

# Award Form

This Award Form creates the Contract. It summarises the main features of the procurement and includes the Buyer and the Supplier's contact details.

1.	<b>Buyer</b>	Department for Education (the Buyer).  Its offices are on: Sanctuary Buildings, Great Smith Street, London, SW1P 3BT
2.	<b>Supplier</b>	Name: Cognition Education  Address: Core, 30 Brown Street, Greater Manchester, M2 1DH  Registration number: 09209758  SID4GOV ID: <b>Not Applicable</b>
3.	<b>Contract</b>	This Contract between the Buyer and the Supplier is for the supply of Deliverables.  This opportunity is advertised in the Contract Notice in Find A Tender, reference 314465/1115680 (FTS Contract Notice).
4.	<b>Contract reference</b>	<b>Con_18280</b>
5.	<b>Deliverables</b>	Design and deliver a Professional Development and Training offer for Mentors and participants within Further Education and administer pass through grant funding for eligible applicants.  See Schedule 2 (Specification) for further details.
6.	<b>Buyer Cause</b>	Any breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier.
7.	<b>Collaborative working principles</b>	The Collaborative Working Principles apply to this Contract.  See Clause 3.1.3 for further details.
8.	<b>Financial Transparency Objectives</b>	The Financial Transparency Objectives apply to this Contract. <i>(PPN 05/16 - Open book contract management – Tier 2)</i>  See Clause 6.3 for further details.

9.	<b>Start Date</b>	01 March 2023
10.	<b>Expiry Date</b>	31 March 2025
11.	<b>Extension Period</b>	<p>Further period of up to 2 (two) years, to 31 March 2027.</p> <p>The Extension Period to be exercised where the Buyer gives the Supplier no less than 2 Months written notice before the Contract expires.</p>
12.	<b>Ending the Contract without a reason</b>	The Buyer shall be able to terminate the Contract in accordance with Clause 14.3.
13.	<b>Incorporated Terms</b> (together these documents form the " <b>the Contract</b> ")	<p>The following documents are incorporated into the Contract. Where numbers are missing we are not using these Schedules. If the documents conflict, the following order of precedence applies:</p> <ul style="list-style-type: none"> <li>a) This Award Form</li> <li>b) Any Special Terms (see <b>Section 14 (Special Terms)</b> in this Award Form)</li> <li>c) Core Terms</li> <li>d) Schedule 36 (Intellectual Property Rights)</li> <li>e) Schedule 1 (Definitions)</li> <li>f) Schedule 6 (Transparency Reports)</li> <li>g) Schedule 20 (Processing Data)</li> <li>h) The following Schedules (in equal order of precedence):               <ul style="list-style-type: none"> <li>a. Schedule 2 (Specification)</li> <li>b. Schedule 3 (Charges)</li> <li>c. Schedule 5 (Commercially Sensitive Information)</li> <li>d. Schedule 7 (Staff Transfer)</li> <li>e. Schedule 10 (Service Levels)</li> <li>f. Schedule 11 (Continuous Improvement)</li> <li>g. Schedule 12 (Benchmarking)</li> <li>h. Schedule 13 (Contract Management)</li> <li>i. Schedule 14 (Business Continuity and Disaster Recovery)</li> <li>j. Schedule 16 (Security)</li> <li>k. Schedule 18 (Supply Chain Visibility)</li> <li>l. Schedule 19 (Cyber Essentials Scheme)</li> </ul> </li> </ul>





		<ul style="list-style-type: none"> <li>m. Schedule 21 (Variation Form)</li> <li>n. Schedule 22 (Insurance Requirements)</li> <li>o. Schedule 24 (Financial Difficulties)</li> <li>p. Schedule 25 (Rectification Plan)</li> <li>q. Schedule 26 (Sustainability)</li> <li>r. Schedule 27 (Key Subcontractors)</li> <li>s. Schedule 29 (Key Supplier Staff)</li> <li>t. Schedule 30 (Exit Management)</li> <li>u. Schedule 37 (Corporate Resolution Planning Information) – Not Required</li> </ul> <p>i) Schedule 4 (Tender), unless any part of the Tender offers a better commercial position for the Buyer (as decided by the Buyer, in its absolute discretion), in which case that aspect of the Tender will take precedence over the documents above.</p>
14.	<b>Special Terms</b>	None
15.	<b>Sustainability</b>	The Supplier agrees, in providing the Deliverables and performing its obligations under the Contract, that it will comply with Schedule 26 (Sustainability).
16.	<b>Buyer's Environmental Policy</b>	<a href="https://www.gov.uk/government/collections/energy-use-in-the-public-sector">Our energy use - Department for Education - GOV.UK (www.gov.uk)</a>
17.	<b>Social Value Commitment</b>	The Supplier agrees, in providing the Deliverables and performing its obligations under the Contract, to deliver the Social Value outcomes in Schedule 4 (Tender) and provide the Social Value Reports as set out in Schedule 26 (Sustainability)
18.	<b>Buyer's Security Policy</b>	Schedule 16 (Security)
19.	<b>Commercially Sensitive Information</b>	Supplier's Commercially Sensitive Information: Schedule 5 (Commercially Sensitive Information)
20.	<b>Charges</b>	Details in Schedule 3 (Charges)
21.	<b>Reimbursable expenses</b>	None

22.	<b>Payment method</b>	<p>Monthly in arrears via BACS on submission of a valid invoice.</p> <p>Invoices shall be submitted electronically by email to contract leads [REDACTED] and [REDACTED] and once approved will be paid within thirty (30) days of the end of the relevant invoicing date (in accordance with the service level which requires the supplier to submit invoices by working day seven (7) of each month).</p>
23.	<b>Service Levels</b>	<p>Service Credits will accrue in accordance with Schedule 10 (Service Levels)</p> <p>The Service Credit Cap is: 5% of the annual contract value.</p> <p>A Critical Service Level Failure is:</p> <p>There is evidence that the Supplier's Delivery Plan (or key elements of it), is not achieving, or it is anticipated will not achieve, the aims and objectives as specified in Schedule 2 (Specification), and/or there is minimal confidence that the Supplier is managing associated delivery risks and issues to ensure it can achieve the said aims and objectives.</p>
24.	<b>Insurance</b>	Details in Annex of Schedule 22 (Insurance Requirements).
25.	<b>Liability</b>	<p>In accordance with Clause 15.1 each Party's total aggregate liability in each Contract Year under the Contract (whether in tort, contract or otherwise) is no more than the greater of <b>£5 million</b> or <b>150%</b> of the Estimated Yearly Charges.</p> <p>In accordance with Clause 15.5, the Supplier's total aggregate liability in each Contract Year under Clause 18.8.5 is no more than the Data Protection Liability, being <b>£10 million</b>.</p>
26.	<b>Cyber Essentials Certification</b>	<p>Cyber Essentials Scheme Basic Certificate Provided.</p> <p>Details in Schedule 19 (Cyber Essentials Scheme)</p>
27.	<b>Progress Meetings and Progress Reports</b>	The Supplier shall attend Progress Meetings with the Buyer, and provide the Buyer with Progress Reports, in accordance with the requirements detailed in Schedule 2 (Specification).
28.	<b>Guarantee</b>	Not applicable
29.	<b>Virtual Library</b>	In accordance with Paragraph 2.2. of Schedule 30 (Exit Management)

		<ul style="list-style-type: none"> <li>the period in which the Supplier must create and maintain the Virtual Library, is 30 days from the Start Date until the Contract End Date; and</li> <li>the Supplier shall update the Virtual Library every 6 months.</li> </ul>
30.	<b>Supplier Contract Manager</b>	Programme Manager, [REDACTED]
31.	<b>Supplier Authorised Representative</b>	Programme Director, [REDACTED]
32.	<b>Supplier Compliance Officer</b>	Finance & Operations Manager, [REDACTED]
33.	<b>Supplier Data Protection Officer</b>	CEO, Tina Lucas, [REDACTED]
34.	<b>Supplier Marketing Contact</b>	Head of Marketing UK, [REDACTED]
35.	<b>Key Subcontractors</b>	No Subcontractors
36.	<b>Buyer Authorised Representative</b>	[REDACTED]

**For and on behalf of the Supplier:**

**For and on behalf of the Buyer:**

Signature:		Signature:	
Name:		Name:	
Role:	Group CEO	Role:	Commercial Lead
Date:	Mar 10 <sup>th</sup> 2023	Date:	March 10 <sup>th</sup> 2023

## **Core Terms – Mid-tier**



## Contents

<a href="#"><u>1.</u></a>	<a href="#"><u>Definitions used in the contract</u></a>	<a href="#"><u>1</u></a>
<a href="#"><u>2.</u></a>	<a href="#"><u>How the contract works</u></a>	<a href="#"><u>1</u></a>
<a href="#"><u>3.</u></a>	<a href="#"><u>What needs to be delivered</u></a>	<a href="#"><u>2</u></a>
<a href="#"><u>4.</u></a>	<a href="#"><u>Pricing and payments</u></a>	<a href="#"><u>4</u></a>
<a href="#"><u>5.</u></a>	<a href="#"><u>The buyer's obligations to the supplier</u></a>	<a href="#"><u>5</u></a>
<a href="#"><u>6.</u></a>	<a href="#"><u>Record keeping and reporting</u></a>	<a href="#"><u>5</u></a>
<a href="#"><u>7.</u></a>	<a href="#"><u>Supplier staff</u></a>	<a href="#"><u>7</u></a>
<a href="#"><u>8.</u></a>	<a href="#"><u>Supply chain</u></a>	<a href="#"><u>7</u></a>
<a href="#"><u>9.</u></a>	<a href="#"><u>Rights and protection</u></a>	<a href="#"><u>9</u></a>
<a href="#"><u>10.</u></a>	<a href="#"><u>Intellectual Property Rights (IPRs)</u></a>	<a href="#"><u>10</u></a>
<a href="#"><u>11.</u></a>	<a href="#"><u>Rectifying issues</u></a>	<a href="#"><u>10</u></a>
<a href="#"><u>12.</u></a>	<a href="#"><u>Escalating issues</u></a>	<a href="#"><u>11</u></a>
<a href="#"><u>13.</u></a>	<a href="#"><u>Step-in rights</u></a>	<a href="#"><u>11</u></a>
<a href="#"><u>14.</u></a>	<a href="#"><u>Ending the contract</u></a>	<a href="#"><u>12</u></a>
<a href="#"><u>15.</u></a>	<a href="#"><u>How much you can be held responsible for</u></a>	<a href="#"><u>15</u></a>
<a href="#"><u>16.</u></a>	<a href="#"><u>Obeying the law</u></a>	<a href="#"><u>16</u></a>
<a href="#"><u>17.</u></a>	<a href="#"><u>Insurance</u></a>	<a href="#"><u>16</u></a>
<a href="#"><u>18.</u></a>	<a href="#"><u>Data protection and security</u></a>	<a href="#"><u>16</u></a>
<a href="#"><u>19.</u></a>	<a href="#"><u>What you must keep confidential</u></a>	<a href="#"><u>18</u></a>
<a href="#"><u>20.</u></a>	<a href="#"><u>When you can share information</u></a>	<a href="#"><u>19</u></a>
<a href="#"><u>21.</u></a>	<a href="#"><u>Invalid parts of the contract</u></a>	<a href="#"><u>19</u></a>
<a href="#"><u>22.</u></a>	<a href="#"><u>No other terms apply</u></a>	<a href="#"><u>20</u></a>
<a href="#"><u>23.</u></a>	<a href="#"><u>Other people's rights in this Contract</u></a>	<a href="#"><u>20</u></a>
<a href="#"><u>24.</u></a>	<a href="#"><u>Circumstances beyond your control</u></a>	<a href="#"><u>20</u></a>
<a href="#"><u>25.</u></a>	<a href="#"><u>Relationships created by the contract</u></a>	<a href="#"><u>21</u></a>
<a href="#"><u>26.</u></a>	<a href="#"><u>Giving up contract rights</u></a>	<a href="#"><u>21</u></a>
<a href="#"><u>27.</u></a>	<a href="#"><u>Transferring responsibilities</u></a>	<a href="#"><u>21</u></a>
<a href="#"><u>28.</u></a>	<a href="#"><u>Changing the contract</u></a>	<a href="#"><u>22</u></a>
<a href="#"><u>29.</u></a>	<a href="#"><u>How to communicate about the contract</u></a>	<a href="#"><u>23</u></a>
<a href="#"><u>30.</u></a>	<a href="#"><u>Dealing with claims</u></a>	<a href="#"><u>23</u></a>
<a href="#"><u>31.</u></a>	<a href="#"><u>Preventing fraud, bribery and corruption</u></a>	<a href="#"><u>24</u></a>
<a href="#"><u>32.</u></a>	<a href="#"><u>Equality, diversity and human rights</u></a>	<a href="#"><u>25</u></a>
<a href="#"><u>33.</u></a>	<a href="#"><u>Health and safety</u></a>	<a href="#"><u>25</u></a>

<a href="#"><u>34.</u></a>	<a href="#"><u>Environment</u></a>	26
<a href="#"><u>35.</u></a>	<a href="#"><u>Tax</u></a>	26
<a href="#"><u>36.</u></a>	<a href="#"><u>Conflict of interest</u></a>	27
<a href="#"><u>37.</u></a>	<a href="#"><u>Reporting a breach of the contract</u></a>	27
<a href="#"><u>38.</u></a>	<a href="#"><u>Further Assurances</u></a>	27
<a href="#"><u>39.</u></a>	<a href="#"><u>Resolving disputes</u></a>	27
<a href="#"><u>40.</u></a>	<a href="#"><u>Which law applies</u></a>	28

## **1. Definitions used in the contract**

Interpret this Contract using Schedule 1 (Definitions).

## **2. How the contract works**

- 2.1 If the Buyer decides to buy Deliverables under this Contract it must state its requirements using the Award Form. If allowed by the Regulations, the Buyer can:
  - 2.1.1 make changes to the Award Form;
  - 2.1.2 create new Schedules;
  - 2.1.3 exclude optional template Schedules; and
  - 2.1.4 use Special Terms in the Award Form to add or change terms.
- 2.2 The Contract:
  - 2.2.1 is between the Supplier and the Buyer; and
  - 2.2.2 includes Core Terms, Schedules and any other changes or items in the completed Award Form.
- 2.3 The Supplier acknowledges it has all the information required to perform its obligations under this Contract before entering into it. When information is provided by the Buyer no warranty of its accuracy is given to the Supplier.
- 2.4 The Supplier acknowledges that, subject to the Allowable Assumptions set out in Annex 2 of Schedule 3 (Charges) (if any), it has satisfied itself of all details relating to:
  - 2.4.1 the Buyer's requirements for the Deliverables;
  - 2.4.2 the Buyer's operating processes and working methods; and
  - 2.4.3 the ownership and fitness for purpose of the Buyer Assets, and it has advised the Buyer in writing of:
    - 2.4.4 each aspect, if any, of the Buyer's requirements for the Deliverables, operating processes and working methods that is not suitable for the provision of the Services;
    - 2.4.5 the actions needed to remedy each such unsuitable aspect; and
    - 2.4.6 a timetable for and, to the extent that such costs are to be payable to the Supplier, the costs of those actions,and such actions, timetable and costs are fully reflected in this Contract.
- 2.5 The Supplier won't be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:
  - 2.5.1 verify the accuracy of the Due Diligence Information; and

2.5.2 properly perform its own adequate checks.

2.6 The Buyer will not be liable for errors, omissions or misrepresentation of any information.

2.7 The Supplier warrants and represents that all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

### **3. What needs to be delivered**

#### **3.1 All deliverables**

3.1.1 The Supplier must provide Deliverables:

that comply with the Specification, the Tender Response and this Contract;

using reasonable skill and care;

using Good Industry Practice;

using its own policies, processes and internal quality control measures as long as they don't conflict with this Contract;

on the dates agreed; and

that comply with Law.

3.1.2 The Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects or for such other period as specified in the Award Form.

3.1.3 Where the Award Form states that the Collaborative Working Principles will apply, the Supplier must co-operate and provide reasonable assistance to any Buyer Third Party notified to the Supplier by the Buyer from time to time and act at all times in accordance with the following principles:

- proactively leading on, mitigating and contributing to the resolution of problems or issues irrespective of its contractual obligations, acting in accordance with the principle of "fix first, settle later";
- being open, transparent and responsive in sharing relevant and accurate information with Buyer Third Parties;
- where reasonable, adopting common working practices, terminology, standards and technology and a collaborative approach to service development and resourcing with Buyer Third Parties;
- providing reasonable cooperation, support, information and assistance to Buyer Third Parties in a proactive, transparent and open way and in a spirit of trust and mutual confidence; and
- identifying, implementing and capitalising on opportunities to improve deliverables and deliver better solutions and

performance throughout the relationship lifecycle.

### **3.2 Goods clauses**

- 3.2.1 All Goods delivered must be new, or as new if recycled, unused and of recent origin.
- 3.2.2 The Supplier transfers ownership of the Goods on Delivery or payment for those Goods, whichever is earlier.
- 3.2.3 Risk in the Goods transfers to the Buyer on Delivery of the Goods, but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within three (3) Working Days of Delivery.
- 3.2.4 The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.
- 3.2.5 The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.
- 3.2.6 The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.
- 3.2.7 All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- 3.2.8 The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- 3.2.9 The Supplier must indemnify the Buyer against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Recall of the Goods.
- 3.2.10 The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than fourteen (14) days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier uses all reasonable endeavours to minimise these costs.
- 3.2.11 The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with Clause 3. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.
- 3.2.12 The Buyer will not be liable for any actions, claims and Losses incurred by the Supplier or any third party during Delivery of the Goods unless and to the extent that it is caused by negligence or other wrongful act of the Buyer or its servant or agent. If the Buyer suffers or incurs any Loss or injury (whether fatal or otherwise) occurring in the course of Delivery or installation then the Supplier shall indemnify the Buyer from any losses, charges, costs or expenses which arise as a result of or in

connection with such Loss or injury where it is attributable to any act or omission of the Supplier or any of its Subcontractors or Supplier Staff.

### **3.3 Services clauses**

- 3.3.1 Late Delivery of the Services will be a Default of this Contract.
- 3.3.2 The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the Delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions of the Buyer or third party suppliers.
- 3.3.3 The Supplier must at its own risk and expense provide all Supplier Equipment required to Deliver the Services. Any equipment provided by the Buyer to the Supplier for supplying the Services remains the property of the Buyer and is to be returned to the Buyer on expiry or termination of this Contract.
- 3.3.4 The Supplier must allocate sufficient resources and appropriate expertise to this Contract.
- 3.3.5 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.
- 3.3.6 On completion of the Services, the Supplier is responsible for leaving the Buyer Premises in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer Premises or Buyer Assets, other than fair wear and tear.
- 3.3.7 The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.
- 3.3.8 The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under this Contract.

## **4. Pricing and payments**

- 4.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the Award Form.
- 4.2 All Charges:
  - 4.2.1 exclude VAT, which is payable on provision of a valid VAT invoice; and
  - 4.2.2 include all costs connected with the Supply of Deliverables.
- 4.3 The Buyer must pay the Supplier the Charges within thirty (30) days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the invoice or in the Award Form.
- 4.4 A Supplier invoice is only valid if it:

- 4.4.1 includes all appropriate references including this Contract reference number and other details reasonably requested by the Buyer; and
  - 4.4.2 includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any).
- 4.5 The Buyer may retain or set-off payment of any amount owed to it by the Supplier under this Contract or any other agreement between the Supplier and the Buyer if notice and reasons are provided.
- 4.6 The Supplier must ensure that all Subcontractors are paid, in full, within thirty (30) days of receipt of a valid, undisputed invoice. If this does not happen, the Buyer can publish the details of the late payment or non-payment.
- 4.7 The Supplier has no right of set-off, counterclaim, discount or abatement unless they're ordered to do so by a court.

## **5. The buyer's obligations to the supplier**

- 5.1 If Supplier Non-Performance arises from a Buyer Cause:
  - 5.1.1 the Buyer cannot terminate this Contract under Clause 14.4.1;
  - 5.1.2 the Supplier is entitled to reasonable and proven additional expenses and to relief from Delay Payments, liability and Deduction under this Contract;
  - 5.1.3 the Supplier is entitled to additional time needed to make the Delivery;
  - 5.1.4 the Supplier cannot suspend the ongoing supply of Deliverables.
- 5.2 Clause 5.1 only applies if the Supplier:
  - 5.2.1 gives notice to the Buyer of the Buyer Cause within ten (10) Working Days of becoming aware;
  - 5.2.2 demonstrates that the Supplier Non-Performance only happened because of the Buyer Cause; and
  - 5.2.3 mitigated the impact of the Buyer Cause.

## **6. Record keeping and reporting**

- 6.1 The Supplier must attend Progress Meetings with the Buyer and provide Progress Reports when specified in the Award Form.
- 6.2 The Supplier must keep and maintain full and accurate records and accounts in respect of this Contract during the Contract Period and for seven (7) years after the End Date and in accordance with the UK GDPR or the EU GDPR as the context requires, including the records and accounts which the Buyer has a right to Audit.
- 6.3 Where the Award Form states that the Financial Transparency

Objectives apply, the Supplier must co-operate with the Buyer to achieve the Financial Transparency Objectives and, to this end, will provide a Financial Report to the Buyer:

- 6.3.1 on or before the Effective Date;
  - 6.3.2 at the end of each Contract Year; and
  - 6.3.3 within six (6) Months of the end of the Contract Period,
  - 6.3.4 and the Supplier must meet with the Buyer if requested within ten (10) Working Days of the Buyer receiving a Financial Report.
- 6.4 If the Supplier becomes aware of an event that has occurred or is likely to occur in the future which will have a material effect on the:
- 6.4.1 Supplier's currently incurred or forecast future Costs; and
  - 6.4.2 forecast Charges for the remainder of this Contract,
  - 6.4.3 then the Supplier must notify the Buyer in writing as soon as practicable setting out the actual or anticipated effect of the event.
- 6.5 The Buyer or an Auditor can Audit the Supplier.
- 6.6 The Supplier must allow any Auditor access to their premises and the Buyer will use reasonable endeavours to ensure that any Auditor:
- 6.6.1 complies with the Supplier's operating procedures; and
  - 6.6.2 does not unreasonably disrupt the Supplier or its provision of the Deliverables.
- 6.7 During an Audit, the Supplier must provide information to the Auditor and reasonable co-operation at their request including access to:
- 6.7.1 all information within the permitted scope of the Audit;
  - 6.7.2 any Sites, equipment and the Supplier's ICT system used in the performance of this Contract; and
  - 6.7.3 the Supplier Staff.
- 6.8 The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a Material Default by the Supplier, in which case the Supplier will repay the Buyer's reasonable costs in connection with the Audit.
- 6.9 The Supplier must comply with the Buyer's reasonable instructions following an Audit, including:
- 6.9.1 correcting any identified Default;
  - 6.9.2 rectifying any error identified in a Financial Report; and
  - 6.9.3 repaying any Charges that the Buyer has overpaid.
- 6.10 If the Supplier is not providing any of the Deliverables, or is unable to



provide them, it must immediately:

6.10.1 tell the Buyer and give reasons;

6.10.2 propose corrective action; and

6.10.3 provide a deadline for completing the corrective action.

6.11 Except where an Audit is imposed on the Buyer by a regulatory body or where the Buyer has reasonable grounds for believing that the Supplier has not complied with its obligations under this Contract, the Buyer may not conduct an Audit of the Supplier or of the same Key Subcontractor more than twice in any Contract Year.

## **7. Supplier staff**

7.1 The Supplier Staff involved in the performance of this Contract must:

7.1.1 be appropriately trained and qualified;

7.1.2 be vetted using Good Industry Practice and the Security Policy (is used); and

7.1.3 comply with all conduct requirements when on the Buyer's Premises.

7.2 Where the Buyer decides one of the Supplier's Staff is not suitable to work on this Contract, the Supplier must replace them with a suitably qualified alternative.

7.3 The Supplier must provide a list of Supplier Staff needing to access the Buyer's Premises and say why access is required.

7.4 The Supplier indemnifies the Buyer against all claims brought by any person employed or engaged by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

7.5 The Buyer indemnifies the Supplier against all claims brought by any person employed or engaged by the Buyer caused by an act or omission of the Buyer or any of the Buyer's employees, agents, consultants and contractors.

## **8. Supply chain**

### **8.1 Appointing Subcontractors**

8.1.1 The Supplier must exercise due skill and care when it selects and appoints Subcontractors to ensure that the Supplier is able to:

(a) manage Subcontractors in accordance with Good Industry Practice;

(b) comply with its obligations under this Contract; and

(c) assign, novate or transfer its rights and/or obligations under the Sub-Contract that relate exclusively to this Contract to the Buyer or a Replacement Supplier.

## **8.2 Mandatory provisions in Sub-Contracts**

8.2.1 For Sub-Contracts in the Supplier's supply chain entered into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract:

where such Sub-Contracts are entered into after the Effective Date, the Supplier will ensure that they all contain provisions that; or

where such Sub-Contracts are entered into before the Effective Date, the Supplier will take all reasonable endeavours to ensure that they all contain provisions that:

allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law;

require the Supplier to pay all Subcontractors in full, within thirty (30) days of receiving a valid, undisputed invoice; and

allow the Buyer to publish the details of the late payment or non-payment if this thirty (30) day limit is exceeded.

