide a learning environment that meets current health and safety legislation to enable the Apprentice to learn safely for the duration of the Apprenticeship.
- 2.2 Provide the Apprentice with access to the knowledge, skills and experience, resources and opportunities needed to support the Apprentice to manage their own learning as well as the off-the-job learning detailed in the relevant Apprenticeship Programme.
- 2.3 Enable the Workplace Mentor to support and guide the Apprentice, to carry out the day to day role and to meet the targets and timelines needed to complete the Apprenticeship by the planned end date by providing a clear summary of off-the-job and on-the-job learning needed, contained in the relevant Apprenticeship Programme schedule.
- 2.4 Work closely with the Employer during the Agreed Probationary Period for each Apprentice on the commencement of their off-the-job training.
- 2.5 To review each Apprentice's performance: and
  - 2.5.1 provide evidence and feedback on progress to track success in meeting Apprenticeship Programme milestones, and agree any changes needed to support the Apprentice to address their performance or access enhanced learning opportunities; and
  - 2.5.2 in the event of the Apprentice failing to meet required standards to consider in consultation with the Employer and Apprentice whether the Apprentice is suitable to continue on their programme of study.
- 2.6 Track attendance and participation of the Apprentice to meet the off-the-job learning requirements for the Apprenticeship Programme.
- 2.7 Notify the Employer in the event of any changes that may affect completion of the Apprenticeship or that will change the planned end date.
- 2.8 Proactively identify any issues or barriers to successful completion of the Apprenticeship arising from the Training Provider, Employer or Apprentice and promptly raise these with the Employer or Apprentice, working to implement any action needed.
- 2.9 Inform the Employer if there are any changes to the Training Provider or Apprentice data and report any incorrect data received, as quickly as may reasonably be practicable.
- 2.10 Manage any queries or complaints regarding the Apprenticeship through The Guernsey Institute process.
- 2.11 Enable Employer and Apprentice participation in course feedback, impact assessment and evaluation to support the continuous improvement of the Apprenticeship Programme.

- 2.12 Promote and publicise the impact and success of the Apprenticeship Programme and the potential for employers and apprentices.
- 2.13 Issue a Learner Agreement to each Apprentice.

### **3. Employer obligations**

The Employer agrees with The Guernsey Institute that it will in relation to each Apprentice:

- 3.1 Provide a working environment that meets current health and safety legislation to enable the Apprentice to work and learn safely for the duration of the Apprenticeship and take all reasonable and practical steps to ensure that any equipment that may be used by the Apprentice during the Apprenticeship is safe and reliable and has undergone all necessary regular checks and maintenance.
- 3.2 Provide the Apprentice with access to the on-the-job knowledge, skills and experience, resources and opportunities needed to achieve the milestones of the Apprenticeship.
- 3.3 Pay the Apprentice a wage that is not less than the Guernsey minimum wage for the time they are in work and in off-the-job training (guidelines for which can be obtained from the Guernsey Institute) and undertake their obligations as an Employer with regard to the deduction and payment of tax and social insurance.
- 3.4 Only apply and enrol an apprentice onto an Apprenticeship Programme if they have been in employment for less than 1 year, unless otherwise agreed with the Apprenticeship Team.
- 3.5 Provide the Apprentice with a Contract of Employment which incorporates the Apprenticeship Agreement and establishes the Agreed Probationary Period.
- 3.6 Sign an Apprenticeship Agreement for each Apprentice that joins the Employer within 4 weeks of the start date of their off-the-job training.
- 3.7 Comply with Guernsey employment law in relation to the Apprentice at all times.
- 3.8 Pay for the examination and registration fees of each Apprentice that is employed at the time of registration for each qualification. (Full details can be requested from The Guernsey Institute and the amount of fees is dictated by the Apprenticeship Programme).
- 3.9 Pay for any examination resit charges for the apprentice as invoiced by The Guernsey Institute. The charges incurred can be recouped from the apprentice if required.
- 3.10 Support the Apprentice to manage their own learning, by ensuring sufficient off-the-job time in their typical working day (or granting time in lieu) to meet the requirements of the Apprenticeship Programme.
- 3.11 Assign a Workplace Mentor to support and guide the Apprentice to carry out their day to day activities and meet the targets and timelines needed to complete the Apprenticeship by the planned end date, the Employer retaining responsibility for the quality and safety of the on-the-job training delivered.
- 3.12 Work closely with The Guernsey Institute during the Agreed Probationary Period for each Apprentice on the commencement of their off-the-job training.