## **8.3 When Sub-Contracts can be ended**

8.3.1 At the Buyer's request, the Supplier must terminate any Sub-Contracts in any of the following events:

- there is a Change of Control of a Subcontractor which isn't pre-approved by the Buyer in writing;
- the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 14.4;
- a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Buyer;
- the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law; and/or
- the Buyer has found grounds to exclude the Subcontractor in accordance with Regulation 57 of the Public Contracts Regulations 2015.

## **8.4 Competitive terms**

8.4.1 If the Buyer can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables and that cost is reimbursable by the Buyer, then the Buyer may require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items.

- 8.4.2 If the Buyer uses Clause 8.4.1 then the Charges must be reduced by an agreed amount by using the Variation Procedure.

## **8.5 Ongoing responsibility of the Supplier**

The Supplier is responsible for all acts and omissions of its Subcontractors and those employed or engaged by them as if they were its own.

## **9. Rights and protection**

- 9.1 The Supplier warrants and represents that:
  - 9.1.1 it has full capacity and authority to enter into and to perform this Contract;
  - 9.1.2 this Contract is entered into by its authorised representative;
  - 9.1.3 it is a legally valid and existing organisation incorporated in the place it was formed;
  - 9.1.4 there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform this Contract;
  - 9.1.5 all necessary rights, authorisations, licences and consents (including in relation to IPRs) are in place to enable the Supplier to perform its obligations under this Contract and for the Buyer to receive the Deliverables;
  - 9.1.6 it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform this Contract;
  - 9.1.7 it is not impacted by an Insolvency Event or a Financial Distress Event; and
  - 9.1.8 neither it nor, to the best of its knowledge the Supplier Staff, have committed a Prohibited Act prior to the Effective Date or been subject to an investigation relating to a Prohibited Act.
- 9.2 The warranties and representations in Clauses 2.7 and 9.1 are repeated each time the Supplier provides Deliverables under this Contract.
- 9.3 The Supplier indemnifies the Buyer against each of the following:
  - 9.3.1 wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts this Contract; and
  - 9.3.2 non-payment by the Supplier of any tax or National Insurance.
- 9.4 All claims indemnified under this Contract must use Clause 30.
- 9.5 The description of any provision of this Contract as a warranty does not

prevent the Buyer from exercising any termination right that it may have for Default of that clause by the Supplier.

- 9.6 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Buyer.
- 9.7 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier for free.

## **10. Intellectual Property Rights (IPRs)**

- 10.1 The Parties agree that the terms set out in Schedule 36 (Intellectual Property Rights) shall apply to this Contract.
- 10.2 If there is an IPR Claim, the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.
- 10.3 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
  - 10.3.1 obtain for the Buyer the rights to continue using the relevant item without infringing any third party IPR; or
  - 10.3.2 replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables.
- 10.4 If the Buyer requires that the Supplier procures a licence in accordance with Clause 10.3.1 or to modify or replace an item pursuant to Clause 10.3.2, but this has not avoided or resolved the IPR Claim, then the Buyer may terminate this Contract by written notice with immediate effect and the consequences of termination set out in Clauses 14.20.1 shall apply.

## **11. Rectifying issues**

- 11.1 If there is a Notifiable Default, the Supplier must notify the Buyer within three (3) Working Days of the Supplier becoming aware of the Notifiable Default and the Buyer may request that the Supplier provide a Rectification Plan within ten (10) Working Days of the Buyer's request alongside any additional documentation that the Buyer requires.
- 11.2 When the Buyer receives a requested Rectification Plan it can either:
  - 11.2.1 reject the Rectification Plan or revised Rectification Plan giving reasons; or
  - 11.2.2 accept the Rectification Plan or revised Rectification Plan (without limiting its rights) in which case the Supplier must immediately start work on the actions in the Rectification Plan at its own cost.
- 11.3 Where the Rectification Plan or revised Rectification Plan is rejected,

the Buyer:

11.3.1 will give reasonable grounds for its decision; and

11.3.2 may request that the Supplier provides a revised Rectification Plan within five (5) Working Days.

## **12. Escalating issues**

12.1 If the Supplier fails to:

12.1.1 submit a Rectification Plan or a revised Rectification Plan within the timescales set out in Clauses 11.1 or 11.3; and

12.1.2 adhere to the timescales set out in an accepted Rectification Plan to resolve the Notifiable Default.

or if the Buyer otherwise rejects a Rectification Plan, the Buyer can require the Supplier to attend an Escalation Meeting on not less than five (5) Working Days' notice. The Buyer will determine the location, time and duration of the Escalation Meeting(s) and the Supplier must ensure that the Supplier Authorised Representative is available to attend.

12.2 The Escalation Meeting(s) will continue until the Buyer is satisfied that the Notifiable Default has been resolved, however, where an Escalation Meeting(s) has continued for more than five (5) Working Days, either Party may treat the matter as a Dispute to be handled through the Dispute Resolution Procedure.

12.3 If the Supplier is in Default of any of its obligations under this Clause 12, the Buyer shall be entitled to terminate this Agreement and the consequences of termination set out in Clauses 14.20.1 shall apply as if the contract were terminated under Clause 14.4.1.

## **13. Step-in rights**

13.1 If a Step-In Trigger Event occurs, the Buyer may give notice to the Supplier that it will be taking action in accordance with this Clause 13.1 and setting out:

13.1.1 whether it will be taking action itself or with the assistance of a third party;

13.1.2 what Required Action the Buyer will take during the Step-In Process;

13.1.3 when the Required Action will begin and how long it will continue for;

13.1.4 whether the Buyer will require access to the Sites; and

13.1.5 what impact the Buyer anticipates that the Required Action will have on the Supplier's obligations to provide the Deliverables.

13.2 For as long as the Required Action is taking place:

- 13.2.1 the Supplier will not have to provide the Deliverables that are the subject of the Required Action;
- 13.2.2 no Deductions will be applicable in respect of Charges relating to the Deliverables that are the subject of the Required Action; and
- 13.2.3 the Buyer will pay the Charges to the Supplier after subtracting any applicable Deductions and the Buyer's costs of taking the Required Action.
- 13.3 The Buyer will give notice to the Supplier before it ceases to exercise its rights under the Step-In Process and within twenty (20) Working Days of this notice the Supplier will develop a draft Step-Out Plan for the Buyer to approve.
- 13.4 If the Buyer does not approve the draft Step-Out Plan, the Buyer will give reasons and the Supplier will revise the draft Step-Out Plan and re-submit it for approval.
- 13.5 The Supplier shall bear its own costs in connection with any step-in by the Buyer under this Clause 13, provided that the Buyer shall reimburse the Supplier's reasonable additional expenses incurred directly as a result of any step-in action taken by the Buyer under:
  - 13.5.1 limbs (f) or (g) of the definition of a Step-In Trigger Event; or
  - 13.5.2 limbs (h) and (i) of the definition of a Step-in Trigger Event (insofar as the primary cause of the Buyer serving a notice under Clause 13.1 is identified as not being the result of the Supplier's Default).

#### **14. Ending the contract**

- 14.1 The Contract takes effect on the Effective Date and ends on the End Date or earlier if terminated under this Clause 14 or if required by Law.
- 14.2 The Buyer can extend this Contract for the Extension Period by giving the Supplier written notice before this Contract expires as described in the Award Form.
- 14.3 **Ending the contract without a reason**

The Buyer has the right to terminate this Contract at any time without reason by giving the Supplier not less than ninety (90) days' notice (unless a different notice period is set out in the Award Form) and if it's terminated Clause 14.30.3 applies.
- 14.4 **When the Buyer can end this Contract**
  - 14.4.1 If any of the following events happen, the Buyer has the right to immediately terminate this Contract by issuing a Termination
- 14.5 Notice to the Supplier and the consequences of termination in Clause 14.20.1 shall apply:

- 14.6 there's a Supplier Insolvency Event;
- 14.7 the Supplier fails to notify the Buyer in writing of any Occasion of Tax Non-Compliance or fails to provide details of proposed mitigating factors which, in the reasonable opinion of the Buyer, are acceptable;
- 14.8 there's a Notifiable Default that is not corrected in line with an accepted Rectification Plan;
- 14.9 the Buyer rejects a Rectification Plan or the Supplier does not provide it within ten (10) days of the request;
- 14.10 there's any Material Default of this Contract;
- 14.11 there's any Material Default of any Joint Controller Agreement relating to this Contract;
- 14.12 there's a Default of Clauses 2.8, 12, 31 or Schedule 28 (ICT Services) (where applicable);
- 14.13 the performance of the Supplier causes a Critical Service Level Failure to occur;
- 14.14 there's a consistent repeated failure to meet the Service Levels in Schedule 10 (Service Levels);
- 14.15 there's a Change of Control of the Supplier which isn't pre-approved by the Buyer in writing;
- 14.16 the Buyer discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time this Contract was awarded;
- 14.17 the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them;
- 14.18 the Supplier fails to comply with its legal obligations in the fields of environmental, social, equality or employment Law when providing the Deliverables; or
- 14.19 the Supplier fails to enter into or to comply with an Admission Agreement under Part D of Schedule 7 (Staff Transfer).
  - 14.19.1 If any of the events in 73 (1) (a) or (b) of the Regulations happen, the Buyer has the right to immediately terminate this Contract and Clauses 14.22) to 14.27) apply.
- 14.20 **What happens if the contract ends**
  - 14.20.1 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply:

- 14.21 The Supplier is responsible for the Buyer's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.
- 14.22 The Buyer's payment obligations under the terminated Contract stop immediately.
- 14.23 Accumulated rights of the Parties are not affected.
- 14.24 The Supplier must promptly delete or return the Government Data except where required to retain copies by Law.
- 14.25 The Supplier must promptly return any of the Buyer's property provided under the terminated Contract.
- 14.26 The Supplier must, at no cost to the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).
- 14.27 The Supplier must repay to the Buyer all the Charges that it has been paid in advance for Deliverables that it has not provided as at the date of termination or expiry.
  - 14.27.1 If either Party terminates this Contract under Clause 24.3:
- 14.28 each party must cover its own Losses; and
- 14.29 Clauses 14.22) to 14.27) apply.
  - 14.29.1 The following Clauses survive the termination or expiry of this Contract: 3.2.10, 4, 6, 7.4, 7.5, 10, 14.20, 14.30.3, 15, 18, 19, 20, 21, 22, 23, 35.3.2, 39, 40, Schedule 1 (Definitions), Schedule 3 (Charges), Schedule 7 (Staff Transfer), Schedule 30 (Exit Management)) (if used), Schedule 36 (Intellectual Property Rights) and any Clauses and Schedules which are expressly or by implication intended to continue.
- 14.30 When the Supplier (and the Buyer) can end the contract**
  - 14.30.1 The Supplier can issue a Reminder Notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate this Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the total Contract Value within thirty (30) days of the date of the Reminder Notice.
  - 14.30.2 The Supplier also has the right to terminate this Contract in accordance with Clauses 24.3 and 27.5.
  - 14.30.3 Where the Buyer terminates this Contract under Clause 14.3 or the Supplier terminates this Contract under Clause 14.30.1 or 27.5:
- 14.31 the Buyer must promptly pay all outstanding Charges incurred to the Supplier;
- 14.32 the Buyer must pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and costed schedule with evidence – the maximum value of this payment is limited



to the total sum payable to the Supplier if this Contract had not been terminated; and

14.33 Clauses 14.22) to 14.27) apply.

**14.34 Partially ending and suspending the contract**

14.34.1 Where the Buyer has the right to terminate this Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends this Contract it can provide the Deliverables itself or buy them from a third party.

14.34.2 The Buyer can only partially terminate or suspend this Contract if the remaining parts of this Contract can still be used to effectively deliver the intended purpose.

14.34.3 The Parties must agree any necessary Variation required by this Clause 14.34 using the Variation Procedure, but the Supplier may not either:

14.35 reject the Variation; or

14.36 increase the Charges, except where the right to partial termination is under Clause 14.3.

14.36.1 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under this Clause 14.34.

**15. How much you can be held responsible for?**

15.1 Each Party's total aggregate liability in each Contract Year under this Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified otherwise in the Award Form.

15.2 Neither Party is liable to the other for:

15.2.1 any indirect Losses; and/or

15.2.2 Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

15.3 In spite of Clause 15.1, neither Party limits or excludes any of the following:

15.3.1 its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;

15.3.2 its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; and

15.3.3 any liability that cannot be excluded or limited by Law.

15.4 In spite of Clause 15.1, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.4, 7.5, 9.3.2, 10.2, 35.3.2 or Schedule 7 (Staff Transfer) of this Contract.

15.5 In spite of Clause 15.1, The Buyer does not limit or exclude its liability

for any indemnity given under Clause 7 or Schedule 7 (Staff Transfer) of this Contract.

- 15.6 In spite of Clause 15.1, but subject to Clauses 15.2 and 15.3, the Supplier's total aggregate liability in each Contract Year under Clause 18.8.5 is no more than the Data Protection Liability Cap.
- 15.7 Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with this Contract, including any indemnities.
- 15.8 When calculating the Supplier's liability under Clause 15.1 the following items will not be taken into consideration:
  - 15.8.1 Deductions; and
  - 15.8.2 any items specified in Clause 15.4.
- 15.9 If more than one Supplier is party to this Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

## **16. Obeying the law**

- 16.1 The Supplier shall comply with the provisions of Schedule 26 (Sustainability).
- 16.2 The Supplier shall comply with the provisions of:
  - 16.2.1 the Official Secrets Acts 1911 to 1989; and
  - 16.2.2 section 182 of the Finance Act 1989.
- 16.3 The Supplier indemnifies the Buyer against any costs resulting from any Default by the Supplier relating to any applicable Law to do with this Contract.
- 16.4 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 16.1 and Clauses 31 to 36.

## **17. Insurance**

The Supplier must, at its own cost, obtain and maintain the Required Insurances in Schedule 22 (Insurance Requirements).

## **18. Data protection and security**

- 18.1 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Schedule 20 (Processing Data).
- 18.2 The Supplier must not remove any ownership or security notices in or relating to the Government Data.
- 18.3 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies via a

secure encrypted method upon reasonable request.

- 18.4 The Supplier must ensure that any Supplier, Subcontractor and Subprocessor system (including any cloud services or end user devices used by the Supplier, Subcontractor and Subprocessor) holding any Government Data, including back-up data, is a secure system that complies with the Cyber Essentials Schedule (if used), the Security Schedule (if used), the Security Policy and the security requirements specified in the Award Form. and otherwise as required by Data Protection Legislation.
- 18.5 If at any time the Supplier suspects or has reason to believe that the Government Data is corrupted, lost or sufficiently degraded, then the Supplier must immediately notify the Buyer and suggest remedial action.
- 18.6 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:
  - 18.6.1 tell the Supplier to restore or get restored Government Data as soon as practical but no later than five (5) Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier; and
  - 18.6.2 restore the Government Data itself or using a third party.
- 18.7 The Supplier must pay each Party's reasonable costs of complying with Clause 18.6 unless the Buyer is at fault.
- 18.8 The Supplier:
  - 18.8.1 must provide the Buyer with all Government Data in an agreed format (provided it is secure and readable) within ten (10) Working Days of a written request;
  - 18.8.2 must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
  - 18.8.3 must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice, other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are either Independent Controllers or Joint Controllers;
  - 18.8.4 securely erase all Government Data and any copies it holds when asked to do so by the Buyer (and certify to the Buyer that it has done so) unless and to the extent required by Law to retain it other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are either Independent Controllers or Joint Controllers; and
  - 18.8.5 indemnifies the Buyer against any and all Losses incurred if the

Supplier breaches Clause 18 or any Data Protection Legislation.

## **19. What you must keep confidential**

### **19.1 Each Party must:**

- 19.1.1 keep all Confidential Information it receives confidential and secure;
- 19.1.2 not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent, except for the purposes anticipated under this Contract; and
- 19.1.3 immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

### **19.2 In spite of Clause 19.1, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:**

- 19.2.1 where disclosure is required by applicable Law, a regulatory body or a court with the relevant jurisdiction if the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
- 19.2.2 if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;
- 19.2.3 if the information was given to it by a third party without obligation of confidentiality;
- 19.2.4 if the information was in the public domain at the time of the disclosure;
- 19.2.5 if the information was independently developed without access to the Disclosing Party's Confidential Information;
- 19.2.6 on a confidential basis, to its auditors or for the purpose of regulatory requirements;
- 19.2.7 on a confidential basis, to its professional advisers on a need-to-know basis; and
- 19.2.8 to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

### **19.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under this Contract. The Supplier Staff shall remain responsible at all times for compliance with the confidentiality obligations set out in this Contract by the persons to whom disclosure**

has been made.

- 19.4 The Buyer may disclose Confidential Information in any of the following cases:
  - 19.4.1 on a confidential basis to the employees, agents, consultants and contractors of the Buyer;
  - 19.4.2 on a confidential basis to any other Crown Body, any successor body to a Crown Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;
  - 19.4.3 if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
  - 19.4.4 where requested by Parliament;
  - 19.4.5 under Clauses 4.6 and 20; and
  - 19.4.6 on a confidential basis under the audit rights in Clauses 6.5 to 6.9 (inclusive), Clause 13 (Step-in rights), Schedule 7 and Schedule 30 (if used).
- 19.5 For the purposes of Clauses 19.2 to 19.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause 19.
- 19.6 Transparency Information and any information which is exempt from disclosure by Clause 20 is not Confidential Information.
- 19.7 The Supplier must not make any press announcement or publicise this Contracts or any part of them in any way, without the prior written consent of the Buyer and must use all reasonable endeavours to ensure that Supplier Staff do not either.

## **20. When you can share information**

- 20.1 The Supplier must tell the Buyer within forty eight (48) hours if it receives a Request For Information.
- 20.2 In accordance with a reasonable timetable and in any event within five (5) Working Days of a request from the Buyer, the Supplier must give the Buyer full co-operation and information needed so the Buyer can:
  - 20.2.1 publish the Transparency Information; and
  - 20.2.2 comply with any Request for Information.
- 20.3 To the extent that it is allowed and practical to do so, the Buyer will use reasonable endeavours to notify the Supplier of a FOIA request and may talk to the Supplier to help it decide whether to publish information under Clause 20.1. However, the extent, content and format of the disclosure is the Buyer's decision in its absolute discretion.

## **21. Invalid parts of the contract**

If any provision or part provision of this Contract is or becomes invalid, illegal or unenforceable for any reason, such provision or part-provision shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Contract.

## **22. No other terms apply**

The provisions incorporated into this Contract are the entire agreement between the Parties. The Contract replaces all previous statements, or agreements whether written or oral. No other provisions apply.

## **23. Other people's rights in this Contract**

- 23.1 The provisions of Paragraphs 2.1 and 2.3 of Part A, Paragraphs 2.1, 2.3 and 3.1 of Part B, Paragraphs 1.2, 1.4 and 1.7 of Part C, Part D and Paragraphs 1.4, 1.7, 2.3, 2.5 and 2.10 of Part E of Schedule 7 (Staff Transfer) and the provisions of Paragraph 3.1, 6.1, 7.2, 8.2, 8.5, 8.6 and 8.9 of Schedule 30 (Exit Management) (together "**Third Party Provisions**") confer benefits on persons named or identified in such provisions other than the Parties (each such person a "**Third Party Beneficiary**") and are intended to be enforceable by Third Parties Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act ("**CRTPA**").
- 23.2 Subject to Clause 23.1, no third parties may use the CRTPA to enforce any term of this Contract unless stated (referring to CRTPA) in this Contract. This does not affect third party rights and remedies that exist independently from CRTPA.
- 23.3 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Buyer, which may, if given, be given on and subject to such terms as the Buyer may determine.
- 23.4 Any amendments or modifications to this Contract may be made, and any rights created under Clause 23.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

## **24. Circumstances beyond your control**

- 24.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under this Contract while the inability to perform continues, if it both:
- 24.1.1 provides a Force Majeure Notice to the other Party; and
  - 24.1.2 uses all reasonable measures practical to reduce the impact of the Force Majeure Event.
- 24.2 Any failure or delay by the Supplier to perform its obligations under this Contract that is due to a failure or delay by an agent, Subcontractor or supplier will only be considered a Force Majeure Event if that third party is itself prevented from complying with an obligation to the

Supplier due to a Force Majeure Event.

- 24.3 Either party can partially or fully terminate this Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for ninety (90) days continuously.

**25. Relationships created by the contract**

The Contract does not create a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure others do so.

**26. Giving up contract rights**

A partial or full waiver or relaxation of the terms of this Contract is only valid if it is stated to be a waiver in writing to the other Party.

**27. Transferring responsibilities**

- 27.1 The Supplier cannot assign, novate or in any other way dispose of this Contract or any part of it without the Buyer's written consent.
- 27.2 Subject to Schedule 27 (Key Subcontractors), the Supplier cannot sub-contract this Contract or any part of it without the Buyer's prior written consent. The Supplier shall provide the Buyer with information about the Subcontractor as it reasonably requests. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. If the Buyer does not communicate a decision to the Supplier within ten (10) Working Days of the request for consent then its consent will be deemed to have been given. The Buyer may reasonably withhold its consent to the appointment of a Subcontractor if it considers that:
- 27.2.1 the appointment of a proposed Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
- 27.2.2 the proposed Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
- 27.2.3 the proposed Subcontractor employs unfit persons.
- 27.3 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.
- 27.4 When the Buyer uses its rights under Clause 27.3 the Supplier must enter into a novation agreement in the form that the Buyer specifies.
- 27.5 The Supplier can terminate this Contract novated under Clause 27.3 to a private sector body that is experiencing an Insolvency Event.
- 27.6 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.

- 27.7 If at any time the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:
  - 27.7.1 their name;
  - 27.7.2 the scope of their appointment;
  - 27.7.3 the duration of their appointment; and
  - 27.7.4 a copy of the Sub-Contract.

## **28. Changing the contract**

- 28.1 Either Party can request a Variation to this Contract which is only effective if agreed in writing, including where it is set out in the Variation Form, and signed by both Parties.
- 28.2 The Supplier must provide an Impact Assessment either:
  - 28.2.1 with the Variation Form, where the Supplier requests the Variation; and
  - 28.2.2 within the time limits included in a Variation Form requested by the Buyer.
- 28.3 If the Variation to this Contract cannot be agreed or resolved by the Parties, the Buyer can either:
  - 28.3.1 agree that this Contract continues without the Variation; and
  - 28.3.2 refer the Dispute to be resolved using Clause 39 (Resolving Disputes).
- 28.4 The Buyer is not required to accept a Variation request made by the Supplier.
- 28.5 The Supplier may only reject a Variation requested by the Buyer if the Supplier:
  - 28.5.1 reasonably believes that the Variation would materially and adversely affect the risks to the health and safety of any person or that it would result in the Deliverables being provided in a way that infringes any Law; or
  - 28.5.2 demonstrates to the Buyer's reasonable satisfaction that the Variation is technically impossible to implement and that neither the Tender nor the Specification state that the Supplier has the required technical capacity or flexibility to implement the Variation.
- 28.6 If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the Charges.
- 28.7 If there is a Specific Change in Law or one is likely to happen during this Contract Period the Supplier must give the Buyer notice of the likely effects of the changes as soon as reasonably practical. They



must also say if they think any Variation is needed either to the Deliverables, the Charges or this Contract and provide evidence:

28.7.1 that the Supplier has kept costs as low as possible, including in Subcontractor costs; and

28.7.2 of how it has affected the Supplier's costs.

28.8 Any change in the Charges or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 28.1 to 28.4.

## **29. How to communicate about the contract**

29.1 All notices under this Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective at 9:00am on the first Working Day after sending unless an error message is received.

29.2 Notices to the Buyer must be sent to the Buyer Authorised Representative's address or email address in the Award Form.

29.3 This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

## **30. Dealing with claims**

30.1 If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than ten (10) Working Days.

30.2 At the Indemnifier's cost the Beneficiary must both:

30.2.1 allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim; and

30.2.2 give the Indemnifier reasonable assistance with the claim if requested.

30.3 The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which cannot be unreasonably withheld or delayed.

30.4 The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that doesn't damage the Beneficiary's reputation.

30.5 The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.

30.6 Each Beneficiary must use all reasonable endeavours to minimise and mitigate any losses that it suffers because of the Claim.

30.7 If the Indemnifier pays the Beneficiary money under an indemnity and

the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:

30.7.1 the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; and

30.7.2 the amount the Indemnifier paid the Beneficiary for the Claim.

### **31. Preventing fraud, bribery and corruption**

31.1 The Supplier must not during the Contract Period:

31.1.1 commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2);

31.1.2 do or allow anything which would cause the Buyer, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them.

31.2 The Supplier must during the Contract Period:

31.2.1 create, maintain and enforce adequate policies and procedures to ensure it complies with the Relevant Requirements to prevent a Prohibited Act and require its Subcontractors to do the same;

31.2.2 keep full records to show it has complied with its obligations under this Clause 31 and give copies to the Buyer on request; and

31.2.3 if required by the Buyer, within twenty (20) Working Days of the Effective Date of this Contract, and then annually, certify in writing to the Buyer, that they have complied with this Clause 31, including compliance of Supplier Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures.

31.3 The Supplier must immediately notify the Buyer if it becomes aware of any Default of Clauses 31.1 or has any reason to think that it, or any of the Supplier Staff, have either:

31.3.1 been investigated or prosecuted for an alleged Prohibited Act;

31.3.2 been debarred, suspended, proposed for suspension or debarment, or are otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency;

31.3.3 received a request or demand for any undue financial or other advantage of any kind related to this Contract; and

31.3.4 suspected that any person or Party directly or indirectly related to this Contract has committed or attempted to commit a Prohibited Act.

- 31.4 If the Supplier notifies the Buyer as required by Clause 31.3, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.
- 31.5 If the Supplier is in Default under Clause 31.1 the Buyer may:
  - 31.5.1 require the Supplier to remove any Supplier Staff from providing the Deliverables if their acts or omissions have caused the Default; and
  - 31.5.2 immediately terminate this agreement in accordance with Clause 14.4.1 and the consequences of termination in Clauses 14.20.1 shall apply.
- 31.6 In any notice the Supplier gives under Clause 31.4 it must specify the:
  - 31.6.1 Prohibited Act;
  - 31.6.2 identity of the Party who it thinks has committed the Prohibited Act; and
  - 31.6.3 action it has decided to take.

## **32. Equality, diversity and human rights**

- 32.1 The Supplier must follow all applicable equality Law when they perform their obligations under this Contract, including:
  - 32.1.1 protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and
  - 32.1.2 any other requirements and instructions which the Buyer reasonably imposes related to equality Law.
- 32.2 The Supplier must use all reasonable endeavours, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on this Contract.

## **33. Health and safety**

- 33.1 The Supplier must perform its obligations meeting the requirements of:
  - 33.1.1 all applicable Law regarding health and safety; and
  - 33.1.2 the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier.
- 33.2 The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Buyer Premises that relate to the performance of this Contract.

#### **34. Environment**

- 34.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.
- 34.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

#### **35. Tax**

- 35.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate this Contract where the Supplier has not paid a minor tax or social security contribution.
- 35.2 Where the Charges payable under this Contract are or are likely to exceed £5 million at any point during the relevant Contract Period, and an Occasion of Tax Non-Compliance occurs, the Supplier must notify the Buyer of it within five (5) Working Days including:
  - 35.2.1 the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and
  - 35.2.2 other information relating to the Occasion of Tax Non-Compliance that the Buyer may reasonably need.
- 35.3 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under this Contract, the Supplier must both:
  - 35.3.1 comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions; and
  - 35.3.2 indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.
- 35.4 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:
  - 35.4.1 the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 35.3.1, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;

35.4.2 the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;

35.4.3 the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with Clause 35.3.1 or confirms that the Worker is not complying with those requirements; and

35.4.4 the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

### **36. Conflict of interest**

36.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual, potential or perceived Conflict of Interest.

36.2 The Supplier must promptly notify and provide details to the Buyer if an actual, potential or perceived Conflict of Interest happens or is expected to happen.

36.3 The Buyer will consider whether there are any appropriate measures that can be put in place to remedy an actual, perceived or potential Conflict of Interest. If, in the reasonable opinion of the Buyer, such measures do not or will not resolve an actual or potential Conflict of Interest, the Buyer may terminate its Contract immediately by giving notice in writing to the Supplier where there is or may be an actual or potential Conflict of Interest and Clauses 14.22 to 14.27 shall apply.

### **37. Reporting a breach of the contract**

37.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected:

37.1.1 breach of Law;

37.1.2 Default of Clause 16.1; and

37.1.3 Default of Clauses 31 to 36.

37.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach or Default listed in Clause 37.1 to the Buyer or a Prescribed Person.

### **38. Further Assurances**

Each Party will, at the request and cost of the other Party, do all things which may be reasonably necessary to give effect to the meaning of this Contract.

### **39. Resolving disputes**

39.1 If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within twenty eight (28) days of a

written request from the other Party, meet in good faith to resolve the Dispute by commercial negotiation.

- 39.2 If the Parties cannot resolve the Dispute via commercial negotiation, they can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 39.4 to 39.6.
- 39.3 Unless the Buyer refers the Dispute to arbitration using Clause 39.5, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
- 39.3.1 determine the Dispute;
  - 39.3.2 grant interim remedies; and
  - 39.3.3 grant any other provisional or protective relief.
- 39.4 The Supplier agrees that the Buyer has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 39.5 The Buyer has the right to refer a Dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause 39.4, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 39.5.
- 39.6 The Supplier cannot suspend the performance of this Contract during any Dispute.

#### **40. Which law applies**

This Contract and any issues or Disputes arising out of, or connected to it, are governed by English law.

## Schedule 1 (Definitions)

### 1. Definitions

In the Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.

If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.

In the Contract, unless the context otherwise requires:

- i. the singular includes the plural and vice versa;
- ii. reference to a gender includes the other gender and the neuter;
- iii. references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
- iv. a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
- v. the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";
- vi. references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
- vii. references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings**" as references to obligations under the Contract;
- viii. references to "**Clauses**" and "**Schedules**" are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
- ix. references to "**Paragraphs**" are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided; and
- x. references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified.

**Schedule 1 (Definitions)**

Crown Copyright 2022

- xi. the headings in the Contract are for ease of reference only and shall not affect the interpretation or construction of the Contract; and
- xii. where the Buyer is a Crown Body it shall be treated as contracting with the Crown as a whole.
- xiii. Any reference in this Contract which immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to Section 1A of the European Union (Withdrawal) Act 2018) is a reference to (as it has effect from time to time):
  - (i) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to form part of domestic law by application of Section 3 of the European Union (Withdrawal) Act 2018 and which shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of Section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
  - (ii) any EU institution or EU authority or other such EU body shall be read on and after IP Completion Day as a reference to the UK institution, authority or body to which its functions were transferred.

In the Contract, unless the context otherwise requires, the following words shall have the following meanings:

<b>"Achieve"</b>	in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and " <b>Achieved</b> ", " <b>Achieving</b> " and " <b>Achievement</b> " shall be construed accordingly;
<b>"Additional FDE Group Member"</b>	means any entity (if any) specified as an Additional FDE Group Member in Part A of Annex 3 of Schedule 24 (Financial Difficulties);
<b>"Affected Party"</b>	the party seeking to claim relief in respect of a Force Majeure Event;
<b>"Affiliates"</b>	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
<b>"Allowable Assumptions"</b>	means the assumptions (if any) set out in Annex 2 of Schedule 3 (Charges);
<b>"Annex"</b>	extra information which supports a Schedule;



<b>"Approval"</b>	the prior written consent of the Buyer and <b>"Approve"</b> and <b>"Approved"</b> shall be construed accordingly;
<b>"Associates"</b>	means, in relation to an entity, an undertaking in which the entity owns, directly or indirectly, between 20% and 50% of the voting rights and exercises a degree of control sufficient for the undertaking to be treated as an associate under generally accepted accounting principles;
<b>"Audit"</b>	<p>the Buyer's right to:</p> <ul style="list-style-type: none"> <li>(a) verify the integrity and content of any Financial Report;</li> <li>(b) verify the accuracy of the Charges and any other amounts payable by the Buyer under a Contract (including proposed or actual variations to them in accordance with the Contract);</li> <li>(c) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services;</li> <li>(d) verify the Open Book Data;</li> <li>(e) verify the Supplier's and each Subcontractor's compliance with the applicable Law;</li> <li>(f) identify or investigate actual or suspected breach of Clauses 3 to 37 and/or Schedule 26 (Sustainability), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations;</li> <li>(g) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables;</li> <li>(h) obtain such information as is necessary to fulfil the Buyer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;</li> <li>(i) review any books of account and the internal contract management accounts kept by the Supplier in connection with the Contract;</li> <li>(j) carry out the Buyer's internal and statutory audits and to prepare, examine and/or certify the Buyer's annual and interim reports and accounts;</li> <li>(k) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources;</li> </ul>

<b>"Auditor"</b>	<ul style="list-style-type: none"> <li>(a) the Buyer's internal and external auditors;</li> <li>(b) the Buyer's statutory or regulatory auditors;</li> <li>(c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;</li> <li>(d) HM Treasury or the Cabinet Office;</li> <li>(e) any party formally appointed by the Buyer to carry out audit or similar review functions; and</li> <li>(f) successors or assigns of any of the above;</li> </ul>
<b>"Award Form"</b>	the document outlining the Incorporated Terms and crucial information required for the Contract, to be executed by the Supplier and the Buyer;
<b>"Beneficiary"</b>	a Party having (or claiming to have) the benefit of an indemnity under this Contract;
<b>"Buyer"</b>	the public sector purchaser identified as such in the Order Form;
<b>"Buyer Assets"</b>	the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of the Contract;
<b>"Buyer Authorised Representative"</b>	the representative appointed by the Buyer from time to time in relation to the Contract initially identified in the Award Form;
<b>"Buyer Cause"</b>	has the meaning given to it in the Award Form;
<b>"Buyer Data"</b>	<p>means the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any Buyer's or End User's Confidential Information, and which:</p> <ul style="list-style-type: none"> <li>(a) are supplied to the Supplier by or on behalf of the Buyer, or End User; or</li> <li>(b) the Supplier is required to generate, process, store or transmit pursuant to this Contract; or</li> <li>(c) any Personal Data for which the Buyer or End User is the Controller;</li> </ul>
<b>"Buyer Existing IPR"</b>	means any and all IPR that are owned by or licensed to the Buyer, and where the Buyer is a Central Government Body, any Crown

**Schedule 1 (Definitions)**

Crown Copyright 2022

	IPR, and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise)
<b>"Buyer Premises"</b>	premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);
<b>"Buyer Third Party"</b>	means any supplier to the Buyer (other than the Supplier), which is notified to the Supplier from time to time;
<b>"Buyer's Confidential Information"</b>	<p>(a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Buyer (including all Buyer Existing IPR and New IPR);</p> <p>(b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Buyer's attention or into the Buyer's possession in connection with the Contract; and</p> <p>information derived from any of the above;</p>
<b>"Central Government Body"</b>	<p>a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:</p> <p>(a) Government Department;</p> <p>(b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</p> <p>(c) Non-Ministerial Department; or</p> <p>(d) Executive Agency;</p>
<b>"Change in Law"</b>	any change in Law which impacts on the supply of the Deliverables and performance of the Contract which comes into force after the Start Date;
<b>"Change of Control"</b>	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
<b>"Charges"</b>	the prices (exclusive of any applicable VAT), payable to the Supplier by the Buyer under the Contract, as set out in the Award Form, for the full and proper performance by the Supplier of its obligations under the Contract less any Deductions;
<b>"Claim"</b>	any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;

<b>"Commercially Sensitive Information"</b>	the Confidential Information listed in the Award Form (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Buyer that, if disclosed by the Buyer, would cause the Supplier significant commercial disadvantage or material financial loss;
<b>"Comparable Supply"</b>	the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables;
<b>"Compliance Officer"</b>	the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;
<b>"Confidential Information"</b>	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of the Buyer or the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as <b>"confidential"</b> ) or which ought reasonably to be considered to be confidential;
<b>"Conflict of Interest"</b>	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under the Contract, in the reasonable opinion of the Buyer;
<b>"Contract"</b>	the contract between the Buyer and the Supplier, which consists of the terms set out and referred to in the Award Form;
<b>"Contract Period"</b>	the term of the Contract from the earlier of the: (a) Start Date; or (b) the Effective Date (c) until the End Date;
<b>"Contract Value"</b>	the higher of the actual or expected total Charges paid or payable under the Contract where all obligations are met by the Supplier;
<b>"Contract Year"</b>	a consecutive period of twelve (12) Months commencing on the Start Date or each anniversary thereof;
<b>"Control"</b>	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and <b>"Controlled"</b> shall be construed accordingly;
<b>"Controller"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Core Terms"</b>	the Buyer's terms and conditions which apply to and comprise one part of the Contract set out in the document called "Core Terms";

<b>"Costs"</b>	<p>the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables:</p> <p>(a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including:</p> <p>base salary paid to the Supplier Staff;</p> <p>employer's National Insurance contributions;</p> <p>pension contributions;</p> <p>car allowances;</p> <p>any other contractual employment benefits;</p> <p>staff training;</p> <p>workplace accommodation;</p> <p>work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and</p> <p>reasonable recruitment costs, as agreed with the Buyer;</p> <p>(b) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets;</p> <p>(c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Deliverables; and</p> <p>(d) Reimbursable Expenses to the extent these have been specified as allowable in the Award Form and are incurred in delivering any Deliverables;</p> <p>but excluding:</p> <p>(e) Overhead;</p> <p>(f) financing or similar costs;</p> <p>(g) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Contract Period whether in relation to Supplier Assets or otherwise;</p> <p>(h) taxation;</p> <p>(i) fines and penalties;</p>
----------------	--

**Schedule 1 (Definitions)**

Crown Copyright 2022

	<p>(j) amounts payable under Schedule 12 (Benchmarking) where such Schedule is used; and</p> <p>(k) non-cash items (including depreciation, amortisation, impairments and movements in provisions);</p>
<b>"Critical Service Level Failure"</b>	has the meaning given to it in the Award Form;
<b>"Crown Body"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
<b>"Crown IPR"</b>	means any IPR which is owned by or licensed to the Crown, and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);
<b>"CRTPA"</b>	the Contract Rights of Third Parties Act 1999;
<b>"Data Protection Impact Assessment"</b>	an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
<b>"Data Protection Legislation"</b>	(i) the UK GDPR, (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy; and (iv) (to the extent that it applies) the EU GDPR;
<b>"Data Protection Liability Cap"</b>	has the meaning given to it in the Award Form;
<b>"Data Protection Officer"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Data Subject"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Data Subject Access Request"</b>	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
<b>"Deductions"</b>	all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under the Contract;

**Schedule 1 (Definitions)**

Crown Copyright 2022

<b>"Default"</b>	any breach of the obligations of the Supplier (including abandonment of the Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of the Contract and in respect of which the Supplier is liable to the Buyer;
<b>"Delay Payments"</b>	the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;
<b>"Deliverables"</b>	Goods and/or Services that may be ordered under the Contract including the Documentation;
<b>"Delivery"</b>	delivery of the relevant Deliverable or Milestone in accordance with the terms of the Contract as confirmed and accepted by the Buyer by the either (a) confirmation in writing to the Supplier; or (b) where Schedule 8 (Implementation Plan and Testing) is used issue by the Buyer of a Satisfaction Certificate. <b>"Deliver"</b> and <b>"Delivered"</b> shall be construed accordingly;
<b>"Dependent Parent Undertaking"</b>	means any Parent Undertaking which provides any of its Subsidiary Undertakings and/or Associates, whether directly or indirectly, with any financial, trading, managerial or other assistance of whatever nature, without which the Supplier would be unable to continue the day to day conduct and operation of its business in the same manner as carried on at the time of entering into this Contract, including for the avoidance of doubt the provision of the Services in accordance with the terms of this Contract;
<b>"Disaster"</b>	the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable) for the period specified in the Award Form (for the purposes of this definition the <b>"Disaster Period"</b> );
<b>"Disclosing Party"</b>	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 19 (What you must keep confidential);
<b>"Dispute"</b>	any claim, dispute or difference (whether contractual or non-contractual) arising out of or in connection with the Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of the Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;

<b>"Dispute Resolution Procedure"</b>	the dispute resolution procedure set out in Clause 39 (Resolving disputes);
<b>"Documentation"</b>	<p>descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under the Contract as:</p> <ul style="list-style-type: none"> <li>(a) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables</li> <li>(b) is required by the Supplier in order to provide the Deliverables; and/or</li> <li>(c) has been or shall be generated for the purpose of providing the Deliverables;</li> </ul>
<b>"DOTAS"</b>	the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions;
<b>"DPA 2018"</b>	The Data Protection Act 2018
<b>"Due Diligence Information"</b>	any information supplied to the Supplier by or on behalf of the Buyer prior to the Start Date;
<b>"Effective Date"</b>	the date on which the final Party has signed the Contract;
<b>"EIR"</b>	the Environmental Information Regulations 2004;
<b>"Employment Regulations"</b>	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced;
<b>"End Date"</b>	<p>the earlier of:</p> <ul style="list-style-type: none"> <li>(a) the Expiry Date as extended by the Buyer under Clause 14.2; or</li> <li>(b) if the Contract is terminated before the date specified in (a) above, the date of termination of the Contract;</li> </ul>



**Schedule 1 (Definitions)**

Crown Copyright 2022

<b>"End User"</b>	means a party that is accessing the Deliverables provided pursuant to this Contract (including the Buyer where it is accessing services on its own account as a user);
<b>"Environmental Policy"</b>	to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer;
<b>"Equality and Human Rights Commission"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>"Escalation Meeting"</b>	means a meeting between the Supplier Authorised Representative and the Buyer Authorised Representative to address issues that have arisen during the Rectification Plan Process;
<b>"Estimated Year 1 Charges"</b>	the anticipated total Charges payable by the Buyer in the first Contract Year specified in the Award Form;
<b>"Estimated Yearly Charges"</b>	means for the purposes of calculating each Party's annual liability under Clause 15.1: (a) in the first Contract Year, the Estimated Year 1 Charges; or (b) in any subsequent Contract Years, the Charges paid or payable in the previous Contract Year; or (c) after the end of the Contract, the Charges paid or payable in the last Contract Year during the Contract Period;
<b>"EU"</b>	European Union
<b>"EU GDPR"</b>	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it has effect in EU law;
<b>"Existing IPR"</b>	any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);
<b>"Exit Plan"</b>	has the meaning given to it in Paragraph 4.1 of Schedule 30 (Exit Plan);
<b>"Expiry Date"</b>	the date of the end of the Contract as stated in the Award Form;

**Schedule 1 (Definitions)**

Crown Copyright 2022

<b>"Extension Period"</b>	such period or periods beyond which the Initial Period may be extended, specified in the Award Form;
<b>"FDE Group"</b>	the Supplier and any Additional FDE Group Member;
<b>"Financial Distress Event"</b>	<p>The occurrence of one or more the following events:</p> <ul style="list-style-type: none"> <li>(a) the credit rating of any FDE Group entity drops below the applicable Credit Rating Threshold of the relevant Rating Agency;</li> <li>(b) any FDE Group entity issues a profits warning to a stock exchange or makes any other public announcement, in each case about a material deterioration in its financial position or prospects;</li> <li>(c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of any FDE Group entity;</li> <li>(d) any FDE Group entity commits a material breach of covenant to its lenders;</li> <li>(e) a Key Subcontractor notifies the Buyer that the Supplier has not paid any material sums properly due under a specified invoice and not subject to a genuine dispute;</li> <li>(f) any FDE Group entity extends the filing period for filing its accounts with the Registrar of Companies so that the filing period ends more than 9 months after its accounting reference date without an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate;</li> <li>(g) any FDE Group entity is late to file its annual accounts without a public notification or an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate;</li> <li>(h) the directors and/or external auditors of any FDE Group entity conclude that a material uncertainty exists in relation to that FDE Group entity's going concern in the annual report including in a reasonable but plausible downside scenario. This includes, but is not limited to, commentary about liquidity and trading prospects in the reports from directors or external auditors;</li> <li>(i) any of the following: <ul style="list-style-type: none"> <li>(i) any FDE Group entity makes a public announcement which contains commentary with regards to that FDE Group entity's liquidity and trading and trading prospects, such as but not limited to, a profit warning or ability to trade as a going concern;</li> </ul> </li> </ul>

**Schedule 1 (Definitions)**

Crown Copyright 2022

	<ul style="list-style-type: none"> <li>(ii) commencement of any litigation against any FDE Group entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m;</li> <li>(iii) non-payment by any FDE Group entity of any financial indebtedness;</li> <li>(iv) any financial indebtedness of any FDE Group entity becoming due as a result of an event of default;</li> <li>(v) the cancellation or suspension of any financial indebtedness in respect of any FDE Group entity; or</li> <li>(vi) an external auditor of any FDE Group entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that FDE Group entity, in each case which the Buyer reasonably believes (or would be likely reasonably to believe) could directly impact on the continued provision of the Deliverables in accordance with the Contract; or</li> </ul> <p>(j) any of the Financial Indicators set out in Part C of Annex 2 of Schedule 24 for any of the FDE Group entities failing to meet the required Financial Target Threshold.</p>
<b>"Financial Report"</b>	<p>a report provided by the Supplier to the Buyer that:</p> <ul style="list-style-type: none"> <li>(a) to the extent permitted by Law, provides a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier;</li> <li>(b) to the extent permitted by Law, provides detail a true and fair reflection of the costs and expenses to be incurred by Key Subcontractors (as requested by the Buyer);</li> <li>(c) is in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Buyer to the Supplier on or before the Start Date for the purposes of this Contract; and</li> <li>(d) is certified by the Supplier's Chief Financial Officer or Director of Finance;</li> </ul>
<b>"Financial Transparency Objectives"</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) the Buyer having a clear analysis of the Costs, Overhead recoveries (where relevant), time spent by Supplier Staff in</li> </ul>

**Schedule 1 (Definitions)**

Crown Copyright 2022

	<p>providing the Services and the Supplier Profit Margin so that it can understand any payment sought by the Supplier;</p> <p>(b) the Parties being able to understand Cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;</p> <p>(c) the Parties being able to understand the quantitative impact of any Variations that affect ongoing Costs and identifying how these could be mitigated and/or reflected in the Charges;</p> <p>(d) the Parties being able to review, address issues with and re-forecast progress in relation to the provision of the Services;</p> <p>(e) the Parties challenging each other with ideas for efficiency and improvements; and</p> <p>(f) enabling the Buyer to demonstrate that it is achieving value for money for the taxpayer relative to current market prices;</p>
<b>"FOIA"</b>	<p>the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;</p>
<b>"Force Majeure Event"</b>	<p>any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:</p> <p>(a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under a Contract;</p> <p>(b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare;</p> <p>(c) acts of a Crown Body, local government or regulatory bodies;</p> <p>(d) fire, flood or any disaster; or</p> <p>(e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding:</p> <p>any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain;</p> <p>any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and</p>

	any failure of delay caused by a lack of funds, and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;
<b>"Force Majeure Notice"</b>	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
<b>"General Anti-Abuse Rule"</b>	(a) the legislation in Part 5 of the Finance Act 2013 and; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;
<b>"General Change in Law"</b>	a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
<b>"Goods"</b>	goods made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract as specified in the Award Form;
<b>"Good Industry Practice"</b>	standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
<b>"Government"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
<b>"Government Data"</b>	the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's Confidential Information, and which:  (a) are supplied to the Supplier by or on behalf of the Buyer; or (b) the Supplier is required to generate, process, store or transmit pursuant to the Contract;
<b>"Government Procurement Card"</b>	the Government's preferred method of purchasing and payment for low value goods or services <a href="https://www.gov.uk/government/publications/government-procurement-card--2">https://www.gov.uk/government/publications/government-procurement-card--2</a> ;

**Schedule 1 (Definitions)**

Crown Copyright 2022

<b>"Guarantor"</b>	the person (if any) who has entered into a guarantee in the form set out in Schedule 23 (Guarantee) in relation to this Contract;
<b>"Halifax Abuse Principle"</b>	the principle explained in the CJEU Case C-255/02 Halifax and others;
<b>"HMRC"</b>	Her Majesty's Revenue and Customs;
<b>"ICT Policy"</b>	the Buyer's policy in respect of information and communications technology, referred to in the Award Form, which is in force as at the Start Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;
<b>"Impact Assessment"</b>	<p>an assessment of the impact of a Variation request by the Buyer completed in good faith, including:</p> <ul style="list-style-type: none"> <li>(a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under the Contract;</li> <li>(b) details of the cost of implementing the proposed Variation;</li> <li>(c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;</li> <li>(d) a timetable for the implementation, together with any proposals for the testing of the Variation; and</li> <li>(e) such other information as the Buyer may reasonably request in (or in response to) the Variation request;</li> </ul>
<b>"Implementation Plan"</b>	the plan for provision of the Deliverables set out in Schedule 8 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer;
<b>"Incorporated Terms"</b>	the contractual terms applicable to the Contract specified in the Award Form;
<b>"Indemnifier"</b>	a Party from whom an indemnity is sought under this Contract;
<b>"Independent Controller"</b>	a party which is Controller of the same Personal Data as the other Party and there is no element of joint control with regards to that Personal Data;
<b>"Indexation"</b>	the adjustment of an amount or sum in accordance with the Award Form;

<b>"Information"</b>	has the meaning given under section 84 of the Freedom of Information Act 2000;
<b>"Information Commissioner"</b>	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
<b>"Initial Period"</b>	the initial term of the Contract specified in the Award Form;
<b>"Insolvency Event"</b>	<p>with respect to any person, means:</p> <ul style="list-style-type: none"> <li>(a) that person suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or: <ul style="list-style-type: none"> <li>(i) (being a company or an LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or</li> <li>(ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986;</li> </ul> </li> <li>(b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, an LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;</li> <li>(c) another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person;</li> <li>(d) a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of that person's assets and such attachment or process is not discharged within fourteen (14) days;</li> <li>(e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;</li> <li>(f) where that person is a company, an LLP or a partnership: <ul style="list-style-type: none"> <li>(i) a petition is presented (which is not dismissed within fourteen (14) days of its service), a notice is given, a</li> </ul> </li> </ul>

**Schedule 1 (Definitions)**

Crown Copyright 2022

	<p>resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;</p> <p>(ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that person;</p> <p>(iii) (being a company or an LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or</p> <p>(iv) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or</p> <p>(a) any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;</p>
<b>"Installation Works"</b>	all works which the Supplier is to carry out at the beginning of the Contract Period to install the Goods in accordance with the Contract;
<b>"Intellectual Property Rights" or "IPR"</b>	<p>(a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trademarks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</p> <p>(b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>(c) all other rights having equivalent or similar effect in any country or jurisdiction;</p>
<b>"Invoicing Address"</b>	the address to which the Supplier shall Invoice the Buyer as specified in the Award Form;