- 3.13 Participate and cooperate with The Guernsey Institute in the reviews referred to in clause 2.5 and provide evidence and feedback on the Apprentice's progress at work and success in meeting the Apprenticeship Programme milestones, and in agreeing any changes needed to support and enable the Apprentice to address performance or access enhanced learning opportunities.
- 3.14 Support the Apprentice to track attendance and participation to meet the off-the-job learning requirements for the Apprenticeship Programme.
- 3.15 Notify The Guernsey Institute in the event of any changes whether in relation to the Employer or the Apprentice's circumstances that may affect completion of the Apprenticeship or change the planned end date.
- 3.16 Proactively identify any issues or barriers to successful completion of the Apprenticeship arising from The Guernsey Institute, Employer or Apprentice and promptly raise these with The Guernsey Institute, working to implement any action needed.
- 3.17 Inform The Guernsey Institute if there are any changes to Employer or Apprentice data and report any incorrect data received, as quickly as may reasonably be practicable.
- 3.18 Manage any queries or complaints regarding the Apprenticeship through The Guernsey Institute process.
- 3.19 Participate in and enable the Apprentice to participate in course feedback, impact assessment and evaluation to support the continuous improvement of the Apprenticeship Programme.
- 3.20 Promote and publicise the impact and success of the Apprenticeship Programme and the potential for other Employers and potential Apprentices.

#### **4. Limitations on number of Apprentices**

- 4.1 It is agreed that The Guernsey Institute shall be entitled to cap the number of Apprentices recruited on to the programme in any given year, for the safeguarding of future Apprenticeship provision.
- 4.2 The Employer agrees to employ only one Apprentice under the programme within the first twelve months from the date of registration, unless The Guernsey Institute grants prior written consent.

## The workplace visit and supply of information

#### **5. Inspection of premises and documentation**

- 5.1 The Employer shall allow The Guernsey Institute on the commencement of this Agreement and then throughout the duration of this Agreement, reasonable access to its premises, staff and requested relevant documentation:
  - 5.1.1 to ensure that the Employer can comply with all of its contractual obligations under the Apprenticeship Programme; and

- 5.1.2 in relation to the operation of the scheme and compliance with all applicable legislation or other legal requirements including health and safety, employer liability, public liability, professional indemnity insurance and the Contract of Employment.
- 5.2 The Employer shall promptly supply any further information reasonably requested from time to time by The Guernsey Institute.

## Variations to the Agreement

### 6. The Apprenticeship Programme

- 6.1 The Guernsey Institute may add, remove or amend any part of the Apprenticeship Programme as it applies to an Apprentice engaged on the Apprenticeship Programme, provided that it shall
  - 6.1.1 have first consulted with the Employer before introducing any change; and
  - 6.1.2 properly take any comments or concerns of the Employer into account when considering whether or not to implement changes.
- 6.2 The Guernsey Institute shall respond to any enquiry from the Employer in relation to a proposed change affecting an Apprentice engaged on the Apprenticeship Programme and in particular as it may affect:
  - 6.2.1 any increased cost for an Employer by reason of the proposed change;
  - 6.2.2 any extension or reduction of the planned end date of the Scheme;
  - 6.2.3 any material impact upon the Employer by reason of the availability or non-availability of the Apprentice.

## Liability, Disputes and Termination

### 7. Liability and Indemnity

- 7.1 The Guernsey Institute will be liable to the Employer for, and must indemnify and keep the Employer indemnified against, and the Employer will be liable to The Guernsey Institute for, and must indemnify and keep The Guernsey Institute indemnified against, any loss, damages, costs, expenses, liabilities, claims, actions and/or proceedings (including the cost of legal and/or professional services) whatsoever in respect of:
  - 7.1.1 any loss of or damage to property (whether real or personal); and
  - 7.1.2 any injury to the Apprentice or any other person, including injury resulting in death;

that result from or arise out of their respective negligence or any breach of this Agreement or obligation under the Scheme.

- 7.2 The Employer must put in place and maintain in force at its own cost appropriate indemnity insurance arrangements, provided that such insurance is available at commercially reasonable rates and terms, in respect of:
- 7.2.1 employers' liability in the sum of 5 million pounds (£5,000,000) or, if greater, the sum required by law;
  - 7.2.2 public liability in the amount of not less than 5 million pounds (£5,000,000); and
  - 7.2.3 if The Guernsey Institute reasonably deems it necessary, professional indemnity insurance in the amount of not less than two million pounds (£2,000,000) or such other amount as may be agreed, and shall provide acceptable evidence to The Guernsey Institute when requested that the policies are on risk and all premiums paid.