<b>"IP Completion Day"</b>	has the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;
<b>"IPR Claim"</b>	any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Buyer in the fulfilment of its obligations under the Contract;
<b>"IR35"</b>	the off-payroll rules requiring individuals who work through their company pay the same tax and National Insurance contributions as an employee which can be found online at: <a href="https://www.gov.uk/guidance/ir35-find-out-if-it-applies">https://www.gov.uk/guidance/ir35-find-out-if-it-applies</a> ;
<b>"Joint Controller Agreement"</b>	the agreement (if any) entered into between the Buyer and the Supplier substantially in the form set out in Annex 2 of Schedule 20 (Processing Data);
<b>"Joint Control"</b>	where two or more Controllers jointly determine the purposes and means of Processing;
<b>"Joint Controllers"</b>	where two or more Controllers jointly determine the purposes and means of Processing;
<b>"Key Staff"</b>	the persons who the Supplier shall appoint to fill key roles in connection with the Services as listed in Annex 1 of Schedule 29 (Key Supplier Staff);
<b>"Key Sub-Contract"</b>	each Sub-Contract with a Key Subcontractor;
<b>"Key Subcontractor"</b>	<p>any Subcontractor:</p> <ul style="list-style-type: none"> <li>(a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or</li> <li>(b) which, in the opinion of the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or</li> <li>(c) with a Sub-Contract with the Contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under the Contract, <p>and the Supplier shall list all such Key Subcontractors in section 29 of the Award Form;</p> </li></ul>
<b>"Know-How"</b>	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating

**Schedule 1 (Definitions)**

Crown Copyright 2022

	to the Deliverables but excluding know-how already in the other Party's possession before the Start Date;
<b>"Law"</b>	any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
<b>"Law Enforcement Processing"</b>	processing under Part 3 of the DPA 2018;
<b>"Losses"</b>	all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and <b>"Loss"</b> shall be interpreted accordingly;
<b>"Marketing Contact"</b>	shall be the person identified in the Award Form;
<b>"Milestone"</b>	an event or task described in the Implementation Plan;
<b>"Milestone Date"</b>	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
<b>"Month"</b>	a calendar month and <b>"Monthly"</b> shall be interpreted accordingly;
<b>"National Insurance"</b>	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
<b>"New IPR"</b>	<p>(a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of the Contract and updates and amendments of these items including database schema; and/or</p> <p>(b) IPR in or arising as a result of the performance of the Supplier's obligations under the Contract and all updates and amendments to the same;</p> <p>but shall not include the Supplier's Existing IPR. Unless otherwise agreed in writing, any New IPR should be recorded in Schedule 36 and updated regularly;</p>
<b>"New IPR Item"</b>	means a deliverable, document, product or other item within which New IPR subsists;

<b>"Notifiable Default"</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) the Supplier commits a material Default; and/or</li> <li>(b) the performance of the Supplier is likely to cause or causes a Critical Service Level Failure;</li> </ul>
<b>"Occasion of Tax Non – Compliance"</b>	<p>where:</p> <ul style="list-style-type: none"> <li>(a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of: <ul style="list-style-type: none"> <li>a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</li> <li>the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or</li> </ul> </li> <li>(b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Start Date or to a civil penalty for fraud or evasion;</li> </ul>
<b>"Open Book Data"</b>	<p>complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Contract, including details and all assumptions relating to:</p> <ul style="list-style-type: none"> <li>(a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Deliverables;</li> <li>(b) operating expenditure relating to the provision of the Deliverables including an analysis showing: <ul style="list-style-type: none"> <li>the unit costs and quantity of Goods and any other consumables and bought-in Deliverables;</li> <li>manpower resources broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of agreed rates against each manpower grade;</li> </ul> </li> </ul>

	<p>a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier Profit Margin; and</p> <p>Reimbursable Expenses, if allowed under the Award Form;</p> <p>(c) Overheads;</p> <p>(d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Deliverables;</p> <p>(e) the Supplier Profit achieved over the Contract Period and on an annual basis;</p> <p>(f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;</p> <p>(g) an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and</p> <p>(h) the actual Costs profile for each Service Period;</p>
<b>"Open Licence"</b>	<p>means any material that is published for use, with rights to access and modify, by any person for free, under a generally recognised open licence including Open Government Licence as set out at <a href="http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/">http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/</a> and the Open Standards Principles documented at <a href="https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles">https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles</a>;</p>
<b>"Open Licence Publication Material"</b>	<p>means items created pursuant to the Contract which the Buyer may wish to publish as Open Licence which are supplied in a format suitable for publication under Open Licence;</p>
<b>"Overhead"</b>	<p>those amounts which are intended to recover a proportion of the Supplier's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Staff and accordingly included within limb (a) of the definition of "Costs";</p>
<b>"Parent Undertaking"</b>	<p>has the meaning set out in section 1162 of the Companies Act 2006;</p>
<b>"Parliament"</b>	<p>takes its natural meaning as interpreted by Law;</p>
<b>"Party"</b>	<p>the Buyer or the Supplier and <b>"Parties"</b> shall mean both of them where the context permits;</p>

<b>"Personal Data"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Personal Data Breach"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Prescribed Person"</b>	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in 'Whistleblowing: list of prescribed people and bodies', 24 November 2016, available online at: <a href="https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies">https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies</a> ;
<b>"Processing"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Processor"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Processor Personnel"</b>	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under the Contract;
<b>"Progress Meeting"</b>	a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative;
<b>"Progress Report"</b>	a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates;
<b>"Prohibited Acts"</b>	<p>(a) to directly or indirectly offer, promise or give any person working for or engaged by the Buyer or any other public body a financial or other advantage to:</p> <p style="padding-left: 40px;">induce that person to perform improperly a relevant function or activity; or</p> <p style="padding-left: 40px;">reward that person for improper performance of a relevant function or activity;</p> <p>(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract; or</p> <p>(c) committing any offence:</p> <p style="padding-left: 40px;">under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or</p> <p style="padding-left: 40px;">under legislation or common law concerning fraudulent acts; or</p>

	<p>defrauding, attempting to defraud or conspiring to defraud the Buyer or other public body; or</p> <p>(d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;</p>
<b>"Protective Measures"</b>	<p>technical and organisational measures which must take account of:</p> <p>(a) the nature of the data to be protected</p> <p>(b) harm that might result from Data Loss Event;</p> <p>(c) state of technological development</p> <p>(d) the cost of implementing any measures</p> <p>including pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;</p>
<b>"Public Sector Body "</b>	<p>means a formally established organisation that is (at least in part) publicly funded to deliver a public or government service;</p>
<b>"Recall"</b>	<p>a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the IPR rights) that might endanger health or hinder performance;</p>
<b>"Recipient Party"</b>	<p>the Party which receives or obtains directly or indirectly Confidential Information;</p>
<b>"Rectification Plan"</b>	<p>the Supplier's plan (or revised plan) to rectify its breach using the template in Schedule 25 (Rectification Plan) which shall include:</p> <p>(a) full details of the Notifiable Default that has occurred, including a root cause analysis;</p> <p>(b) the actual or anticipated effect of the Notifiable Default; and</p> <p>(c) the steps which the Supplier proposes to take to rectify the Notifiable Default (if applicable) and to prevent such Notifiable Default from recurring, including timescales for such steps and for the rectification of the Notifiable Default (where applicable);</p>
<b>"Rectification Plan Process"</b>	<p>the process set out in Clause 11;</p>

<b>"Regulations"</b>	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);
<b>"Reimbursable Expenses"</b>	<p>the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including:</p> <ul style="list-style-type: none"> <li>(a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and</li> <li>(b) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;</li> </ul>
<b>"Relevant Requirements"</b>	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;
<b>"Relevant Tax Authority"</b>	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
<b>"Reminder Notice"</b>	a notice sent in accordance with Clause 14.6.1 given by the Supplier to the Buyer providing notification that payment has not been received on time;
<b>"Replacement Deliverables"</b>	any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Replacement Supplier"</b>	any third party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is providing Replacement Deliverables for its own account, shall also include the Buyer;
<b>"Request For Information"</b>	a request for information or an apparent request relating to the Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
<b>"Required Action"</b>	means the action the Buyer will take and what Deliverables it will control during the Step-In Process;
<b>"Required Insurances"</b>	the insurances required by Schedule 22 (Insurance Requirements);

**Schedule 1 (Definitions)**

Crown Copyright 2022

<b>"Satisfaction Certificate"</b>	the certificate (materially in the form of the document contained in Annex 2 of Part B of Schedule 8 (Implementation Plan and Testing) or as agreed by the Parties where Schedule 8 is not used in this Contract) granted by the Buyer when the Supplier has Achieved a Milestone or a Test;
<b>"Schedules"</b>	any attachment to the Contract which contains important information specific to each aspect of buying and selling;
<b>"Security Management Plan"</b>	the Supplier's security management plan prepared pursuant to Schedule 16 (Security) (if applicable);
<b>"Security Policy"</b>	the Buyer's security policy, referred to in the Award Form, in force as at the Start Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
<b>"Serious Fraud Office"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>"Service Credits"</b>	any service credits specified in the Annex to Part A of Schedule 10 (Service Levels) being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels;
<b>"Service Levels"</b>	any service levels applicable to the provision of the Deliverables under the Contract (which, where Schedule 10 (Service Levels) is used in this Contract, are specified in the Annex to Part A of such Schedule);
<b>"Service Period"</b>	has the meaning given to it in the Award Form;
<b>"Services"</b>	services made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract as specified in the Award Form;
<b>"Sites"</b>	any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which: <ul style="list-style-type: none"> <li>(a) the Deliverables are (or are to be) provided; or</li> <li>(b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables;</li> <li>(c) those premises at which any Supplier Equipment or any part of the Supplier System is located (where ICT Services are being provided)</li> </ul>
<b>"SME"</b>	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission



**Schedule 1 (Definitions)**

Crown Copyright 2022

	Recommendation of 6 May 2003 concerning the definition of micro, small and medium enterprises;
<b>"Social Value"</b>	the additional social benefits that can be achieved in the delivery of the Contract set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used)
<b>"Social Value KPIs"</b>	the Social Value priorities set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used)
<b>"Social Value Report"</b>	the report the Supplier is required to provide to the Buyer pursuant to Paragraph 1 of Part C of Schedule 26 (Sustainability) where Schedule 10 (Service Levels) is not used
<b>"Special Terms"</b>	any additional terms and conditions set out in the Award Form incorporated into the Contract;
<b>"Special IPR Terms"</b>	any additional terms and conditions relating to IPR set out in the Award Form incorporated into the Contract;
<b>"Specific Change in Law"</b>	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Start Date;
<b>"Specification"</b>	the specification set out in Schedule 2 (Specification), as may, in relation to the Contract, be supplemented by the Award Form;
<b>"Standards"</b>	<p>any:</p> <ul style="list-style-type: none"> <li>(a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;</li> <li>(b) standards detailed in the specification in Schedule 2 (Specification);</li> <li>(c) standards detailed by the Buyer in the Award Form or agreed between the Parties from time to time;</li> </ul>

**Schedule 1 (Definitions)**

Crown Copyright 2022

	(d) relevant Government codes of practice and guidance applicable from time to time;
<b>"Start Date"</b>	the date specified on the Award Form;
<b>"Step-In Process"</b>	the process set out in Clause 13;
<b>"Step-In Trigger Event"</b>	<p>means:</p> <ul style="list-style-type: none"> <li>(a) the Supplier's level of performance constituting a Critical Service Level Failure;</li> <li>(b) the Supplier committing a material Default which is irremediable;</li> <li>(c) where a right of termination is expressly reserved in this Contract;</li> <li>(d) an Insolvency Event occurring in respect of the Supplier or any Guarantor required under the Award Form;</li> <li>(e) a Default by the Supplier that is materially preventing or materially delaying the provision of the Deliverables or any material part of them;</li> <li>(f) the Buyer considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this agreement;</li> <li>(g) the Buyer being advised by a regulatory body that the exercise by the Buyer of its rights under Clause 13 is necessary;</li> <li>(h) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Deliverables; and/or</li> <li>(i) a need by the Buyer to take action to discharge a statutory duty;</li> </ul>
<b>"Step-Out Plan"</b>	means the Supplier's plan that sets out how the Supplier will resume the provision of the Deliverables and perform all its obligations under the Contract following the completion of the Step-In Process;
<b>"Storage Media"</b>	the part of any device that is capable of storing and retrieving data;
<b>"Sub-Contract"</b>	<p>any contract or agreement (or proposed contract or agreement), other than the Contract, pursuant to which a third party:</p> <ul style="list-style-type: none"> <li>(a) provides the Deliverables (or any part of them);</li> <li>(b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or</li> </ul>

**Schedule 1 (Definitions)**

Crown Copyright 2022

	(c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);
<b>"Subcontractor"</b>	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
<b>"Subprocessor"</b>	any third Party appointed to process Personal Data on behalf of the Supplier related to the Contract;
<b>"Subsidiary Undertaking"</b>	has the meaning set out in section 1162 of the Companies Act 2006;
<b>"Supplier"</b>	the person, firm or company identified in the Award Form;
<b>"Supplier Assets"</b>	all assets and rights used by the Supplier to provide the Deliverables in accordance with the Contract but excluding the Buyer Assets;
<b>"Supplier Authorised Representative"</b>	the representative appointed by the Supplier named in the Award Form, or later defined in a Contract;
<b>"Supplier Equipment"</b>	the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Contract;
<b>"Supplier Existing IPR"</b>	any and all IPR that are owned by or licensed to the Supplier and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise)
<b>"Supplier Existing IPR Licence"</b>	means a licence to be offered by the Supplier to the Supplier Existing IPR as set out in Para 1.3 of Schedule 36.
<b>"Supplier Group"</b>	means the Supplier, its Dependent Parent Undertakings and all Subsidiary Undertakings and Associates of such Dependent Parent Undertakings;
<b>"Supplier Non-Performance"</b>	where the Supplier has failed to: <ul style="list-style-type: none"> <li>(a) Achieve a Milestone by its Milestone Date;</li> <li>(b) provide the Goods and/or Services in accordance with the Service Levels ; and/or</li> <li>(c) comply with an obligation under the Contract;</li> </ul>
<b>"Supplier Profit"</b>	in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of the Contract for the relevant period;

<b>"Supplier Profit Margin"</b>	in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
<b>"Supplier Staff"</b>	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under the Contract;
<b>"Supplier's Confidential Information"</b>	<p>(a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier;</p> <p>(b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with the Contract;</p> <p>Information derived from any of (a) and (b) above;</p>
<b>"Supplier's Contract Manager"</b>	the person identified in the Award Form appointed by the Supplier to oversee the operation of the Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment;
<b>"Supply Chain Information Report Template"</b>	the document at Annex 1 of Schedule 18 (Supply Chain Visibility);
<b>"Supporting Documentation"</b>	sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under the Contract detailed in the information are properly payable;
<b>"Tender Response"</b>	the tender submitted by the Supplier to the Buyer and annexed to or referred to in Schedule 4 (Tender);
<b>"Termination Assistance"</b>	the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice;
<b>"Termination Assistance Notice"</b>	has the meaning given to it in Paragraph 5.1 of Schedule 30 (Exit Management);
<b>"Termination Notice"</b>	a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party

**Schedule 1 (Definitions)**

Crown Copyright 2022

	giving the notice to terminate the Contract on a specified date and setting out the grounds for termination;
<b>"Test Issue"</b>	any variance or non-conformity of the Deliverables or Deliverables from their requirements as set out in the Contract;
<b>"Test Plan"</b>	a plan: (a) for the Testing of the Deliverables; and (b) setting out other agreed criteria related to the achievement of Milestones;
<b>"Tests and Testing"</b>	any tests required to be carried out pursuant to the Contract as set out in the Test Plan or elsewhere in the Contract and <b>"Tested"</b> shall be construed accordingly;
<b>"Third Party IPR"</b>	Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
<b>"Third Party IPR Licence"</b>	means a licence to the Third Party IPR as set out in Paragraph 1.6 of Schedule 36
<b>"Transparency Information"</b>	the Transparency Reports and the content of the Contract, including any changes to this Contract agreed from time to time, except for – (a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and (b) Commercially Sensitive Information;
<b>"Transparency Reports"</b>	the information relating to the Deliverables and performance pursuant to the Contract which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Schedule 6 (Transparency Reports);
<b>"UK GDPR"</b>	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (United Kingdom General Data Protection Regulation), as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, together with the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019
<b>"Variation"</b>	means a variation to the Contract;
<b>"Variation Form"</b>	the form set out in Schedule 21 (Variation Form);

**Schedule 1 (Definitions)**

Crown Copyright 2022

<b>"Variation Procedure"</b>	the procedure set out in Clause 28 (Changing the contract);
<b>"VAT"</b>	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
<b>"VCSE"</b>	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
<b>"Verification Period"</b>	has the meaning given to it in the table in Annex 2 of Schedule 3 (Charges);
<b>"Work Day"</b>	7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
<b>"Work Hours"</b>	the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;
<b>"Worker"</b>	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) ( <a href="https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees">https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees</a> ) applies in respect of the Deliverables; and
<b>"Working Day"</b>	any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Award Form.

## **Schedule 2 (Specification)**

### **SPECIFICATION**

#### **CONTENTS**

1. SPECIFICATION OVERVIEW
2. BACKGROUND
3. TEACHER MENTORING PROGRAMME AIMS AND OBJECTIVES
4. ELIGIBLE TMP BENEFICIARIES
5. PROGRAMME DESIGN
6. PROGRAMME DELIVERY
7. STAKEHOLDER ENGAGEMENT AND COMMUNICATIONS
8. PROGRAMME EVALUATION AND CONTINUOUS IMPROVEMENT
9. ICT, SECURITY AND DATA PROTECTION
10. GOVERNANCE AND PROGRAMME MONITORING REQUIREMENTS
11. SOCIAL VALUE
12. MOBILISATION

ANNEX A – KEY FACTS ABOUT THE FE WORKFORCE

ANNEX B– LIST OF GOVERNMENT OWNED MENTORING RESOURCES

ANNEX C – DEPARTMENT FOR EDUCATION MODEL GRANT OFFER LETTER

### **1. SPECIFICATION OVERVIEW**

- 1.1 The Supplier is responsible for delivering a professional development and training offer for Further Education practitioners who act as mentors for new and inexperienced teachers in the sector (defined as those who have been teaching for less than 3 years). In addition, the Authority is seeking the provision of additional support and training for individuals who are involved in, or have responsibility for, the provision of teacher mentoring in FE organisations.
- 1.2 This Specification provides the detailed requirements that will directly inform and influence the Supplier's continuous professional development (CPD) offer, as well as confirming broader management and contractual requirements that the Supplier must comply with.

### **2. BACKGROUND**

2.1 This section has three sub-sections:

- Further Education (FE) and Skills Reform, and the FE Workforce
- FE Teacher Mentoring

- Overview of Current Government Funded Mentoring Support

## **FE and Skills Reform and the FE Workforce**

- 2.2 In the Skills for Jobs White Paper (SfJWP)<sup>1</sup>, published in January 2021, the Government set out ambitious and far-reaching plans to reform the FE and Skills sector so it supports people to get the skills the economy needs throughout their lives, wherever they live in the country.
- 2.3 The FE sector is broad, covering a wide range of academic and vocational qualifications (such as T Levels, BTECs, A Levels and apprenticeships) for young people and adults, which are delivered by different types of public-funded organisations. These organisations include colleges, adult community learning providers, independent training providers and in some instances employers. Upon completion of their studies, learners can continue in education to work towards achieving a higher qualification level or gain employment (or even a combination of the two through for example a degree apprenticeship).
- 2.4 To transform the FE and skills sector, it's essential that FE providers are able to recruit and retain excellent teachers<sup>2</sup>, and that all members of staff have access to ongoing effective training and professional development to keep their teaching skills and practice up-to-date, and of a high quality. This is because the quality of teachers is the biggest determinant of learner outcomes. There is excellent practice within the FE sector, but there is a need to build on and extend this so that all learners have access to high-calibre and effective FE teachers. Key facts about the FE workforce can be found in Annex A.

## **FE Teacher Mentoring**

- 2.5 In the SfJWP the Government committed to providing increased support to the FE sector to improve the professional development and training of FE teachers to uphold teaching quality, strengthen learner outcomes and enable career progression.
- 2.6 As research indicates mentoring is an effective and crucial form of professional development and support for teachers – particularly in the first few years of teaching – the SfJWP also committed to providing FE teachers with access to high quality mentoring. The importance of teacher mentoring is highlighted in the framework guidance for the new FE teaching qualification (Diploma in Teaching), which will eventually replace the current Diploma in Education and Training<sup>3</sup>.
- 2.7 There are different definitions of mentoring but the following example is widely

---

<sup>1</sup> [Skills for Jobs: Lifelong Learning for Opportunity and Growth \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/94444/Skills_for_Jobs_Lifelong_Learning_for_Opportunity_and_Growth.pdf).

<sup>2</sup> There is a plethora of different job titles and descriptions used to denote FE staff with teaching roles including, but not limited to, teachers, tutors, lecturers and trainers. However, in this document teachers will be used as an umbrella term for any FE staff member with responsibility for delivering education to learners.

<sup>3</sup> Please see page 8 of the [Qualification Framework for Diploma in Teaching \(FES\) 26 Sept 22 v2.pdf \(feadvice.org.uk\)](https://feadvice.org.uk/wp-content/uploads/2022/09/Qualification-Framework-for-Diploma-in-Teaching-FES-26-Sept-22-v2.pdf).



used to describe teacher mentoring in the FE sector: “teachers and trainers supporting colleagues on a one-to-one basis, over a sustained period, to bring about professional learning and development”.

2.8 High quality mentoring support for teachers shares common characteristics as outlined in the ONSIDE model<sup>4</sup>:

- Offline - separated from line management and supervision
- Non-hierarchical, non-judgmental, and non-evaluative
- Supportive
- Individualised – tailored to the specific and changing needs of the mentee
- Developmental and growth-oriented
- Empowering – progressively non-directive to support mentees to become more autonomous

(a)

2.9 There is an array of potential benefits associated with teacher mentoring:

- Improvements in teaching knowledge, practice and confidence, thereby ensuring learners receive excellent teaching
- Sharing of effective practice in areas of general and subject specific pedagogy
- Positive impacts on teacher’s wellbeing, resilience and workload
- Supports teacher retention
- Increased job satisfaction and career progression opportunities for mentors

2.10 However, at present there are significant barriers to effective mentoring in the sector: a deficit of preparation and training for mentors, a lack of time for mentors and mentees to meet due to high workloads, and cultural or behavioural issues where mentoring, and staff professional development more generally, is undervalued and deprioritised. To address these issues, in recent years the Department has worked with the sector to improve mentoring provision through:

- Design and delivery of training and development opportunities for mentors
- Identification and sharing of effective mentoring models and practices
- Support for providers to improve their mentoring offers for staff through access to high quality mentoring resources
- Grant funding for remission or reduced timetabling to enable mentors and mentees to meet

## **Overview of Current Government Funded Mentoring Support**

2.11 The Department currently facilitates access to mentoring support in a variety of ways. Several government-funded FE workforce programmes – such as the

---

<sup>4</sup> For more information about the ONSIDE framework, please see the [FE mentoring framework](#).

Taking Teaching Further<sup>5</sup> and T Level Professional Development<sup>6</sup> programmes – provide remission funding to reduce teachers' workload, enabling high quality mentoring support to be provided. Mentoring was also a common form of professional development delivered as part of sector-led teacher training and development initiatives funded by the FE Professional Development Grants pilot.

2.12 Since 2020 the Department has funded the design and delivery of a mentoring programme for the FE sector which has the following objectives:

- Delivery of high-quality training and development opportunities for new and inexperienced mentors to enhance the mentoring of FE teaching staff
- Improve the retention, professional development and career progression of FE teacher mentees
- Promote a shared understanding of effective mentoring models and practices

2.13 It is important that recent improvements made to FE teacher mentoring are retained whilst continuing to respond to the change in FE teacher professional development needs and the Department's strategic priorities.

### **3. TEACHER MENTORING PROGRAMME AIMS AND OBJECTIVES**

#### **Strategic aim**

3.1 The TMP aims to deliver the SfJWP commitment to improve the package of early career support and to specifically enable access to high-quality mentoring for new and inexperienced teachers (ECTs). Being able to call on the support and advice of a more experienced peer is a crucial lifeline for new staff, who often come from industry backgrounds without teaching qualifications or prior experience. The fact that approximately 50% of new teachers in FE colleges leave the sector within three years of starting teaching indicates that action must be taken to improve the quality, and quantum, of early career support available.

3.2 The ultimate aim is that all ECTs in the FE sector have access to a skilled and more experienced peer who acts as a mentor (ECT mentor), helping to unlock their potential to become an excellent teacher and to lay the building blocks for a rewarding and lengthy career.

3.3 While ECTs are arguably in particular need of attention, it is clear that all FE teaching staff, irrespective of experience or background, can potentially benefit

---

<sup>5</sup> For more information, please see [Taking Teaching Further programme - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/taking-teaching-further).

<sup>6</sup> More detail can be found here: [T Level Professional Development - Education & Training Foundation \(et-foundation.co.uk\)](https://www.et-foundation.co.uk/).

from mentoring. It is equally important that recent improvements in the general quality of teacher mentoring within the sector are maintained and built on.

## **Objectives**

- 3.4 In addressing the Department's strategic aim, the Supplier must reflect and meet the specific objectives and requirements as set out below.

### **Objective A – Early Career Teacher Mentor Training Programme**

- 3.5 To meet Objective A, the Supplier will design and deliver a professional development and training programme for ECT mentors, supporting teachers who have been teaching in the sector for less than three years.
- 3.6 The outcome of the Supplier's training programme will be to equip ECT mentors with the knowledge, skills and confidence to effectively support mentees. ECT mentors will support mentee's professional and personal development so they can become high-quality teachers for their learners and to also lay the foundations for a successful and rewarding career in teaching within the FE sector.
- 3.7 The Supplier's training programme should include both theory-based and practical components to allow ECT mentors the opportunity to embed their learning through opportunities to put their newly acquired knowledge and skills into practice. In addition to coverage of effective mentoring models and skills, the training should also instruct mentors about the essential pedagogies, behaviours and soft skills (communication and leadership) they need to support early career teachers to develop in order to deliver effective teaching to their learners.
- 3.8 Training and support delivered by the Supplier must be accessible and flexible – taking into account high workloads and pressure on FE teachers' time – as well as being engaging and innovative. The Supplier will employ effective delivery methods and learning styles that maximise engagement and take-up.
- 3.9 To build on effective practice and ensure Value for Money for the taxpayer by minimising additional design costs, when designing and delivering the programme, the Department expects the Supplier to consider and make appropriate use of existing government-owned mentor training course materials and resources. A list of these resources has been included in Annex B – all assets are available under the Open Government License and protected by Crown Copyright.
- 3.10 A core requirement for successful completion of the Early Career Teacher Mentor Training Programme will be for ECT mentors to deliver a minimum number of mentoring hours to ECTs they are mentoring. This will allow mentors the opportunity to embed their learning and will also increase the

amount of early career support ECTs can access. The Supplier will draw on their relevant evidence and effective practice to set and justify an appropriate minimum number of additional mentoring hours that each mentor must undertake in order to complete the programme.

- 3.11 The Supplier will be required to achieve a minimum of 600 enrolments on the programme over the length of the contract, with a minimum of 200 in the 2023-24 government financial year<sup>7</sup>. The Supplier will also need to ensure a minimum of 1800 mentees (ECTs) benefit from the TMP due to access to a mentor receiving training through the programme and additional mentoring hours.
- 3.12 In order that the programme supports diversity and inclusion within the FE workforce and wider sector, the Supplier's delivery approach should ensure that at least 10% of mentors recruited onto the programme are from under-represented groups (either individuals with a disability and/or from a minority ethnic group<sup>8</sup>) or work in one of the 24 Priority Education Investment Areas<sup>9</sup>.
- 3.13 Participants will receive relevant and appropriate support from the Supplier to engage with and successfully complete the programme, including meeting any associated requirements. The Supplier will be required to achieve a 90% retention rate of participants that start and complete the programme.
- 3.14 The Supplier will ensure ECTs receiving mentoring through the TMP can be supported so they are prepared for, able to attend and effectively participate in additional mentoring sessions. The Supplier may want to consider using existing government-owned mentoring resources for mentees developed by the previous mentoring programme<sup>10</sup>, as well as free-to-access, government-funded early career support resources that were produced through the FE

---

<sup>7</sup> A government financial year runs from 1 April until 31 March of the following year.

<sup>8</sup> Government uses 'ethnic minorities' to refer to all ethnic groups except the white British group. Please see guidance for further detail: [Writing about ethnicity - GOV.UK \(ethnicity-facts-figures.service.gov.uk\)](https://www.gov.uk/government/publications/writing-about-ethnicity)

<sup>9</sup> The 24 Priority Education Investment Areas are Blackpool, Bradford, Derby, Doncaster, Fenlands and East Cambridgeshire, Hastings, Ipswich, North Yorkshire Coast, Norwich, Oldham, Stoke-on-Trent, West Somerset, Halton, Hartlepool, Knowsley, Liverpool, Middlesbrough, Nottingham, Portsmouth, Rochdale, Salford, Sandwell, Tameside, and Walsall. Please see the Opportunity for All White Paper for more detail: [Opportunity for all - Strong schools with great teachers for your child \(publishing.service.gov.uk\)](https://www.gov.uk/government/publications/opportunity-for-all-strong-schools-with-great-teachers-for-your-child)

<sup>10</sup> For example, the Guide for Mentees ([Mentoring Framework: Guide for Mentees in Further Education \(et-foundation.co.uk\)](https://www.et-foundation.co.uk/mentoring-framework-guide-for-mentees)) that supports adoption of the FE Mentoring Framework and How to be an effective mentee in FE short online course which can be accessed here: [Mentoring short courses - The Education and Training Foundation \(et-foundation.co.uk\)](https://www.et-foundation.co.uk/mentoring-short-courses).

Professional Development Grants pilot<sup>11</sup>. However, the Supplier, in designing and implementing their solution, can offer new and innovative proposals to achieve delivery of this Specification.

## **Objective B – Mentoring Quality Support**

- 3.15 To meet Objective B, the Supplier will support the sector to improve the general quality of mentoring, drawing from the FE mentoring framework<sup>12</sup>, working with FE providers to augment and strengthen mentoring infrastructures, processes, organisational cultures and the competence of any staff who have responsibility for overseeing or administering mentoring. This is in contrast to Objective A which specifically targets ECT mentors and ECTs.
- 3.16 The Supplier will provide relevant and effective forms of training and/or support to all types of teacher mentors and mentees in the FE sector who may not be eligible for the ECT mentor training programme described in Objective A.

### Short online mentoring courses

- 3.17 As a minimum, the Supplier will be responsible for the continued delivery of four government-owned short online courses for mentors, mentees, leaders and mentoring coordinators, which are listed in Annex B. The courses offer six Guided Learning Hours of predominantly self-directed study although participants also have access to an expert facilitator.
- 3.18 These have been well received by the sector to date and ensure that individuals who are involved in or have responsibility for teacher mentoring can access training so that they can carry out their roles effectively.
- 3.19 The Supplier will be required to use their expertise and user feedback to make any updates that are required to the courses to ensure they are still relevant. The Supplier will also be responsible for delivering these in an engaging and interactive manner (for example by ensuring each course is supported by an expert facilitator to answer queries from participants and to stimulate an exchange of views and collaboration between individuals taking the course). The Supplier may also apply their broader expertise and good practices obtained from other arrangements.

- 3.20 The Supplier will need to maximise the reach and impact of the four online

---

<sup>11</sup> Please see Supporting new or inexperienced teacher projects and resources listed on: [Further education professional development grants pilot: project summaries and resources - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/collections/further-education-professional-development-grants-pilot-project-summaries-and-resources)

<sup>12</sup> [Mentoring Framework for Practitioners in the Further Education Sector \(et-foundation.co.uk\)](https://www.et-foundation.co.uk/mentoring-framework).

courses across the sector without any decrease in programme quality or user experience: for instance, due to an unavailability of, or delays to receiving, appropriate support with completing the course.

- 3.21 The courses are currently hosted on FutureLearn<sup>13</sup> although a Supplier may choose to host the courses elsewhere if this is appropriate and will continue to meet user needs. If the courses need to be transferred, the Supplier will need to work with the Department, incumbent supplier and FutureLearn to agree how content will be moved to the new learning platform.

#### Other forms of mentoring support

- 3.22 It is important that mentors who have received training are able to access further training and development opportunities to refresh their mentoring skills. This will safeguard against a drop in mentoring standards as knowledge and practices becomes outdated. FE teaching practices are continuously evolving to meet employer needs and industry trends and therefore mentor's skills similarly need to evolve.
- 3.23 The Supplier will provide ongoing low-cost development opportunities and support for mentors who have previously participated in the current government-funded mentoring programme, other government-funded mentoring initiatives or the TMP to keep their mentoring skills and knowledge up-to-date and relevant.
- 3.24 The Supplier will also be responsible for identifying opportunities to drive further improvements in the general quality of FE teacher mentoring by designing and delivering any additional activity that doesn't duplicate existing resources listed in Annex B or linked to other objectives in this Specification. For example, this could include activities that provide knowledge exchange opportunities for mentors, mentees, FE staff involved in teacher mentoring and providers to learn from one another about how to successfully implement effective practice.
- 3.25 It should be noted that Objective B is a lesser priority for the Department in comparison to Objective A and expects activities to be lower in cost and less intensive than the core Early Career Teacher Mentoring Programme. The Department is therefore stipulating that no more than 10% of the total contract value can be spent on delivery of Objective B.

#### **Objective C – Mentoring Grants**

---

<sup>13</sup> FutureLearn is a digital education platform. Please see their website for more information: [FutureLearn: Online Courses and Degrees from Top Universities](#).

- 3.26 To meet Objective C, the Supplier will distribute, manage and monitor optional grant funding that eligible providers with ECT mentors undertaking the training programme outlined in Objective A can apply for to enable their participation in the programme and to comply with the programme requirements.
- 3.27 The grant funding is optional and providers may participate in the Early Career Teacher Mentoring Programme without applying for a grant: for example, if they already offer remission from teaching for CPD and/or mentoring and are therefore able to meet the programme requirements.
- 3.28 The grants can support participation in the programme by providing remission funding<sup>14</sup> to eligible providers in order to allow participants to attend training sessions.
- 3.29 The funding will also increase mentoring capacity by providing remission from teaching or other existing responsibilities to allow both ECT mentors and ECT mentees to participate in additional mentoring sessions. As stipulated as part of Objective A, completion of a minimum number of mentoring hours is a core requirement of the Early Career Teacher Mentor Training Programme.
- 3.30 To make an application for grant funding, eligible FE providers will need to demonstrate clear need and why participation in the programme is not possible without access to the grant funding. The Department will not provide replacement funding for existing staff remission or activity (such as mentoring hours already funded by the provider) – the purpose of the grants is to increase programme participation and mentoring support by delivering additional remission or activity.
- 3.31 Eligible FE providers will be able to claim for up to £5,000 per mentor participating in the Early Career Teacher Mentor Training Programme although payment will be limited to eligible expenditure that's been incurred.
- 3.32 The grant funding will be disbursed on a first come first served basis to eligible recipients until the budget is exhausted. The total value of approved grants will be capped at £2m in a single government financial year and £3m across the length of the contract.
- 3.33 Grant funding will not be available for individuals or providers accessing training or engaging with activity provided by the Supplier as part of delivery of Objective B. It is restricted to supporting delivery of Objective A.
- 3.34 The Supplier will be required to manage the distribution and monitoring of grant funding to recipients, including but not limited to, the following activities:

---

<sup>14</sup> Remission funding is used to reduce teacher's time spent teaching to allow them to undertake other forms of activity (such as undertaking CPD), by funding provider's replacement teaching costs.

- Design a process for recipients to submit applications for grant funding
- Review grant applications and determine the eligibility of applicants, including working with the Department to determine whether providers applying are in receipt of post-16 funding from the ESFA
- Produce a Grant Funding Agreement (GFA), based on the Department's standard GFA template, included at Annex C, which incorporates the Department's standard grant funding terms<sup>15</sup> to ensure that public funds are disbursed and controlled appropriately
- Ensure signed GFAs are in place with each approved grant recipient, in a timely fashion, prior to payments being issued
- Develop a robust and appropriate claims process and payment profile that meets grant recipient's needs and supports delivery of Objective A in the Specification.
- Design and apply a proportionate due diligence process to the grant funding process which as a minimum includes e.g., ensuring individual and cumulative claims do not exceed allocated funding, undertaking proportionate monitoring activity to check grant recipient's progress against key deliverables as set out in the signed GFA and conduct a random audit sample of 10% of grant expenditure across the term of the contract to ascertain that funding has only been used for agreed purposes, sharing findings with the Department
- Pay on receipt of a valid claim form in a timely manner, supported by evidence of eligible expenditure incurred (for example proof of participation in training or delivery of additional mentoring hours)
- Comply with any relevant Government audit or grant assurance requirements as set out in the Department's standard Grant Funding terms and conditions, including sharing any evidence requested by the Department
- Undertake a reconciliation process at the end of each government financial year during the contract to ensure compliance with the Department's standard Grant Terms and Conditions. This will include recovery of any ineligible grant expenditure from providers and returning this funding to the Department

---

<sup>15</sup> [DfE grant funding agreement: terms and conditions - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/614442/dfe-grant-funding-agreement-terms-and-conditions-2022.pdf).



#### **4. ELIGIBLE TMP BENFICIARIES**

- 4.1 The general target audience of the TMP will be public funded (in receipt of post-16 funding from the Education Skills and Funding Agency) FE providers and their staff.
- 4.2 The Supplier will need to work with the Department to agree detailed eligibility criteria for each objective and part of the programme, and an approach for assessing the eligibility of participants, based on the following set of principles.

#### Objectives A – Early Career Teacher Mentor Training Programme

- 4.3 Eligible participants/beneficiaries will be:
  - a. Any FE staff member mentoring a FE teacher who has been teaching in the sector for less than three years
  - b. Any FE teacher who has been teaching in the sector for less than three years and can benefit from mentoring support but isn't already receiving similar funding through another government programme such as the Taking Teaching Further programme

#### Objective B – Mentoring Quality Support

- 4.4 Eligible participants/beneficiaries will be:
  - a. Any FE staff member currently, or seeking to, mentor a FE teacher
  - b. Any FE teacher who is, or can benefit, from mentoring support
  - c. Any FE staff member who has responsibility for setting-up, administering or overseeing teacher mentoring in their organisation, sometimes referred to as mentoring co-ordinators
  - d. FE leaders or managers

#### Objective C – Mentoring Grants

- 4.5 The direct beneficiaries, receiving the financial benefit, will be eligible FE providers with mentors participating in the Early Career Teacher Mentor Training Programme (Objective A) who apply for grant funding.
- 4.6 If a provider submits an application for grant funding, eligible beneficiaries within the organisation who will benefit from remission to attend training or participate in additional mentoring sessions will be:
  - a. Any FE staff member mentoring a FE teacher who has been teaching in the sector for less than three years

- b. Any FE teacher who has been teaching in the sector for less than three years and can benefit from mentoring support but isn't already receiving similar funding through another government programme such as the Taking Teaching Further programme

4.7 Any change to the eligibility criteria will be agreed with the Supplier at the beginning of each year of the contract and reviewed throughout.

## **5. PROGRAMME DESIGN**

5.1 The Supplier will ensure the professional development, training and support offered through the TMP are reflective of the needs of the eligible beneficiaries as outlined in Section C and align with the strategic priorities for the TMP included in Section 2. All activity should be consistent with the principles of effective teacher development as set out in the Department's National CPD Standard<sup>16</sup>.

5.2 All training, support and professional development delivered through the TMP should also align with evidence-based mentoring practices as defined in the existing FE mentoring framework<sup>17</sup>.

5.3 The Supplier will ensure that Service Levels for the reach and impact of professional development, training and support provided through the TMP are met through employing a range of effective of delivery methods and learning styles that maximise engagement and take-up.

5.4 Other FE stakeholders that need to be considered by the Supplier in the design, development and delivery of the TMP and its associated activities include the wider FE workforce, FE learners and sector representative organisations. This includes but is not limited to:

- Association of Colleges (AoC)
- Sixth Form Colleges Association (SFCA)
- Hoxex
- Association of Employment and Learning Providers (AELP)
- Federation of Awarding Bodies (FAB)
- Universities' Council for the Education of Teachers (UCET)

---

<sup>16</sup> [Standard for teachers' professional development - GOV.UK \(www.gov.uk\)](https://www.gov.uk). Please note the standard was developed for schools teachers but the principles are broadly transferable to teacher development in the FE sector.

<sup>17</sup> The FE mentoring framework can be found here: [Mentoring: Mentoring framework and guides - The Education and Training Foundation \(et-foundation.co.uk\)](https://www.et-foundation.co.uk).

- 5.5 The Department expects that certain elements of TMP which can be made available to a wider audience (for instance the post-16 workforce in schools) where there is no extra delivery cost to the Supplier, such as free online training and resources, can be accessed other FE providers and educational organisations.

## **6. PROGRAMME DELIVERY**

- 6.1 The Supplier is responsible for designing and delivering a programme of activities that achieve the aims, objectives and requirements detailed in this Specification (the “Delivery Plan”).

- 6.2 The Supplier’s Delivery Plan must, as a minimum, provide:

- Detail of the different activities to be delivered.
- A forecast for the anticipated use of available grant/pass through funding across the length of the contract, that aligns with the delivery approach for Objective A
- Eligibility criteria for each TMP objective as set out in Section B and the Supplier’s proposed approach for assessing the eligibility of participants where relevant
- Timelines and milestones
- A resourcing and sub-contractor profile
- Targets and intended measures of success, including Service Levels
- Governance Strategy
- Risk Management Strategy

- 6.3 The Supplier will finalise their Delivery Plan in consultation with the Department. The Supplier will provide a final draft of their Delivery Plan for Departmental approval by 7 April 2023.

- 6.4 The Supplier’s Delivery Plan will apply to the period from Department approval until 31 March 2025.

- 6.5 For guidance, high-level delivery milestones the Supplier must meet are outlined below. Detailed milestones based on the initial list below will be provided by the Supplier in their Delivery Plan and agreed with the Department.

Objective A – Early Career Teacher Mentor Training Programme

- The ECT Mentor Training Programme to have been designed, developed and mobilised no later than 31 August 2023
- Actual delivery of the ECT Mentor Training Programme to begin no later than 2 October 2023. For the avoidance of doubt, this means actually commencing training, with all activity to recruit an initial phase of eligible participants complete.
- All delivery to be completed by 28 February 2025

#### Objective B – Mentoring Quality Support

- Any updates and hosting arrangements for the four current short online mentoring courses to be agreed by 31 July 2023
- All new forms of support and professional development linked to delivery of Objective B as agreed between the Supplier and Department to be designed and developed by 31 August 2023
- Delivery of the existing four short online mentoring courses to begin no later than 2 October 2023.
- All delivery related to Objective B to have been completed by 28 February 2025

#### Objective C – Mentoring Grants

- A process for providers to apply for grant funding to be agreed and in place no later than 31 August 2023
- All claims relating to grant-funded activity in the 2023 to 2024 financial year (1 April 2023 to 31 March 2024) to be received and processed by 15 March 2024
- All assurance activity relating to grant funding activity in the 2023 to 2024 financial year to be completed and outcomes submitted to the Department – including submission of any evidence required for audit purposes – by 15 June 2024
- All claims relating to grant-funded activity in the 2024 to 2025 financial year (1 April 2024 to 31 March 2025) to be received and processed by 15 March 2025
- All assurance activity relating to grant funding activity in the 2023 to 2024 financial year to be completed and outcomes submitted to the Department – including submission of any evidence required for audit purposes – by 15 June 2025

6.6 The Supplier will monitor, report upon, and adapt/enhance their Delivery Plan to ensure the TMP and its individual elements are meeting programme aims and objectives, and the requirements, detailed in this Specification.

6.7 Accessibility of the offer is crucial for the Department. To achieve this, the Supplier will:

- Support queries regarding participation in TMP and eligibility
- Ensure that training, professional development and support is available at times and in locations that best suit those wishing to access it
- Ensure online training components are accessible at all time, save “for any out of office hours” downtime in respect of website maintenance

## **7. STAKEHOLDER ENGAGEMENT AND COMMUNICATIONS**

7.1 The Supplier will be responsible for raising awareness of the TMP, driving engagement and take-up. The Supplier will design a stakeholder engagement and communications strategy for the purpose of achieving:

- Effective engagement and communication with the FE sector that directly informs the design and development of the TMP and its component parts
- Effective and timely communication of the TMP, and take-up of the training, professional development and support offered through it, to the FE sector, with a specific focus on those customers considered to be in hard to reach or underrepresented groups and/or areas
- To promote greater and inclusion in the FE sector, the Supplier will ensure 10% of places on the ECT mentor training programme (Objective A) come from underrepresented groups (disability or ethnic minority groups<sup>18</sup>) or those working in one of the 24 Priority Education Investment Areas
- High levels of credibility with FE staff, eligible FE providers and wider FE stakeholders, to increase confidence in the TMP

7.2 The Supplier’s strategy will adopt a planned and phased approach to communication and engagement that aligns with key milestones as set out in the Delivery Plan and uses appropriate channels that effectively support the communication requirements and relevant audience.

7.3 In all the above the Supplier should ensure that any communications and engagement activity undertaken to develop and deliver TMP aligns with the Department’s wider communications and marketing activity around FE and skills reform and FE workforce policy and does not duplicate or contradict the Department activity or messages.

## **8. PROGRAMME EVALUATION AND CONTINUOUS IMPROVEMENT**

8.1 The Supplier will gather feedback and evaluate activities delivered through the

---

<sup>18</sup> For a definition of ethnic minority groups, please refer to the government’s guide on writing about ethnicity: [Writing about ethnicity - GOV.UK \(ethnicity-facts-figures.service.gov.uk\)](https://www.gov.uk/guidance/writing-about-ethnicity).

TMP, including data on participants' overall level of satisfaction and the impact of training or support in line with Service Levels.

- 8.2 The Supplier should identify, as the TMP is implemented, which elements work well and why, and conversely those that don't work well and why. This includes learning from the findings of any internal or external evaluations and amending the programme accordingly (with agreement of the Department through the contractual change control procedure).
- 8.3 Should the Department in the future choose to undertake an independent evaluation of the TMP, the Supplier will also need to co-operate and work closely with any organisation appointed by the Department for this purpose, including providing all necessary data to that organisation.

## **9. ICT, SECURITY AND DATA PROTECTION**

- 9.1 The Supplier will ensure that their programme delivery approach, delivery plan and general governance arrangements ensure compliance with the relevant ICT and Data Security standards as required by the Contract. The standards specifically include, but are not limited to:
- i. Schedule 16 (Security)
  - ii. Schedule 19 (Cyber Essentials Scheme)
  - iii. Schedule 20 (Data Processing)

## **10. GOVERNANCE AND PROGRAMME MONITORING ARRANGEMENTS**

- 10.1 The Supplier will apply a robust governance strategy for the purpose of overseeing, managing, and providing assurance over delivery of this Service Requirement. The Supplier will have in place (in addition to the details provided within the Delivery Plan):
- Appropriate **Senior Management Oversight** of the programme delivery, to ensure requirements in the Specification are delivered, and obligations specified in the of the Contract are fulfilled. The Senior Management Oversight will ensure effective, timely and appropriate decision making.
  - A **Quality Management Approach**: that sets out the standards, procedures, and responsibilities to ensure the defined interventions/activities are delivered to the required quality.
  - A **Risks and Issues Controls log**: that embeds robust risk and issue management. The controls will identify the key risks to service delivery, their impact, owners, and the proposed mitigations via a risk register. An issues log will contain new issues, matters for escalation, and resolution

progress.

- A **Contract Obligations log**: that is used to record, track progress and report on obligation of the Supplier as required by the Contract.

- 10.2 The Supplier will be required to inform and participate in the process of delivery governance. This will include monthly and quarterly Performance Review Meetings. These meetings will have the purpose of monitoring the Supplier's delivery of this Specification, their Delivery Plan and their compliance with Contract obligations.
- 10.3 The Supplier will engage in monthly Performance Review Meetings. These meetings will take place 10 working days after the end of a monthly period. The focus of the monthly meetings will, as a minimum:
- 10.3.1 Review the Supplier's delivery of their Delivery Plan over the relevant monthly period, taking account of services to be delivered in that month.
- 10.3.2 Monitor progress towards, and actual performance against, the Service Levels and, where appropriate, discuss and agree any actions (and associated timescales) to improve performance.
- 10.3.3 Assess delivery risks and issues and discuss/agree actions that will enable the Supplier to mitigate risks and manage issues.
- 10.4 Review supplier's actual delivery expenditure in the monthly period and forecasted expenditure for the relevant government financial year.
- 10.5 Review and approve Supplier invoices for payment
- 10.6 Report to the Department on management of grant funding, including information about actual and forecasted grant expenditure, outputs and outcomes enabled by the grant funding (for example, the additional number of CPPD or mentoring hours accessed or delivered) and a summary of any monitoring activities, highlighting any issues or risks, undertaken in the reporting period.
- 10.7 On a quarterly basis the monthly Performance Review Meetings will be extended. As well as conducting the stipulated monthly Performance Review requirements, the quarterly meetings will also:
- 10.7.1. Provide a forward look of delivery for the next quarterly period, discussing the services to be delivered during that upcoming quarterly period.
- 10.7.2. Review and update on continuous improvement activities and discuss how findings are influencing the Delivery Plan.
- 10.7.3. Review evaluation activities and reports and discuss any implications for the Delivery Plan.

- 10.7.4. Provide an update on the Social Value and progress in supporting achievement of the Social Value theme.
- 10.7.5. Review compliance with Contract Obligations
- 10.8 The Supplier will support the monthly and quarterly Performance Review Meetings by:
  - 10.8.1. Providing to the Department information, data and reports that will allow an informed review of and discussion about delivery. That information to be provided 5 working days after the end of the month/quarter where performance is being reviewed.
  - 10.8.2. Maintain a record of key discussion points, actions and decisions.
- 10.9 The DfE may amend and supplement the information it requires in response to i) risks and issues that warrant further reporting information, or ii) new reporting aspects that will provide further transparency and assurance over delivery of the programme and Delivery Plan.
- 10.10 The Supplier will engage in other meetings as necessary to review, discuss and progress topic specific issues that warrant separate meetings outside of the Performance Review Meetings.
- 10.11 The DfE reserves the right to validate Management Information (MI), reports or claims made in reports, in whole or in part, independently or directly with providers, beneficiaries and/or partners.

## **11. SOCIAL VALUE**

- 11.1 In September 2020, a Procurement Policy Note was issued ([PPN06/20 - Taking Account of Social Value in the Award of Central Government Contracts](#)). This places a requirement on the Department to ensure it delivers social value through its commercial activities.
- 11.2 For the purposes of this Specification, the Department has chosen the theme “Tackling economic inequality - create new businesses, new jobs and new skills”, and is giving consideration as to how the Supplier’s organisational policies and commitments, and/or their delivery against this Specification, support achievement of that specific Social Value Theme.
- 11.3 The Supplier shall, on a quarterly basis, report to the Department as part of the Performance Review Meetings its progress and compliance with supporting the Social Theme.

## **12.0 MOBILISATION**



- 12.1 The Supplier is responsible for ensuring their delivery approach and Delivery Plan is mobilised to ensure it can meet the requirements of this Specification.
- 12.2 The Supplier will apply effective planning and management controls to ensure their approach and Delivery Plan is mobilised **by 31 August 2023**, in a controlled manner, and to an acceptable level of quality.
- 12.3 The Supplier will apply effective governance arrangements, with clear roles and accountabilities, to control delivery of mobilisation, manage risks, ensure effective and timely decision making and transition to delivery mode.
- 12.4 The Supplier will work closely with us, and the current incumbent supplier as required, to ensure a smooth transition between the previous CPD offer and the CPD offer provided through this Contract.
- 12.5 The Supplier will confirm their final mobilisation approach when finalising the Delivery Plan with us, as detailed in Section 6.
- 12.6 The mobilisation approach should, as minimum:
  - 12.6.1 Identify the workstreams and deliverables considered necessary to achieve successful mobilisation of the delivery approach and Delivery Plan.
  - 12.6.2 Include a timeline with key milestones identified.
  - 12.6.3 Provide clarity on resourcing, including the key roles used at each stage of mobilisation.
  - 12.6.4 Provide clarity on key risks associated with mobilisation solution, with an impact assessment, risk owners and proposed mitigations / contingencies.
- 12.7 The Supplier will have in place an individual who is responsible for the overall delivery of the mobilisation approach.
- 12.8 The Supplier will provide a Mobilisation update to us as part of the monthly Performance Review Meetings. This will enable the parties to:
  - 12.8.1 Review mobilisation activity and achievements.
  - 12.8.2 Forward look for the next month.
  - 12.8.3 Implement mitigating actions where key milestones could not be, or are anticipated not to be, achieved.
  - 12.8.4 Update on existing risks/issues, how they are being mitigated and managed.
  - 12.8.5 Raise issues for escalation.

- 12.9 In addition, the Supplier will attend other meetings as necessary with us to discuss and review pertinent deliverables, risks and issues associated with Mobilisation.

## **ANNEX A – KEY FACTS ABOUT THE FE WORKFORCE**

1. This Annex sets out key facts about the FE workforce, taken from the College Staff Survey 2018<sup>19</sup> [and](#) The Education And Training Professionals Survey 2020<sup>20</sup>.

### *Composition and background of General FE College teachers and leaders (taken from College Staff Survey 2018)*

1. Population estimates show that there are approximately 66,970 teachers and leaders in General FE colleges. Teachers make up 88% of the population, and leaders around 12%<sup>21</sup>.
2. The age and gender profiles for teachers and leaders were skewed towards women and those aged between 45 and 59. Teachers tended to be younger, with 16% of teachers aged under 35 compared with nine per cent of leaders. The gender split for principals was more balanced, but principals were older, with only one in ten aged under 45.
3. The majority of the teachers and leaders in colleges were white, with only small proportions of BAME staff (6% teachers, 4% of leaders, 9% principals). ONS estimates 14% of the general population were BAME<sup>22</sup>. The vast majority of those working described themselves as British (95% of teachers and leaders, 93% of principals).
4. Three quarters (76%) of teachers were employed on a permanent contract with their college, with two in ten on a sessional or flexible hours contract. More than one in ten teachers (14%) held multiple contracts for different roles within the same college.
5. A large proportion of teachers taught only vocational provision (72%). Less than one in five (17%) teachers only taught academic provision.

### *Composition and background of teachers and leaders in other types of public funded FE providers (taken from The Education and Training Professionals Survey 2020)*

---

<sup>19</sup> [College staff survey: 2018 - GOV.UK \(www.gov.uk\)](#).

<sup>20</sup> [The education and training professionals survey \(publishing.service.gov.uk\)](#).

<sup>21</sup> All figures are based on head counts rather than full-time equivalent staff (FTE).

<sup>22</sup> <https://www.ethnicity-facts-figures.service.gov.uk/british-population/national-and-regional-populations/population-of-england-and-wales/latest>

6. Population estimates show there are an estimated 51,400 teachers and leaders working in Sixth Form Colleges (SFCs), Adult Community Learning (ACL) providers and Independent Training Providers (ITPs)<sup>23</sup>.
7. Teaching staff constituted 68% of the workforce for ITPs, rising to 77% for teachers/tutors working in SFCs and 80% for ACL providers. In contrast, ITPs had the highest proportion of leaders with almost one in three staff holding some form of leadership or management position (32%).
8. The majority of staff in ITPs and SFCs are employed on a full-time contract (64% and 60% respectively), unlike ACL providers (18%) where the nature of the offer of provision is quite different, reflected in a much higher proportion of sessional contracts.
9. Teachers/tutors working in SFCs tend to be at the younger end of the age spectrum with a higher proportion of staff aged up to 34 (30%) compared with teaching staff in ITPs (20%) and teachers/tutors in ACL providers (7%).
10. In contrast, teachers/tutors working for ACL providers tend to be older with almost half aged 55 and over (48%), considerably higher than teaching staff in ITPs (26%) and teachers/tutors in SFCs (18%). All the provider types employ more women than men, especially ACL providers (88%), compared with SFCs (64%) and ITPs (63%).
11. More than nine in ten staff working in ITPs and SFCs described their ethnicity as White/ White British (93% and 92% respectively). The figure is lower for ACL providers (84%).<sup>16</sup> Across all three provider types, more than nine in ten staff said that their nationality was British.
12. Teaching staff at ITPs were most likely to deliver apprenticeships (74%), while at ACL providers they were most likely to deliver AEB provision (55%), and teachers/tutors at SFCs were most likely to deliver academic qualifications.

---

<sup>23</sup> Like the College Staff Survey 2018, all figures are based on head counts rather than full-time equivalent staff (FTE).

## ANNEX B – LIST OF GOVERNMENT OWNED MENTORING RESOURCES

Resource/asset	Description	Format
Mentoring skills for new mentors course	A blended programme for those who are new or relatively new to mentoring teachers in the FE sector. Resource includes course outline, modules and curriculum materials.	Online course
Advanced mentoring for experienced mentors course	A blended programme for those who have experience of mentoring teachers in the FE sector. Resource includes course outline, modules and curriculum materials.	Online course
Application forms	Application forms for the current programme.	PDF
Getting ready to mentor teachers and trainers in FE short course	Short online course for staff in the FE sector interested in finding out about mentoring.	Online course
How to coordinate mentoring and coaching programmes effectively in FE short course	Short online course for anyone who coordinates or has responsibility for a mentoring/coaching scheme	Online course
How to be an effective mentee in FE: a course for practitioners	Short online course for practitioners who work with or are going to work with a mentor/coach to develop your teaching. The course will teach you how to be an effective mentee and how to get the most out of your mentoring/coaching relationship.	Online course
How to lead effective mentoring and coaching schemes for practitioners in FE short course	Short online course for anyone who leads or manages and has responsibility for a mentoring/coaching scheme.	Online course
FE Mentoring Framework for Practitioners in FE	A mentoring framework for the FE sector which has the purpose of establishing a shared understanding of effective mentoring practice	PDF
4 x Guides for Mentors, Mentees, Leaders and Mentoring Co-ordinators	Practical guides designed to support implementation of effective mentoring practices set out in the FE Mentoring Framework.	PDF
Course feedback surveys	Feedback surveys to measure participant satisfaction and course quality	PDF

## **ANNEX C – DEPARTMENT FOR EDUCATION MODEL GRANT OFFER LETTER**



[insert full name of contact]

[insert position of contact]

[insert name of recipient organisation]

Address line 1

Address line 2

Address line 3

[Insert date]

Subject: <Insert Project / Scheme Full name>

<insert the DfE Jaggaer number, also known as the Commercial Reference Number.>

Dear [name of contact person]

Thank you for your application dated < date of application> for funding for the above project / scheme.

I am pleased to inform you that you have been successful in the [Insert name of the grant Scheme or project competition] launched in [insert date]. On behalf of the Secretary of State for Education, I would like to offer <insert name of the organisation> a grant on the terms of the enclosed funding agreement. The Power under which the grant is to be paid: [Insert enabling legislation e.g., Section 14 of the Education Act 2002] and will accordingly be paid only in respect of approved expenditure incurred by [insert the name of the body] for the purpose of the funded activities.

This Grant is to [brief description / summary of the project and its aims and objectives] and is more fully described at Annex F attached.

Summary description of the Project

[Insert Summary description]

This correspondence constitutes a Grant Offer Letter. This letter will form an integral part of the Grant Agreement. The offer is subject to the provisions, limitations and conditions set out below and in the DfE general grant terms and conditions.

I am pleased to inform you that the Department is willing to offer your organisation funding of up to £ (Insert grant allocation in number) for the period from <Insert start date of project> to <Insert end date of project>.

<Note: If this grant is for multiple financial years, in addition to the total value of funding over the funding period, you must set out the individual value of funding for each and all financial years.

Support across an Academic year will normally cross multiple financial years.

Where funding is for multiple financial years, **ADD** this condition.

<The funding amounts for year 2 and beyond are *indicative*. Year two and beyond amounts are dependent on successful delivery of agreed outcomes. >

This offer is subject to the terms and conditions set out below, and to the attached Department for Education general [Grant Terms and Conditions](#)<sup>24</sup> <in all cases attach T&Cs to this Grant Offer Letter >. You should read all annexes and general T&Cs carefully before accepting the offer of funding. Failure to observe these terms and conditions may result in the funding being withdrawn.

**Project specific conditions**

The grant is awarded under the additional following general conditions specific for this project:

[Insert additional general condition 1]

<sup>24</sup> <https://www.gov.uk/government/publications/grant-funding-agreement-terms-and-conditions>

[Insert additional general condition 2 and so on]

[Please note if there are no additional specific conditions, you can delete this table.

(Please remove this box and text within it before sending out to the grant recipient)

## **Complying with new Government policies**

The grant funding is provided on the strict understanding that none of this funding is to be used for advertising, marketing, communications and consultancy, or for any costs associated with the maintenance, technical development or updating of existing websites or for the development/creation of new websites.

(Please amend this text where you have obtained prior approval, through EC Controls for grant expenditure on the listed categories of spend before sending out to the grant recipient).

In addition to providing a signed copy of this agreement, you are then requested to follow the instructions on Bank Account Details (Annex B) and provide your organisation's bank account details. This will allow us to set your organisation up on the Department's payment system to receive the grant. Payment claims can only be sent to the DfE once the Grant Agreement has been signed and any pre-disbursement conditions have been met. Payments will be disbursed into the bank account number provided through the DfE suppliers' bank details process provided by the [Insert name of grant recipient].

Please note that any delays in returning the documents could result in a delay to the grant payment.

The Grant Manager for this Project at the <[insert name of your team]> is [insert name and e-mail of grant manager]. We look forward to working with you to bring about the rapid signature of the Grant Agreement.

## **ACCEPTANCE OF OFFER**



If you wish to accept this offer of a grant, please sign both copies of the enclosed grant funding agreement [Annex A] in the space provided and return one of them to <NAME> by post, on or before <Date>. Please retain the other copy for your records. You must accept this grant offer and the conditions made in it in writing no later than [10 days or four weeks] from the date of this letter.

(Please amend this timescale when you have obtained confirmation by when the agreement must be returned.

NB If the signed agreement is not return; the grantee should be made aware the offer would lapse.)<sup>\*delete from final version</sup>

If you cannot return the acceptance by the specified date, please contact me before that date to explain the reasons. Otherwise, we will assume that the offer has been refused, and it will be withdrawn without further correspondence.

Yours sincerely,

[Insert name of Grant Manager]

For and on behalf of [Department Name]

[Insert name of Policy Team]

[Insert name of Directorate]

[Insert address]

Web: [Insert department's web address and .gov.uk address page]

This Grant Funding Agreement is made between:

(1) The Secretary of State for Education and

(2) [Name of the body] of [address] [with Charity Commission registration number or Companies House Registration number].

This Agreement comprises the Grant Offer Letter, project specific conditions, where relevant, any annexes to this letter and general [Grant Terms and Conditions](#)<sup>25</sup>.

This letter must be read in conjunction with general conditions of grant and these relevant annexes:

Annex A - Acceptance of Grant Offer and effective date

Annex B - Bank account details

Annex C - Claiming Grant in Arrears

Annex D - Claiming Grant in Advance

Annex E - Details of Grant Allocations

Annex F - List of Objectives for which the grant is being paid

Annex G (i) - Annual Certification of Expenditure (external auditor or accountant's report arrangements)

Annex G (ii) – Statement of Grant Usage (Statement prepared by Local Authority)

Annex H - Grant Payment schedule

Annex I - Sample Exit Plan

Annex J - Sample Progress Report Template

Annex K - Generic Standard GDPR Clauses:

---

<sup>25</sup> <https://www.gov.uk/government/publications/grant-funding-agreement-terms-and-conditions>

**Schedule 1 (Definitions)**

Crown Copyright 2022

- Schedule 1 - Processing, Personal Data and Data Subjects
- Schedule 2 - Schedule for Joint Controller Agreements

Do not delete reference to or rename any of the above annexes, as there is a reference to each in the T&Cs.

Where a specific annex does not apply as with Annex C or D or Annex G(i) or G(ii), strikethrough the relevant Annex, then annotate it “does not apply”. On the actual Annex, you may also wish to delete the contents leaving only the Annex heading.

Insert any additional conditions specific to your project/programme

**Annex A - Acceptance of Grant Offer and effective date - [insert programme/activity and Jaggaer number, also known as the Commercial Reference Number.]**

This Grant Funding Agreement is effective from the date of signing.

Signed by person authorised to sign on behalf of the Secretary of State	
Date	
Signature	
Name (please print)	
Position in DfE	

As representative of [insert name of the body], I have read both the Grant Offer Letter and associated annexes, and the Department for Education Grant Funding Agreement Terms and Conditions as contained on its website or attached. [Insert web link]. I agree to comply with the notified conditions of the grant on which the offer is made.

Signed by a person authorised to sign on behalf of [insert name of the body]	
Date	
Signature	
Name (please print)	
Position in organisation	

Principal contacts	Department	[name of the body]
Contact name/Postal address		
Position		
Telephone no.		
Email address		

(b)

(c) User Note: Grant Recipient to sign and date one copy of this *letter of offer* and retain it for their records. Grant Recipient to Sign and date another copy of this letter and return to the grant manager. The Grant Manager or whoever has the relevant authority should sign and date Annex B. A copy of the signed Grant Offer letter should be returned to the Grant Recipient.

**Annex B – Bank account details - [insert programme/activity and Jaggaer number, also known as the Commercial Reference Number.]**

(a) Information required by the Department to make payment of grant for the activities stated in the offer letter.

(b)

Starting 1 January 2018 the process for adding or amending existing Supplier or Provider's bank details or other information to the DfE ERP system has changed. The new procedure and associated new forms: <https://www.gov.uk/government/publications/dfe-suppliers-bank-details-forms>

(c)

**Annex C - Grant claim form for [\*insert name of the body\*] Claiming Grant in Arrears - [insert programme/activity and Jaggaer number, also known as the Commercial Reference Number.]**

This claim form should be completed by an authorised senior officer of [insert name of the body] and returned to [\*insert name/Team, Division], Department for Education, [insert address], as soon as possible in the month following that for which the grant is being claimed and should be supported by invoices or receipts.

Amount of claim in respect of:

[Insert the details which are expected to show that expenditure has taken place]	£
Sum Claimed for this period	£
<b>TOTAL GRANT CLAIMED</b>	<b>£</b>

I certify that:

- the above claim is made in accordance with the Grant Offer Letter and Terms and Conditions of the Grant Funding Agreement for the [insert programme/activity];
- the claim is in respect of eligible expenditure already incurred;
- the information I have provided in this form is complete and correct, and
- no claim has been made for funding in respect of these items from any other body.

Signed by a senior officer authorised to sign on behalf of [insert name of the body]	
Date	
Signature	
Name (please print)	
Position in organisation	



**Annex D - Grant claim form for [insert programme/activity and Jaggaer number, also known as the Commercial Reference Number.], permitted to claim Grant in Advance**

This claim form should be completed by an authorised senior officer of [insert name of the body] and returned to [insert name/Team, Division], Department for Education (DfE), [insert address], no later than the 5th day of the month for which grant is being claimed and should be supported by invoices or receipts for the last month and a breakdown of expenditure for the month claimed.

	Claim for [insert month]
a. Forecast expenditure for last month (as on previous grant form).	£
b. Actual expenditure in last month (see attached breakdown and attached invoices).	£
c. Unspent DfE grant at end of last month.	£ [a – b]
d. Forecast expenditure for this month (see attached breakdown)	£
e. Amount of DfE grant claimed for current month	£ [d – c]
TOTAL CLAIMED to Date	£

I certify that:

- the above claim is made in accordance with the Grant Offer Letter and Terms and Conditions of the Grant Funding Agreement for the [insert programme/activity];
- the grant received and spent has been used wholly for the purposes for which it was given;
- the information I have provided in this form is complete and correct, and
- the amount of grant claimed on this form represents expenditure incurred or to be incurred for the purposes for which grant is given.

Signed by a senior officer authorised to sign on behalf of [insert name of the body]

Date



**Schedule 1 (Definitions)**

Crown Copyright 2022

Signature	
Name (please print)	
Position in organisation	

**Annex E - Details of Grant Resource Budget Allocation-** [insert programme/activity and Jaggaer number, also known as the Commercial Reference Number.]

User note: Use this opportunity to set out the amount of revenue funding to be allocated to the body for the purposes detailed in Annex F and the financial year or years detailed in Annex H \* delete on final version

Table 1 - Overview of Estimated Budget

Item	£ for Financial Year xx/yy	£ for Financial Year yy/zz
Overview of Income and revenue		
A. Income		
A1: Grant from the DfE		
A2: Financial contributions [Grantee own resources]		
A3: Other Financial Contributions from third parties – Match Funding, Contributions in Kind		
A4: [+Other income to be specified]		
<b>TOTAL Income A</b>		
Overview of Expenditure		
B. Eligible Salary costs		
B1: Staff and Volunteer Costs Salaries, Wages and any associated direct costs		
B2: Travel and subsistence		
B3: Office equipment and materials		
B4: Other direct costs e.g., training		
B5: [+Other costs – to be specified]		
<b>Subtotal B</b>		
C. Administration [non-staff] costs		
C1: Payments to Service Providers: Sub-contracting and other external services <small>(For each supplier please identify these costs)</small>		
C2: Indirect costs - Overheads		
C3: Advertising, marketing, communications <small>(where approved by DfE)</small>		
C4: Consultancy <small>(where approved by DfE)</small>		
C5: Audit fees [Annual Certification of Expenditure]		
C6: Irrecoverable VAT costs		
C7: [+Other service costs – to be specified]		
<b>Subtotal C</b>		
<b>TOTAL Grant Costs [B+C]</b>	£	

Annex F – List of objectives for which the grant is being paid

[Insert programme/activity and Jaggaer number, also known as the Commercial Reference Number.]

**\*The information below is just an example, you may be able to draft a similar table to suit your own particular requirements\*** \* delete on final version

**[What is to be provided for the grant funding?]** \* Delete on final version

## 1 Background

**\*\*this is an opportunity for you to give the grant recipient background information which it needs but does not have\*\***

## 2 Aim

[Insert name of the body] shall use all reasonable endeavours to achieve the following aims:

**\*\*\*aim one\*\*\***

**\*\*\*aim two - etc.\*\*\***

**\*\*\*This is an opportunity for you to state the specific aims of the grant\*\*\***

## 3 Objectives

**\*This is an opportunity for you to state specific objectives of the grant, which will not appear as tasks below\***

3.1 [Insert name of the body] shall use all reasonable endeavours to achieve the following objectives:

Table 2 - Objectives

1	
2	
3	
4	

#### **4 Key performance indicators**

\*This is an opportunity for you to state KPI for each objective of the grant, and to indicate what success would look like if the grant recipient achieved the objective.

Table 3 - Key Performance Indicators / Measures

Objective 1						
Activity	Project measures*	How will progress be measured*	When will progress be measured*	What tools/ resources are required to measure progress*	Who is responsible for measuring progress*	Activity completion date(s)*

## Annex G (i) – Annual Certification of Expenditure

\* [The letter is to be reproduced on headed paper of the accountant]

\* This section is to do with the arrangements for providing an independent auditor/accountant's report on the grant expenditure. The level of assurance required from [the body] should be proportionate to the level of risks/funding  
\*delete this table from final version\*

Annual Certification of [insert grant name] Expenditure for Financial Year [20XX-XX]

(i) [Insert name/address of the body] [insert grant ref number]

(ii) [Insert name/address of the external auditor/accountant/organisation]

Dear Sirs,

Re: [insert programme / activity and Jaggaer number, also known as the Commercial Reference Number.]

This certificate is provided to [name of grant recipient] to enable it to comply with the Department for Education (DfE)'s terms and conditions of the Grant Funding Agreement (GFA) and the Grant Offer Letter requirements. We have obtained [limited or reasonable] assurance that the expenditure, for which grant of [insert value of grant awarded £XX] for the year ending [insert date] was paid. From this grant the [insert name of grant recipient] incurred [insert amount of funding actually spent by the grant recipient £XX] and this was applied for the purposes intended by the DfE and the financial transactions conform to the GFA and list of objectives specified. Our work included examination, on a sample basis, of evidence relevant to the regularity and propriety of [insert name of the body]'s income and expenditure.

OPTION A

[Include this paragraph if requesting Limited assurance]. \*delete from final version.

[Subject to Contract]

**Leaders and Governors CPD - Schedule 2 (Specification)**

Crown Copyright 2022

Nothing has come to our attention that causes us to believe that the accompanying [the schedule] has not been prepared in all material respects in accordance with the grant funded activities.

Or

**OPTION B**

[Include this paragraph if requesting a Reasonable assurance] \*delete from final version. In our opinion, having carried out our work in all material respects, the expenditure for the year ended [20XX – XX] and the grant conditions have been met and the grant funding has been spent for the intended purposes.

This report is made solely to [Insert name of the body] to be produced to the DfE. Our work has been undertaken so that we might state to [Insert name of the body] those matters we are required to state in a report and for no other purpose.

Yours faithfully,

Signed by an independent external officer authorised to sign	
Date	
Signature	
Name of external auditor/accountant or equivalent (please print)	
Position in organisation	

Signed by a senior officer authorised to sign on behalf of [insert name of the body]	
Date	
Signature	
Name (please print)	
Position in organisation	

\* [The letter is to be reproduced on headed paper of the local authority or maintained school]

\* This section is an alternative to Annex G (i) and is to be used where the grant recipient is a Local Authority or maintained school.

Notes for completion:

1. The Grant Recipient shall prepare a Certification of Grant Usage for the Grant Period [Insert start and end dates].
2. This comprises three parts:
  - a) Certificate of Grant Usage.
  - b) Statement of Expenditure; and
  - c) Report confirming Delivery.
3. The Grant Recipient shall submit the forms to the Department no later than 28, twenty-eight days from the end of the Grant Period.

a) Certificate of Grant Usage

---

Name of organisation	Insert Name of Grant Recipient
Approved Project title	Insert Project name

- The total Grant amount of £insert figure was exclusively used for the purposes set out in the agreement between the Grant Recipient and the Department, dated insert date of our letter.



- A report on the activities funded by the Grant Funding will be submitted to the Department, confirming that the grant outputs have been delivered to a satisfactory standard and the expected benefits that have accrued or will accrue. The report will be provided within 28 days after the completion of the funding of the insert project name.
- A final financial statement detailing the use of the Grant Funding will be provided in section b – Statement of Expenditure. This is a summary statement of all receipts and expenditures connected with the above Project. The organisation's financial systems that recorded the income and expenditure of this Grant have provided sufficient internal control for the purposes of this certification.

Signature

Name

Date

Position

Organisation  
address

Postcode

Initialed by Organisation's Chief Financial Officer/  
Auditor

**b) Statement of Expenditure**

Name of Organisation	Insert Name of Grant Recipient	
Name of Approved Project	Insert Project name	
Expenditure Type		(£)
TOTAL EXPENDITURE		
<b>11.</b>		
Paid for as follows		(£)
Matching funding from own partners' resources		
Other funding		
TOTAL		
Under spend on Grant (if applicable)		

**12. c) Report confirming Delivery**

**13.**

**14.** (setting out how the funding has been applied detailing all relevant outputs.)

**15.**

[Subject to Contract]

**Leaders and Governors CPD - Schedule 2 (Specification)**

Crown Copyright 2022

<b>16.</b>
------------

[Subject to Contract]

**Leaders and Governors CPD - Schedule 2 (Specification)**

Crown Copyright 2022

**Annex H – Proposed Grant payment schedule - [insert programme / activity and Jaggaer number, also known as the Commercial Reference Number.]**

The Department will pay this Grant to [insert name of the body] in accordance with the following payment schedule, subject to [insert name of the body] meeting the requirements of this Grant Funding Agreement.

Grant Project Name			
Grant Reference Number			
Period	Proposed Payment date	Activity Details / Outputs	Proposed Payment Amount
Quarter 1: 01/04/xx - 31/07/xx Month 1: 01/04/xx - 30/04/xx			
Quarter 2: 01/07/xx – 30/09/xx Month 2: 01/05/xx -31/05/xx			
Quarter 3: 01/10/xx – 31/12/xx Month 2: 01/06/xx -30/06/xx			
Quarter 4: 01/01/xx – 31/3/xx Month 2: 01/07/xx -31/07/xx			
Total proposed payments			£

**Annex I – Sample exit plan - [insert programme / activity and Jaggaer number, also known as the Commercial Reference Number.]**

The exit plan is for illustration purposes only. You may wish to draft your own plan to suit your own particular requirements and can use the headings below as a basis for structuring your own plan. Please delete this Annex if an exit plan is not required\*delete this sentence from final version\*

## Introduction

1. Although the Department does not seek to exercise detailed control of the activities of [insert name of the body], it must ensure that public money is protected and value for money achieved. To meet this requirement, this Annex describes the duties and responsibilities of [insert name of the body] and the Department, leading up to and covering the expiry or termination of this grant for whatever reason and the transfer of the grant funded activities.
2. This Annex defines the exit plan and how it shall be revised to ensure that it remains workable at any time. The Department and [insert name of the body] acknowledge the importance of keeping the exit plan up to date during the term of the Grant and of reflecting the impact of all relevant changes to the grant funded activities or outputs required. You shall not make any additional charge for any work undertaken in making changes to the exit plan. Where there are principles to be adopted in implementing this plan, the parties to this Grant Funding Agreement shall endeavour to agree the relevant details within such principles.
3. The Department shall be entitled to disclose the contents of the exit plan to any future bidder for the Grant (or its equivalent).

## Objectives

4. The objective of the exit plan is to ensure:
  - an orderly and smooth transition of the grant funded activities from [insert name of the body] to a successor body or the Department at the expiry or termination of this Grant;
  - the continuation of grant funded activities;
  - that there is no undue favour to [insert name of the body] in any future competition for the Grant (in whole or in part); and
  - that the responsibilities of both parties to the Grant Funding Agreement are clearly defined in the event of expiry or termination.

## General

5. Where the Department intends to continue the operation of the grant funded

activities in broadly the same way after expiry or termination, either by performing them itself or by means of a successor, you shall endeavour to ensure the smooth and orderly transition of the grant funded activities and shall co-operate with the Department or the successor, as the case may be, in order to achieve such transition.

6. When such endeavours and co-operation are outside the scope of the Grant, you shall provide quotations for reasonable charges associated with providing such assistance and the Department shall pay such reasonable charges.
7. You shall comply with any reasonable request of the Department for information relating to the performance of the grant funded activities, including the use of other parties. You will be allowed a reasonable period of time in which to respond to the Department.

#### Exit Planning

8. You shall, in conjunction with the Department, maintain, and as necessary update, the Exit Plan throughout the period of the Grant so that it can be implemented immediately, if required. From time-to-time either the Department or you can instigate a review of the Exit Plan.
9. You shall co-operate with all reasonable requests made by either the Department or a successor body relating to exit transition arrangements for the grant funded activities.

#### Assistance

10. You shall be responsible for delivering the grant funded activities and achieving the objectives at Annex F until the date of expiry or termination or transfer of the Grant (as appropriate).
11. You shall use all reasonable endeavours to ensure that a transition of responsibility for the delivery of the grant funded activities to the successor body or the Department, as the case may be, minimises any detrimental effect on the delivery of the activities and the Department shall use all reasonable endeavours to co-operate in such transfer.

#### Assets Register

12. You shall maintain throughout the exit period of this Grant an asset register in accordance with the Terms and Conditions of the Grant Funding Agreement.
13. You shall not change the status of any asset without the prior written consent of the Department where such a change would either be viewed as a major

change or would require repayment in accordance with the Terms and Conditions of the Grant Funding Agreement.

## Transfer of the Department's Data

In addition to complying with the provisions of the main agreement, you shall, upon reasonable written request by the Department or in

14. any event, within one month of notice of termination, deliver the Department's data, including the following:

- a) an inventory of the Department's data and any other data available for transfer;
- b) a data structure definition (where relevant) covering all available Departmental data; and
- c) a proposed method for testing the integrity and completeness of the Department's data transferred.

## Documentation and Access

15. You shall provide the Department on request with information and documentation reasonably necessary to assist with the transfer of the grant funded activities to the Department or to a successor body, including any documentation required to support any bidding process for the provision of the activities. This includes full details of:

- a) the work programme, objectives/targets, and other services delivered by you under this funding agreement;
- b) any software, including third party software and any hardware used in connection with the delivery of the activities;
- c) software and supply agreements used to deliver any services associated with delivery of the activities, including the agreements relating to any third-party software identified by name of supplier, term of Grant, and charges payable under the Grant; and
- d) any employees used by you to help deliver the grant funded activities who are essential to this delivery; this information shall be provided under conditions of confidentiality reasonably acceptable to you.

16. The Department may make the documentation available to suppliers who wish to bid for the provision of the activities. You shall respond expediently and in full to any reasonable questions by the Department or the suppliers and shall co-operate with any reasonable due diligence activities carried out by suppliers.

17. You shall co-operate with all reasonable requests made by either the Department or a successor relating to the grant funded activities transition arrangements. The Department and you shall discuss the implementation plan for the transition of the activities to either the Department or a Successor body.

## **Annex J – Sample Progress and Final reporting form**

[Insert programme / activity and Jaggaer number, also known as the Commercial Reference Number.]

The template is for illustration purposes only. You may wish to draw up your own template to suit your own particular requirements and can use the headings below as a basis for structuring your own template\*\*delete this sentence from final version\*

[Please note that this form is intended to provide a basis from which the progress and final report form should be constructed. It may be the case you need to add/amend or delete sections/paragraphs provided in order to tailor it to your needs].

This progress and final reporting form should always be discussed and agreed with the relevant areas within your individual departments and agreed with the Grant recipient.

In addition to the form, you may wish to consider including a checklist to help the grant recipient accurately complete the reporting form.

(Please remove this box and text within it before sending out to the grant recipient)

## **SECTION 1: GRANTEE INFORMATION**

Grant reference number	
Total Grant Funding	£



[Subject to Contract]

**Leaders and Governors CPD - Schedule 2 (Specification)**

Crown Copyright 2022

Project title		
Grantee organisation		
Person submitting this report		
Contact number		
Are you the primary contact?	Yes <input type="checkbox"/> or No <input type="checkbox"/>	
If No, what is your role in the project?		
Report type	Progress <input type="checkbox"/> or Final <input type="checkbox"/>	
Actual period covered in this report	From	to

## **SECTION 2: SUMMARY**

Provide a summary of progress to date, approximately 200–500 words (cover the life of the project if this is your final report)

## **SECTION 3: ACTIVITIES AND OUTPUTS**

Provide a summary report of progress and achievement to date, against the specific key performance indicators and objectives agreed to in the grant funding agreement.

Key Activity completed in this period:

Evidence:

Progress on objectives/delivery plans:

Please provide details of any slippage in delivery plans and reasons for this if applicable:

Is there anything else you would like to raise in this report?

Issues/challenges: What (if any) problems have you encountered and how have you dealt with, or how do you intend to deal with them?
Please provide any other information which you think might be helpful:

#### SECTION 4: DECLARATION

I, \_\_\_\_\_ [name], \_\_\_\_\_ [position]  
declare that the information provided in this progress report is true and correct to the best of my knowledge. I understand that any omission or false statement may result in the grant being terminated and previous payments recovered, or future grant applications refused.

Signed	
Date	

## Schedule 1 - Processing, Personal Data and Data Subjects

**Guidance:** You may need to vary this section where (in the rare case) the Department and Grant Recipient have a different relationship. For example, where the Parties are Joint Controller of some Personal Data. Include the following 2 highlighted paragraphs for Joint Controller relationships.]

Notwithstanding Clause 51.1 of the Grants Terms and Conditions, the Parties acknowledge that they are also Joint Controllers for the purposes of the Data Protection Legislation in respect of: [Insert the scope of Personal Data which the purposes and means of the processing is determined by the both Parties

In respect of Personal Data under Joint Control, Clause 51.1 - 51.14 will not apply and the Parties agree to put in place a Joint Controller Agreement as outlined in Schedule 2 instead.

This Schedule shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Schedule shall be with the Controller at its absolute discretion.

1. The contact details of the Controller's Data Protection Officer are: [Insert Contact details]
2. The contact details of the Processor's Data Protection Officer are: [Insert Contact details]
3. The Processor shall comply with any further written instructions with respect to processing by the Controller.
4. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of the Controller and Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Grant Recipient is the Processor in accordance with Clause 50.1. <i>[Guidance: You may need to vary this section where (in the rare case) the Customer and Grant Recipient have a different relationship. For example where the Parties are Joint Controller of some Personal Data:</i>

	<p><i>"Notwithstanding Clause 50.1 the Parties acknowledge that they are also Joint Controllers for the purposes of the Data Protection Legislation in respect of: [Insert the scope of Personal Data which the purposes and means of the processing is determined by the both Parties]"</i></p> <p><i>In respect of Personal Data under Joint Control, Clause 50.1-50.14 will not apply and the Parties agree to put in place a Joint Controller Agreement as outlined in Schedule 2 instead."</i></p>
Subject matter of the processing	<p><i>[This should be a high level, short description of what the processing is about i.e. its subject matter of the grant agreement.</i></p> <p><i>Example: The processing is needed in order to ensure that the Processor can effectively deliver the grant to provide a service to members of the public.]</i></p>
Duration of the processing	<p><i>[Clearly set out the duration of the processing including dates]</i></p>
Nature and purposes of the processing	<p><i>[Please be as specific as possible, but make sure that you cover all intended purposes.</i></p> <p><i>The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.</i></p> <p><i>The purpose might include: employment processing, statutory obligation, recruitment assessment etc]</i></p>
Type of Personal Data	<p><i>[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]</i></p>
Categories of Data Subject	<p><i>[Examples include: Staff (including volunteers, agents, and temporary workers), Departments/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]</i></p>
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	<p><i>[Describe how long the data will be retained for, how it be returned or destroyed]</i></p>

## **Schedule 2 Joint Controller Agreement**

**[Guidance: use this Schedule only where Joint Controller applies in Schedule 1 otherwise delete it]**

In this Schedule the Parties must outline each party's responsibilities for:

- providing information to data subjects under [Article 13 and 14](#) of the GDPR.
- responding to data subject requests under [Articles 15-22](#) of the GDPR
- notifying the Information Commissioner (and data subjects) where necessary about data breaches
- maintaining records of processing under [Article 30](#) of the GDPR
- carrying out any required Data Protection Impact Assessment
- The agreement must include a statement as to who is the point of contact for data subjects.

The essence of this relationship shall be published.

You may wish to incorporate some clauses equivalent to those specified in Clause 1.2-1.14. See [Action Note PPN02/18 \[May2018\]](#)

You may also wish to include an additional clause apportioning liability between the parties arising out of data protection; of data that is jointly controlled.

Where there is a Joint Control relationship, but no controller to processor relationship under the grant, this completed Schedule 2 should be used instead of Clause 51.1 - 50.15 from the Grant general T&Cs and Schedule 1.

## Schedule 3 (Charges)

### 1. Definitions

- 1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Anticipated Contract Life Profit Margin"</b>	the anticipated Supplier Profit Margin over the Contract Period;
<b>"Maximum Permitted Profit Margin"</b>	means the Anticipated Contract Life Profit Margin plus 5%;

### 2. How Charges are calculated

- 2.1 The Charges:

- 2.1.1 shall be calculated in accordance with the terms of this Schedule and the Price Schedule provided at Annex 1;
- 2.1.2 Any variation to the Charges payable under a Contract must be agreed between the Supplier and the Buyer and implemented using the procedure set out clause 28 (Changing the contract).

### 3. The pricing mechanisms

The pricing mechanisms and prices set out in Annex 1 shall be available for use in calculation of Charges in the Contract.

### 4. Are costs and expenses included in the Charges?

- 4.1 the Charges shall include all costs and expenses relating to the provision of Deliverables. No further amounts shall be payable in respect of matters such as:
- 4.1.1 incidental expenses such as travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs, network or data interchange costs or other telecommunications charges; or
- 4.1.2 costs incurred prior to the commencement of the Contract.

### 5. When the Supplier can ask to change the Charges

NOT USED

## **6. Other events that allow the Supplier to change the Charges**

6.1 The Charges can also be varied (and Annex 1 will be updated accordingly) due to:

6.1.1 a Specific Change in Law in accordance with Clauses 28.6 to 28.8;

6.1.2 a request from the Supplier, which it can make at any time, to decrease the Charges;

6.1.3 verification of the Allowable Assumptions in accordance with Paragraph 9.

## **7. When the Charges are linked to inflation**

NOT USED

## **8. When you will be reimbursed for travel and subsistence**

NOT USED

## **9. Allowable Assumptions**

NOT USED



## **Annex 1: Price Schedule**

[REDACTED]

[REDACTED]

## **Schedule 4 (Tender)**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## Schedule 5 (Commercially Sensitive Information)

### 1. What is the Commercially Sensitive Information?

- 1.1. In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.
- 1.2. Where possible, the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule applies in the table below and in the Award Form (which shall be deemed incorporated into the table below).
- 1.3. Without prejudice to the Buyer's obligation to disclose Information in accordance with FOIA or Clause 20 (When you can share information), the Buyer will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following Information:

No.	Date	Item(s)	Duration of Confidentiality
1	From start of Contract	Any financial breakdown of the Charges as detailed in the Tender.	5 years after termination or expiry of the Contract
2	From start of Contract	Information relating to Supplier's personnel.	5 years after termination or expiry of the Contract
3	From start of Contract	Information relating to the terms of the Contract and elements of the Tender as they relate to the Implementation Plan and the Delivery of the Services.	5 years after termination or expiry of the Contract
4	From start of Contract	Information relating to the Supplier's solution and services as provided in the bid.	5 years after termination or expiry of the Contract

## **Schedule 6 (Transparency Reports)**

- 1.1. The Supplier recognises that the Buyer is subject to PPN 01/17 (Updates to transparency principles v1.1 (<https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles>)). The Supplier shall comply with the provisions of this Schedule in order to assist the Buyer with its compliance with its obligations under that PPN.
- 1.2. Without prejudice to the Supplier's reporting requirements set out in the Contract, within three (3) Months of the Start Date the Supplier shall submit to the Buyer for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.
- 1.3. If the Buyer rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Buyer. If the Parties fail to agree on a draft Transparency Report the Buyer shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.
- 1.4. The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Buyer at the frequency referred to in the Annex of this Schedule.

## Annex A: List of Transparency Reports

Title	Content	Format	Frequency
Performance	Supplier performance against the Service Levels	Supplier to propose	Monthly
Charges	Overall contract charge	Total value of charges	At Contract signature, and as required during Contract Term
Grants	Supplier report to evidence grants implemented.	Evidence for Grant Offer Letters	Quarterly

## **Schedule 7 (Staff Transfer)**

### **1. Definitions**

In this Schedule, the following words have the following meanings and they shall supplement Schedule 1 (Definitions):

**“Admission Agreement”**

as defined in Part D;

**"Employee Liability"**

all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:

- (a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- (b) unfair, wrongful or constructive dismissal compensation;
- (c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- (d) compensation for less favourable treatment of part-time workers or fixed term employees;
- (e) outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by the Buyer or the Replacement Supplier to a Transferring Supplier Employee which would have been payable by the Supplier or the Subcontractor if such payment should have been made prior to the Service Transfer Date and also

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

including any payments arising in respect of pensions;

- (f) claims whether in tort, contract or statute or otherwise;

any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

**“Fair Deal Employees”**

as defined in Part D;

**"Former Supplier"**

a supplier supplying the Services to the Buyer before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any subcontractor of such supplier (or any subcontractor of any such subcontractor);

**“New Fair Deal”**

the revised Fair Deal position set out in the HM Treasury guidance: *“Fair Deal for staff pensions: staff transfer from central government”* issued in October 2013 including:

- (a) any amendments to that document immediately prior to the Relevant Transfer Date;
- (b) any similar pension protection in accordance with the Annexes **Error! Reference source not found.** of this Schedule as notified to the Supplier by the Buyer;

**“Notified Subcontractor”**

a Subcontractor identified in the Annex to this Schedule to whom Transferring Buyer Employees and/or Transferring Former Supplier Employees will transfer on a Relevant Transfer Date;

**“Old Fair Deal”**

HM Treasury Guidance *“Staff Transfers from Central Government: A Fair Deal for Staff Pensions”* issued in June 1999 including the supplementary guidance *“Fair Deal for Staff pensions: Procurement of Bulk Transfer Agreements and Related Issues”* issued in June 2004;

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

<b>"Partial Termination"</b>	the partial termination of the relevant Contract to the extent that it relates to the provision of any part of the Services as further provided for in Clause 14.4 (When the Buyer can end this contract) or 14.6 (When the Supplier can end the contract);
<b>"Replacement Subcontractor"</b>	a subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any subcontractor of any such subcontractor);
<b>"Relevant Transfer"</b>	a transfer of employment to which the Employment Regulations applies;
<b>"Relevant Transfer Date"</b>	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place, and for the purposes of Part D and its Annexes, where the Supplier or a Subcontractor was the Former Supplier and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor), references to the Relevant Transfer Date shall become references to the Start Date;
<b>"Service Transfer"</b>	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Subcontractor;
<b>"Service Transfer Date"</b>	the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires;
<b>"Staffing Information"</b>	in relation to all persons identified on the Supplier's Provisional Supplier Staff List or Supplier's Final Supplier Staff List, as the case may be, , all information required in 0 ( <i>Table of Staffing Information</i> ) in the format specified and with the identities of Data Subjects anonymised where possible. The Buyer may acting reasonably make changes to the format or information requested in 0 from time to time.
<b>"Statutory Schemes"</b>	means the CSPA, NHSPA or LGPS as defined in the Annexes to <b>Error! Reference source not found.</b> of this Schedule;



**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

<b>"Supplier's Final Supplier Staff List"</b>	a list provided by the Supplier of all Supplier Staff who will transfer under the Employment Regulations on the Service Transfer Date;
<b>"Supplier's Provisional Supplier Staff List"</b>	a list prepared and updated by the Supplier of all Supplier Staff who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;
<b>"Transferring Buyer Employees"</b>	those employees of the Buyer to whom the Employment Regulations will apply on the Relevant Transfer Date; and
<b>"Transferring Former Supplier Employees"</b>	in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date.
<b>"Transferring Supplier Employees"</b>	those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Relevant Transfer Date.

## **2. Interpretation**

Where a provision in this Schedule imposes any obligation on the Supplier including to comply with a requirement or provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Subcontractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Buyer, Former Supplier, Replacement Supplier or Replacement Subcontractor, as the case may be and where the Subcontractor fails to satisfy any claims under such indemnities the Supplier will be liable for satisfying any such claim as if it had provided the indemnity itself.

## **3. Which parts of this Schedule apply**

- 3.1. Only the following parts of this Schedule shall apply to this Contract:
- 3.2. [Part B (Staff Transfer At Start Date – Transfer From Former Supplier)]
- 3.3. [Part D (Pensions)]
  - 3.3.1. [ - Annex D1 (CSPS) ]
  - 3.3.2. [ - Annex D2 (NHSPS) ]
  - 3.3.3. [ - Annex D3 (LGPS) ]

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

3.3.4. [ - Annex D4 (Other Schemes) ]

3.4. Part E (Staff Transfer on Exit)

3.4.1. Annex E1 (List of Notified Subcontractors)

3.4.2. Annex E2 (Staffing Information)

## **Part A: Staff Transfer at the Start Date (Not Applicable)**

### **Transferring Employees from the Buyer to the Supplier**

#### **1. What is a relevant transfer**

##### **1.1. The Buyer and the Supplier agree that:**

- 1.1.1. the commencement of the provision of the Services or of each relevant part of the Services will be a Relevant Transfer in relation to the Transferring Buyer Employees; and
- 1.1.2. as a result of the operation of the Employment Regulations, the contracts of employment between the Buyer and the Transferring Buyer Employees (except in relation to any terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Subcontractor and each such Transferring Buyer Employee.
- 1.1.3. The Buyer shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Buyer Employees in respect of the period arising up to (but not including) the Relevant Transfer Date including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period up to (but not including) the Relevant Transfer Date and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Buyer; and (ii) the Supplier and/or any Subcontractor (as appropriate).

#### **2. Indemnities the Buyer must give**

##### **2.1. Subject to Paragraph 2.2, the Buyer shall indemnify the Supplier and any Subcontractor against any Employee Liabilities arising from or as a result of:**

- 2.1.1. any act or omission by the Buyer in respect of any Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee occurring before the Relevant Transfer Date;

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- 2.1.2. the breach or non-observance by the Buyer before the Relevant Transfer Date of:
  - a) any collective agreement applicable to the Transferring Buyer Employees; and/or
  - b) any custom or practice in respect of any Transferring Buyer Employees which the Buyer is contractually bound to honour;
- 2.1.3. any claim by any trade union or other body or person representing the Transferring Buyer Employees arising from or connected with any failure by the Buyer to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date;
- 2.1.4. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
  - a) in relation to any Transferring Buyer Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
  - b) in relation to any employee who is not a Transferring Buyer Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Buyer to the Supplier and/or any Notified Subcontractor as appropriate, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date.
- 2.1.5. a failure of the Buyer to discharge, or procure the discharge of, all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Buyer Employees arising before the Relevant Transfer Date;
- 2.1.6. any claim made by or in respect of any person employed or formerly employed by the Buyer other than a Transferring Buyer Employee for whom it is alleged the Supplier and/or any Notified Subcontractor as appropriate may be liable by virtue of the Employment Regulations; and
- 2.1.7. any claim made by or in respect of a Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee relating to any act or omission of the Buyer in relation to its

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Subcontractor to comply with regulation 13(4) of the Employment Regulations.

- 2.2. The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Subcontractor whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities:
  - 2.2.1. arising out of the resignation of any Transferring Buyer Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier and/or any Subcontractor to occur in the period from (and including) the Relevant Transfer Date; or
  - 2.2.2. arising from the failure by the Supplier or any Subcontractor to comply with its obligations under the Employment Regulations.
- 2.3. Subject to Paragraphs 2.4 and 2.5, if any employee of the Buyer who is not identified as a Transferring Buyer Employee claims, or it is determined in relation to any employees of the Buyer, that his/her contract of employment has been transferred from the Buyer to the Supplier and/or any Subcontractor pursuant to the Employment Regulations then –
  - 2.3.1. the Supplier will, or shall procure that the Subcontractor will, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing;
  - 2.3.2. the Buyer may offer (or may procure that a third party may offer) employment to such person, or take such other steps as it considers appropriate to resolve the matter, within 15 Working Days of receipt of notice from the Supplier and/or any Subcontractor, or take such other reasonable steps as the Buyer considers appropriate to deal with the matter provided always that such steps are in compliance with the Law;
  - 2.3.3. if such offer of employment is accepted, or if the situation has otherwise been resolved by the Buyer, the Supplier shall, or shall procure that the Subcontractor shall, immediately release the person from its employment or alleged employment;
  - 2.3.4. if after the period referred to in Paragraph 2.3.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

and subject to the Supplier's compliance with Paragraphs 2.3.1 to 2.3.4 and in accordance with all applicable proper employment procedures set out in applicable Law, the Buyer will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Buyer's employees referred to in this Paragraph 2.3 provided that the Supplier takes, or procures that the Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.4. The indemnity in Paragraph 2.3 shall not apply to any claim:

2.4.1. for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees in relation to any alleged act or omission of the Supplier and/or any Subcontractor; or

2.4.2. any claim that the termination of employment was unfair because the Supplier and/or any Subcontractor neglected to follow a fair dismissal procedure.

2.5. The indemnity in Paragraph 2.3 shall not apply to any termination of employment occurring later than 6 Months from the Relevant Transfer Date.

2.6. If the Supplier and/or any Subcontractor at any point accept the employment of any person as is described in Paragraph 2.3, such person shall be treated as having transferred to the Supplier and/or any Subcontractor and the Supplier shall comply with such obligations as may be imposed upon it under applicable Law.

**3. Indemnities the Supplier must give and its obligations**

3.1. Subject to Paragraph 3.2, the Supplier shall indemnify the Buyer against any Employee Liabilities arising from or as a result of:

3.1.1. any act or omission by the Supplier or any Subcontractor in respect of any Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee whether occurring before, on or after the Relevant Transfer Date;

3.1.2. the breach or non-observance by the Supplier or any Subcontractor on or after the Relevant Transfer Date of:

- a) any collective agreement applicable to the Transferring Buyer Employees; and/or
- b) any custom or practice in respect of any Transferring Buyer Employees which the Supplier or any Subcontractor is

contractually bound to honour;

- 3.1.3. any claim by any trade union or other body or person representing any Transferring Buyer Employees arising from or connected with any failure by the Supplier or any Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
- 3.1.4. any proposal by the Supplier or a Subcontractor made before the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Buyer Employees to their material detriment on or after their transfer to the Supplier or the relevant Subcontractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Buyer Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
- 3.1.5. any statement communicated to or action undertaken by the Supplier or any Subcontractor to, or in respect of, any Transferring Buyer Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Buyer in writing;
- 3.1.6. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
  - a) in relation to any Transferring Buyer Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
  - b) in relation to any employee who is not a Transferring Buyer Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Buyer to the Supplier or a Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
- 3.1.7. a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions

relating to the Transferring Buyer Employees in respect of the period from (and including) the Relevant Transfer Date;

3.1.8. any claim made by or in respect of a Transferring Buyer Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Buyer Employee relating to any act or omission of the Supplier or any Subcontractor in relation to their obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Buyer's failure to comply with its obligations under regulation 13 of the Employment Regulations; and

3.1.9. a failure by the Supplier or any Subcontractor to comply with its obligations under Paragraph 2.6 above.

3.2. The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Buyer whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities arising from the Buyer's failure to comply with its obligations under the Employment Regulations.

3.3. The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations (including its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge all its obligations in respect of the Transferring Buyer Employees, from (and including) the Relevant Transfer Date including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and any other sums due under the Admission Agreement which in any case are attributable in whole or in part to the period from and including the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Buyer and the Supplier

#### **4. Information the Supplier must provide**

The Supplier shall promptly provide to the Buyer in writing such information as is necessary to enable the Buyer to carry out its duties under regulation 13 of the Employment Regulations. The Buyer shall promptly provide to the Supplier in writing such information as is necessary to enable the Supplier and any Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

#### **5. Cabinet Office requirements**

5.1. The Parties agree that the Principles of Good Employment Practice issued by the Cabinet Office in December 2010 apply to the treatment by the Supplier of employees whose employment begins after the Relevant



**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

Transfer Date, and the Supplier undertakes to treat such employees in accordance with the provisions of the Principles of Good Employment Practice.

- 5.2. The Supplier shall, and shall procure that each Subcontractor shall comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Buyer Employee as set down in:

5.2.1. the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013;

5.2.2. Old Fair Deal; and/or

5.2.3. the New Fair Deal.

- 5.3. Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraphs 5.1 or 5.2 shall be agreed in accordance with the Variation Procedure.

**6. Pensions**

The Supplier shall, and/or shall procure that each of its Subcontractors shall, comply with:

- 6.1. the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; and
- 6.2. the provisions in Part D: Pensions (and its Annexes) to this Staff Transfer Schedule.

## **Part B: Staff transfer at the Start Date**

### **Transfer from a Former Supplier on Re-procurement**

#### **1. What is a relevant transfer**

##### **1.1. The Buyer and the Supplier agree that:**

1.1.1. the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the Transferring Former Supplier Employees; and

1.1.2. as a result of the operation of the Employment Regulations, the contracts of employment between each Former Supplier and the Transferring Former Supplier Employees (except in relation to any terms disapplied through the operation of regulation 10(2) of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Subcontractor and each such Transferring Former Supplier Employee.

1.2. The Buyer shall procure that each Former Supplier shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant Transfer Date including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (but not including) the Relevant Transfer Date) and the Supplier shall make, and the Buyer shall procure that each Former Supplier makes, any necessary apportionments in respect of any periodic payments.

#### **2. Indemnities given by the Former Supplier**

2.1. Subject to Paragraph 2.2, the Buyer shall procure that each Former Supplier shall indemnify the Supplier and any Subcontractor against any Employee Liabilities arising from or as a result of:

2.1.1. any act or omission by the Former Supplier in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee arising before the Relevant Transfer Date;

2.1.2. the breach or non-observance by the Former Supplier arising

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

before the Relevant Transfer Date of:

- a) any collective agreement applicable to the Transferring Former Supplier Employees; and/or
  - b) any custom or practice in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour;
- 2.1.3. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
  - b) in relation to any employee who is not a Transferring Former Supplier Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier and/or any Notified Subcontractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;
- 2.1.4. a failure of the Former Supplier to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period to (but excluding) the Relevant Transfer Date;
- 2.1.5. any claim made by or in respect of any person employed or formerly employed by the Former Supplier other than a Transferring Former Supplier Employee for whom it is alleged the Supplier and/or any Notified Subcontractor as appropriate may be liable by virtue of this Contract and/or the Employment Regulations; and
- 2.1.6. any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Former Supplier in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Supplier or any Subcontractor to

comply with regulation 13(4) of the Employment Regulations.

- 2.2. The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Subcontractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:
  - 2.2.1. arising out of the resignation of any Transferring Former Supplier Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier or any Subcontractor to occur in the period from (and including) the Relevant Transfer Date; or
  - 2.2.2. arising from the failure by the Supplier and/or any Subcontractor to comply with its obligations under the Employment Regulations.
- 2.3. Subject to Paragraphs 2.4 and 2.5, if any employee of a Former Supplier who is not identified as a Transferring Former Supplier Employee and claims, and/or it is determined, in relation to such person that his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Subcontractor pursuant to the Employment Regulations then:
  - 2.3.1. the Supplier shall, or shall procure that the Subcontractor shall, within 5 Working Days of becoming aware of that fact notify the Buyer and the relevant Former Supplier in writing; and
  - 2.3.2. the Former Supplier may offer (or may procure that a third party may offer) employment to such person, or take such other steps as it considers appropriate to resolve the matter provided always that such steps are in compliance with applicable Law, within 15 Working Days of receipt of notice from the Supplier;
  - 2.3.3. if such offer of employment is accepted, or if the situation has otherwise been resolved by the Former Supplier and/or the Buyer, the Supplier shall, or shall procure that the Subcontractor shall immediately release the person from its employment;
  - 2.3.4. if after the period referred to in Paragraph 2.3.2:
    - a) no such offer has been made;
    - b) such offer has been made but not accepted; or
    - c) The situation has not otherwise been resolved
    - d) the Supplier and/or any Subcontractor may within 5 Working Days give notice to terminate the employment or alleged

employment of such person;

and subject to the Supplier's compliance with Paragraphs 2.3.1 to 2.3.4 the Buyer shall procure that the Former Supplier will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Former Supplier's employees referred to in Paragraph 2.3 provided that the Supplier takes, or shall procure that the Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.

**2.4. The indemnity in Paragraph 2.3:**

**2.4.1. shall not apply to:**

**a) any claim for:**

- (I) for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
  - (II) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,
  - (III) arising as a result of any alleged act or omission of the Supplier and/or any Subcontractor; or
- b) any claim that the termination of employment was unfair because the Supplier and/or Subcontractor neglected to follow a fair dismissal procedure; and**

**2.4.2. shall not apply to any termination of employment occurring later than 6 Months from the Relevant Transfer Date.**

**2.5. If the Supplier and/or any Subcontractor at any point accept the employment of any person as is described in Paragraph 2.3, such person shall be treated as having transferred to the Supplier and/or any Subcontractor and the Supplier shall comply with such obligations as may be imposed upon it under applicable Law.**

**3. Indemnities the Supplier must give and its obligations**

**3.1. Subject to Paragraph 3.2, the Supplier shall indemnify the Buyer, and the Former Supplier against any Employee Liabilities arising from or as a result of:**

**3.1.1. any act or omission by the Supplier or any Subcontractor in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in the**

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

Employment Regulations) of any Transferring Former Supplier Employee whether occurring before, on or after the Relevant Transfer Date;

- 3.1.2. the breach or non-observance by the Supplier or any Subcontractor on or after the Relevant Transfer Date of:
  - a) any collective agreement applicable to the Transferring Former Supplier Employee; and/or
  - b) any custom or practice in respect of any Transferring Former Supplier Employees which the Supplier or any Subcontractor is contractually bound to honour;
- 3.1.3. any claim by any trade union or other body or person representing any Transferring Former Supplier Employees arising from or connected with any failure by the Supplier or a Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
- 3.1.4. any proposal by the Supplier or a Subcontractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Supplier Employees to their material detriment on or after their transfer to the Supplier or a Subcontractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
- 3.1.5. any statement communicated to or action undertaken by the Supplier or a Subcontractor to, or in respect of, any Transferring Former Supplier Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Buyer and/or the Former Supplier in writing;
- 3.1.6. any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
  - a) in relation to any Transferring Former Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- b) in relation to any employee who is not a Transferring Former Supplier Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Supplier to the Supplier or a Subcontractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
- 3.1.7. a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Supplier Employees in respect of the period from (and including) the Relevant Transfer Date;
- 3.1.8. any claim made by or in respect of a Transferring Former Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Supplier Employee relating to any act or omission of the Supplier or any Subcontractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Supplier's failure to comply with its obligations under regulation 13(4) of the Employment Regulations; and
- 3.1.9. a failure by the Supplier or any Subcontractor to comply with its obligations under Paragraph 2.8 above.
- 3.2. The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities arising from the Former Supplier's failure to comply with its obligations under the Employment Regulations.
- 3.3. The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due under the Admission Agreement which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

any periodic payments shall be made between the Supplier and the Former Supplier.

**4. Information the Supplier must give**

The Supplier shall, and shall procure that each Subcontractor shall, promptly provide to the Buyer and/or at the Buyer's direction, the Former Supplier, in writing such information as is necessary to enable the Buyer and/or the Former Supplier to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Former Supplier shall promptly provide to the Supplier and each Subcontractor in writing such information as is necessary to enable the Supplier and any Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

**5. Cabinet Office requirements**

- 5.1. The Supplier shall comply with any requirement notified to it by the Buyer relating to pensions in respect of any Transferring Former Supplier Employee as set down in

5.1.1. the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013;

5.1.2. Old Fair Deal; and/or

5.1.3. the New Fair Deal.

- 5.2. Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 5.1 shall be agreed in accordance with the Change Control Procedure.

**6. Limits on the Former Supplier's obligations**

Notwithstanding any other provisions of this Part B, where in this Part B the Buyer accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Buyer's contract with the Former Supplier contains a contractual right in that regard which the Buyer may enforce, or otherwise so that it requires only that the Buyer's must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

**7. Pensions**

- 7.1. The Supplier shall, and shall procure that each Subcontractor shall, comply with:

7.1.1. the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension



**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

Protection) Regulations 2005 for all transferring staff; and

- 7.1.2. the provisions in Part D: Pensions (and its Annexes) to this Staff Transfer Schedule.

## **Part C: No Staff Transfer on the Start Date (Not Applicable)**

### **1. What happens if there is a staff transfer**

- 1.1. The Buyer and the Supplier agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Buyer and/or any Former Supplier.
- 1.2. Subject to Paragraphs 1.3, 1.4 and 1.7, if any employee of the Buyer and/or a Former Supplier claims, or it is determined in relation to any employee of the Buyer and/or a Former Supplier, that his/her contract of employment has been transferred from the Buyer and/or the Former Supplier to the Supplier and/or any Subcontractor pursuant to the Employment Regulations then:
  - 1.2.1. the Supplier shall, and shall procure that the relevant Subcontractor shall, within 5 Working Days of becoming aware of that fact, notify the Buyer in writing and, where required by the Buyer, give notice to the Former Supplier; and;
  - 1.2.2. the Buyer and/or the Former Supplier may offer (or may procure that a third party may offer) employment to such person, or take such other steps as it considered appropriate to resolve the matter, within 15 Working Days of receipt of notice from the Supplier or the Subcontractor, provided always that such steps are in compliance with applicable Law;
  - 1.2.3. if such offer of employment is accepted, the Supplier shall, or shall procure that the Subcontractor shall, immediately release the person from its employment;
  - 1.2.4. if after the period referred to in Paragraph 1.2.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;

and subject to the Supplier's compliance with Paragraphs 1.2.1 to 1.2.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 1.5:

- a) the Buyer will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Buyer's employees referred to in Paragraph 1.2 provided that the Supplier takes, or shall procure that the Notified Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities; and

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- b) the Buyer will procure that the Former Supplier indemnifies the Supplier and/or any Subcontractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier referred to in Paragraph 1.2 provided that the Supplier takes, or shall procure that the relevant Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 1.3. If any such person as is described in Paragraph 1.2 is neither re employed by the Buyer and/or the Former Supplier as appropriate nor dismissed by the Supplier and/or any Subcontractor within the 15 Working Day period referred to in Paragraph 1.2 such person shall be treated as having transferred to the Supplier and/or the Subcontractor (as appropriate) and the Supplier shall, or shall procure that the Subcontractor shall, comply with such obligations as may be imposed upon it under Law.
- 1.4. Where any person remains employed by the Supplier and/or any Subcontractor pursuant to Paragraph 1.3, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Subcontractor and the Supplier shall indemnify the Buyer and any Former Supplier, and shall procure that the Subcontractor shall indemnify the Buyer and any Former Supplier, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.
- 1.5. The indemnities in Paragraph 1.2 shall not apply to any claim:
  - 1.5.1. for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief;
  - 1.5.2. or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,
  - 1.5.3. in relation to any alleged act or omission of the Supplier and/or Subcontractor; or
  - 1.5.4. any claim that the termination of employment was unfair because the Supplier and/or any Subcontractor neglected to follow a fair dismissal procedure; and
- 1.6. The indemnities in Paragraph 1.2 shall not apply to any termination of employment occurring later than 3 Months from the Start Date.
- 1.7. If the Supplier and/or the Subcontractor does not comply with Paragraph 1.2, all Employee Liabilities in relation to such employees shall remain with the Supplier and/or the Subcontractor and the Supplier shall (i) comply with the provisions of Part D: Pensions of this Schedule, and (ii) indemnify the Buyer and any Former Supplier against any Employee

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.

**2. Limits on the Former Supplier's obligations**

Where in this Part C the Buyer accepts an obligation to procure that a Former Supplier does or does not do something, such obligation shall be limited so that it extends only to the extent that the Buyer's contract with the Former Supplier contains a contractual right in that regard which the Buyer may enforce, or otherwise so that it requires only that the Buyer must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

## Part D: Pensions

### 1. Definitions

In this Part D and Part E, the following words have the following meanings and they shall supplement Schedule 1 (Definitions), and shall be deemed to include the definitions set out in the Annexes:

<b>"Actuary"</b>	a Fellow of the Institute and Faculty of Actuaries;
<b>"Admission Agreement"</b>	means either or both of the CSPS Admission Agreement (as defined in Annex D1: CSPS) or the LGPS Admission Agreement) as defined in Annex D3: LGPS), as the context requires;
<b>"Best Value Direction"</b>	the Best Value Authorities Staff Transfers (Pensions) Direction 2007 or the Welsh Authorities Staff Transfers (Pensions) Direction 2012 (as appropriate);
<b>"Broadly Comparable"</b>	<p>(a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department of a broad comparability certificate; and</p> <p>(b) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme's certificate of broad comparability issued by the Government Actuary's Department,</p> <p>and <b>"Broad Comparability"</b> shall be construed accordingly;</p>
<b>"CSPS"</b>	the schemes as defined in Annex D1 to this Part D;
<b>"Direction Letter/Determination"</b>	has the meaning in <b>Error! Reference source not found.</b> to this <b>Error! Reference source not found.</b> ;
<b>"Fair Deal Eligible Employees"</b>	means each of the CSPS Eligible Employees (as defined in Annex D1 to this Part D), the NHSPS Eligible Employees (as defined in Annex D2 to this Part D) and/or the LGPS Eligible Employees (as defined in Annex D3 to this Part D) (as applicable) (and shall include any such employee who has been admitted to and/or remains eligible to join a Broadly

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

Comparable pension scheme at the relevant time in accordance with Paragraph **Error! Reference source not found.** or 11 of this **Error! Reference source not found.**);

**"Fair Deal Employees"** those:

- (d) Transferring Buyer Employees; and/or
- (e) Transferring Former Supplier Employees; and/or
- (f) employees who are not Transferring Buyer Employees or Transferring Former Supplier Employees but to whom the Employment Regulations apply on the Relevant Transfer Date to transfer their employment to the Supplier or a Subcontractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.3.4 of Parts A or B or Paragraph 1.2.4 of Part C;
- (g) where the Former Supplier becomes the Supplier those employees;

who at the Start Date or Relevant Transfer Date (as appropriate) are or become entitled to New Fair Deal protection in respect of any of the Statutory Schemes as notified by the Buyer;

**"Fair Deal Schemes"**

means the relevant Statutory Scheme or a Broadly Comparable pension scheme;

**"Fund Actuary"**

means Fund Actuary as defined in Annex D3 to this Part D;

**"LGPS"**

the schemes as defined in Annex D3 to this Part D;

**"NHSPS"**

the schemes as defined in Annex D2 to this Part D;

**"New Fair Deal"**

the revised Fair Deal position set out in the HM Treasury guidance: "*Fair Deal for Staff Pensions: Staff Transfer from Central Government*" issued in October 2013 including:

- (a) any amendments to that document immediately prior to the Relevant Transfer Date; and
- (b) any similar pension protection in accordance with the subsequent Annex D1-D3 inclusive as notified to the Supplier by the Buyer; and

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

**2. Supplier obligations to participate in the pension schemes**

- 2.1. In respect of all or any Fair Deal Employees each of Annex D1: CSPS, Annex D2: NHSPS and/or Annex D3: LGPS shall apply, as appropriate.
- 2.2. The Supplier undertakes to do all such things and execute any documents (including any relevant Admission Agreement and/or Direction Letter/Determination, if necessary) as may be required to enable the Supplier to participate in the appropriate Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.
- 2.3. The Supplier undertakes:
  - 2.3.1. to pay to the Statutory Schemes all such amounts as are due under the relevant Admission Agreement and/or Direction Letter/Determination or otherwise and shall deduct and pay to the Statutory Schemes such employee contributions as are required; and
  - 2.3.2. subject to Paragraph 5 of **Error! Reference source not found.:** LGPS to be fully responsible for all other costs, contributions, payments and other amounts relating to its participation in the Statutory Schemes, including for the avoidance of doubt any exit payments and the costs of providing any bond, indemnity or guarantee required in relation to such participation.
- 2.4. Where the Supplier is the Former Supplier (or a Subcontractor is a subcontractor of the Former Supplier) and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor) at the Start Date, this **Error! Reference source not found.** and its Annexes shall be modified accordingly so that the Supplier (or Subcontractor) shall comply with its requirements from the Start Date or, where it previously provided a Broadly Comparable pension scheme, from the date it is able to close accrual of its Broadly Comparable pension scheme (following appropriate consultation and contractual changes as appropriate) if later. The Supplier (or Subcontractor) shall make arrangements for a bulk transfer from its Broadly Comparable pension scheme to the relevant Statutory Scheme in accordance with the requirements of the previous contract with the Buyer.

**3. Supplier obligation to provide information**

- 3.1. The Supplier undertakes to the Buyer:
  - 3.1.1. to provide all information which the Buyer may reasonably request concerning matters referred to in this Part D as expeditiously as possible; and

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- 3.1.2. not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of the Buyer (such consent not to be unreasonably withheld or delayed); and
- 3.1.3. retain such records as would be necessary to manage the pension aspects in relation to any current or former New Deal Eligible Employees arising on expiry or termination of this Contract.

**4. Indemnities the Supplier must give**

- 4.1. The Supplier undertakes to the Buyer to indemnify and keep indemnified [NHS Pensions,] the Buyer and/or any Replacement Supplier and/or any Replacement Subcontractor on demand from and against all and any Losses whatsoever suffered or incurred by it or them which:
  - 4.1.1. arise out of or in connection with any liability towards all and any Fair Deal Employees in respect of service on or after the Relevant Transfer Date which arises from any breach by the Supplier of this Part D, and/or the CSPS Admission Agreement and/or the Direction Letter/Determination and/or the LGPS Admission Agreement
  - 4.1.2. relate to the payment of benefits under and/or participation in a pension scheme (as defined in section 150(1) Finance Act 2004) provided by the Supplier or a Subcontractor on and after the Relevant Transfer Date until the date of termination or expiry of this Contract, including the Statutory Schemes or any Broadly Comparable pension scheme provided in accordance with Paragraphs 10 or 11 of this Part D **Error! Reference source not found.**;
  - 4.1.3. relate to claims by Fair Deal Employees of the Supplier and/or of any Subcontractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:
    - a) relate to any rights to benefits under a pension scheme (as defined in section 150(1) Finance Act 2004) in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of this Contract;
    - b) arise out of the failure of the Supplier and/or any relevant Subcontractor to comply with the provisions of this Part D. before the date of termination or expiry of this Contract; and/or
  - 4.1.4. arise out of or in connection with the Supplier (or its Subcontractor) allowing anyone who is not an NHSPS Fair Deal



Employee to join or claim membership of the NHSPS at any time during the Term

**4.2. The indemnities in this Part D and its Annexes:**

4.2.1. shall survive termination of this Contract; and

4.2.2. shall not be affected by the caps on liability contained in Clause 15 (How much you can be held responsible for).

**5. What happens if there is a dispute**

5.1. The Dispute Resolution Procedure will not apply to this Part D and any dispute (i) between the Buyer and the Supplier or (ii) between their respective actuaries and/or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of agreement between the Buyer and the Supplier be referred to an independent Actuary:

5.1.1. who will act as an expert and not as an arbitrator;

5.1.2. whose decision will be final and binding on the Buyer and the Supplier; and

5.1.3. whose expenses shall be borne equally by the Buyer and the Supplier unless the independent Actuary shall otherwise direct.

5.2. The independent Actuary shall be agreed by the Parties or, failing such agreement the independent Actuary shall be appointed by the President for the time being of the Institute and Faculty of Actuaries on the application by the Parties.

**6. Other people's rights**

6.1. The Parties agree Clause 23 (Other people's rights in this contract) does not apply and that the CRTPA applies to this Part D to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to him or her or it by the Supplier under this Part D, in his or her or its own right under section 1(1) of the CRTPA.

6.2. Further, the Supplier must ensure that the CRTPA will apply to any Sub-Contract to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them by the Subcontractor in his or her or its own right under section 1(1) of the CRTPA.

## **7. What happens if there is a breach of this Part D**

7.1. The Supplier agrees to notify the Buyer should it breach any obligations it has under this Part D and agrees that the Buyer shall be entitled to terminate its Contract for material Default in the event that the Supplier:

7.1.1. commits an irremediable breach of any provision or obligation it has under this Part D; or

7.1.2. commits a breach of any provision or obligation it has under this Part D which, where capable of remedy, it fails to remedy within a reasonable time and in any event within 28 days of the date of a notice from the Buyer giving particulars of the breach and requiring the Supplier to remedy it.

## **8. Transferring New Fair Deal Employees**

8.1. Save on expiry or termination of this Contract, if the employment of any Fair Deal Employee transfers to another employer (by way of a transfer under the Employment Regulations or other form of compulsory transfer of employment), the Supplier shall and shall procure that any relevant Subcontractor shall:

8.1.1. notify the Buyer as far as reasonably practicable in advance of the transfer to allow the Buyer to make the necessary arrangement for participation with the relevant Statutory Scheme(s);

8.1.2. consult with about, and inform those Fair Deal Employees of, the pension provisions relating to that transfer; and

8.1.3. procure that the employer to which the Fair Deal Employees are transferred (the "New Employer") complies with the provisions of this Part D and its Annexes provided that references to the "Supplier" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Employees so transferred to the New Employer.

## **9. What happens to pensions if this Contract ends**

9.1. The provisions of Part E: Staff Transfer On Exit (Mandatory) apply in relation to pension issues on expiry or termination of this Contract.

9.2. The Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of this Contract provide all such co-operation and assistance (including co-operation and assistance from the Broadly Comparable pension scheme's Actuary) as the Replacement Supplier

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

and/or NHS Pension and/or CSPA and/or the relevant Administering Authority and/or the Buyer may reasonably require, to enable the Replacement Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection following a Service Transfer.

**10. Broadly Comparable Pension Schemes On The Relevant Transfer Date**

- 10.1. If the terms of any of Paragraphs 4 of Annex D2: NHSPS or 3.1 of Annex D3: LGPS applies, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the Relevant Transfer Date until the day before the Service Transfer Date, the relevant Fair Deal Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.
- 10.2. Such Broadly Comparable pension scheme must be:
  - 10.2.1 established by the Relevant Transfer Date;
  - 10.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
  - 10.2.3 capable of receiving a bulk transfer payment from the relevant Statutory Scheme or from a Former Supplier's Broadly Comparable pension scheme (unless otherwise instructed by the Buyer);
  - 10.2.4 capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and
  - 10.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).
- 10.3. Where the Supplier has provided a Broadly Comparable pension pursuant to the provisions of this Paragraph 10, the Supplier shall (and shall procure that any of its Subcontractors shall):
  - 10.3.1. supply to the Buyer details of its (or its Subcontractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the Relevant Transfer Date) covering all relevant Fair Deal Employees, as soon as it is able to do so before the Relevant Transfer Date (where possible) and in any event no later than seven (7) days after receipt of the certificate;

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- 10.3.2. be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995;
  - 10.3.3. instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing bulk transfer process with the Actuary to the Former Supplier's Broadly Comparable pension scheme or the Actuary to the relevant Statutory Scheme (as appropriate) and to provide all such co-operation and assistance with any other Actuary appointed by the Buyer (where applicable). This will be with a view to the bulk transfer terms providing day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme in respect of any Fair Deal Eligible Employee who consents to such a transfer; and
  - 10.3.4. provide a replacement Broadly Comparable pension scheme in accordance with this Paragraph 10 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Subcontractor's Broadly Comparable pension scheme is closed to future accrual and/or terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).
- 10.4. Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 10, the Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of this Contract:
- 10.5. allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be on a past service