## 8. Dispute Resolution

- 8.1 If any dispute arises, the Parties shall first attempt to settle it by negotiation each Party being represented by their authorised representatives appointed under Clause 12.
- 8.2 If the Parties are unable to settle the dispute by negotiation, they may, if they jointly agree submit the dispute to mediation by a mediator appointed by an independent body or organisation agreed between the Parties and, in default of agreement, to a mediator nominated by the Centre for Effective Dispute Resolution (CEDR) and in which case their mediation procedure shall apply.

## 9. Termination

- 9.1 Either The Guernsey Institute or the Employer may terminate this Agreement, with immediate effect, by written notice to the other if that other Party is in persistent or material breach of any of its obligations under this Agreement, so as to have a material and adverse effect on the operation of the Scheme or the Apprenticeship and the other party fails to remedy that breach within 10 Operational Days of receipt by them of a written notice from The Guernsey Institute or the Employer (as the case may be) identifying the breach.
- 9.2 If either Party wishes to bring this Agreement to an end, that Party must give to the other not less than 6 months written notice to that effect and shall state in that notice the expiry date.
- 9.3 On termination or expiry of this Agreement and regardless of who terminates it or on what basis this Agreement comes to an end any Apprenticeship that has not been completed shall continue and the provisions of the Scheme shall continue to apply until it has come to an end except where the Agreement has terminated by The Guernsey Institute under clause 9.1 and in that case The Guernsey Institute shall make arrangements for the Apprentice to

be transferred to another employer or make other arrangements satisfactory to the Apprentice.

- 9.4 Any rights, duties or obligations of any of the Parties which are expressed to survive, or which otherwise by necessary implication survive the expiry or termination for any reason of this Agreement, together with all indemnities, will continue after expiry or termination.

## Confidentiality and Data Protection

### 10. Confidentiality

- 10.1 Unless this Agreement otherwise provides, Confidential Information is owned by the disclosing party and a receiving party has no right to use it or disclose it to any third party otherwise than in connection with the receiving party's performance under this Agreement;
- 10.2 A receiving party may disclose Confidential Information that it has received:
- 10.2.1 in connection with any dispute resolution or litigation;
  - 10.2.2 to comply with the Law;
  - 10.2.3 in the case of The Guernsey Institute pursuant to any duties of good corporate governance, including audit and scrutiny, as a responsible public sector organisation.

### 11. Data Protection

- 11.1 Each Party must process personal data in accordance with the Data Protection (Bailiwick of Guernsey) Law, 2017 (DPL).
- 11.1.1 Further information in relation to how personal data is processed by a Party must be made available by the publication of Fair Processing Notice and able to be readily accessed by a data subject (including the Apprentice).
  - 11.1.2 Each Party must have and at all time keep in place and operate all technical, organisational and other processes and policies for the protection of personal data (as defined by the DPL) including special category data, as is necessary to comply with the DPL.
  - 11.1.2 The Parties acknowledge their respective obligations arising under the DPL, and under any other obligation with the force of law in Guernsey and must assist each other as necessary to enable each other to comply with these obligations and will indemnify the other party for any loss, fine, penalty, damages or costs which they incur by reason of the breach by that other party of any obligation under the DPL.

## General Provisions



## 12. Appointment of Representatives

- 12.1 The Guernsey Institute and the Employer shall each appoint a representative who will be the respective key points of contact of the Parties for day-to-day communications in relation to this Agreement.

## 13. Assignment and Subcontracting

- 13.1 Subject to Clause 13.2 and 13.3 neither The Guernsey Institute or the Employer shall assign, delegate, sub-contract, transfer, charge or otherwise dispose of all or any of its rights or obligations or duties under this Agreement without the prior written approval of the other Party.
- 13.2 The Guernsey Institute may assign this Agreement to any successor organisation or person that succeeds to the functions of The Guernsey Institute in relation to The Guernsey Institute - Apprenticeships.
- 13.3 In the event that The Guernsey Institute appoints a Training Provider that is not The Guernsey Institute, the appointed Training Provider shall carry out those obligations and responsibilities delegated to it (whether in whole or in part) by The Guernsey Institute, and those delegated obligations of The Guernsey Institute shall be undertaken by the Training Provider as a subcontractor of The Guernsey Institute, but so that The Guernsey Institute shall remain the contracted party with the Employer.

## 14. Force Majeure

- 14.1 If an Event of Force Majeure occurs, the affected Party must:
- 14.1.1 take all reasonable steps to mitigate the consequences of that event;
  - 14.1.2 resume performance of its obligations as soon as practicable; and
  - 14.1.3 use all reasonable efforts to remedy its failure to perform its obligations under this Agreement.
- 14.2 The affected Party must serve an initial notice on the other Party immediately when it becomes aware of the Event of Force Majeure. This initial notice must give sufficient detail to identify the Event of Force Majeure and its likely impact. The affected Party must then serve a more detailed notice within a further 5 Operational Days. This more detailed notice must contain all relevant information as is available, including the effect of the Event of Force Majeure, the mitigating action being taken and an estimate of the period of time required to overcome the event and resume full delivery of the Services.
- 14.3 Subject to compliance with its obligations under Clauses 14.1 and 14.2, the affected Party will be relieved from liability under this Agreement if and to the extent that it is not able to perform its obligations under this Agreement due to the Event of Force Majeure.

## 15. Entire Agreement

This Agreement constitutes the entire agreement and understanding of the Parties and supersedes any previous agreement between the Parties relating to the subject matter of this Agreement.

## 16. Notices

16.1 Any notices given under this Agreement can be done so in writing and sent by post using a 'Signed For' service to that Party at the address set out above.

16.2 Alternatively, notices can be served by a tracked email, with a 'Read Receipt' being requested at the point of issue;

16.2.1 to the email address provided by the employer at the time of registration;

16.2.2 to the email address of The Guernsey Institute, detailed on the footer of this document.

## Definitions

In this Agreement unless the context requires otherwise

Agreement	This agreement
Agreed Probationary Period	the required probationary period for an Apprentice and set out in the Apprenticeship Agreement Commitment Statement and in default being the period of six weeks from the commencement of the on-the-job training
Apprentice	An Apprentice employed by the Employer and enrolled on The Guernsey Institute - Apprenticeships
Apprenticeship	An apprenticeship of an Apprentice in accordance with the terms of this Agreement
Apprenticeship Agreement	The statement that summarises the schedule, roles and responsibilities that support an Apprenticeship Programme in the form required by The Guernsey Institute and executed by the Employer, the Apprentice and the Training Provider
Apprenticeship Programme	The training attached to the Apprenticeship both off-the-job and on-the-job
Contract of Employment	A legally binding employment agreement between the Employer and the Apprentice
Event of Force Majeure	The occurrence of any circumstances outside the control of a Party and which prevents that Party from complying with all or a material part of its obligations under this Agreement
Learner Agreement	A contract signed by the Apprentice with The Guernsey Institute at the start of their off-the-job training setting out the entitlement and obligations of the Apprentice
off-the-job	Training the Apprentice receives through the Training Provider, principally through qualification unit delivery
on-the-job	Training the Apprentice receives in the workplace, focusing on the development of the relevant competencies and behaviours attached to the job role
Operational Day	a day when banks are open for business in Guernsey and excludes Saturdays Sundays and public holidays in Guernsey

Party or Parties	The Guernsey Institute or the Employer individually (a Party) or together (Parties)
The workplace visit	A visit to the Employer made from time to time during the subsistence of this Agreement in accordance with clause 5 by a Guernsey Institute representative
Training Provider	The organisation that is providing the non-workplace based training, being the educational element of the Apprenticeship and being The Guernsey Institute or another approved educational establishment whether in Guernsey or elsewhere subcontracted by The Guernsey Institute
Workplace Mentor	Qualified member of staff assigned to an Apprentice to support their on-the-job training needs

### Interpretation

Any obligation on a Party not to do something includes an obligation not to allow that thing to be done.

References to clauses, sub-clauses or paragraphs are to the clauses, sub-clauses or paragraphs of this Agreement including the Schedules unless the context otherwise expressly states.

Any words following the terms ‘including’, ‘include’, ‘in particular’, ‘for example’ or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

## Signatories

The Parties acting through their authorised signatories have signed this Agreement on the date shown below.

### **Acceptance by {{Company name}}:**

Signature:

Date:

Print name:

Job Title:

### **Acceptance by The Guernsey Institute:**

Signature:

Date:

Print name:

Job Title: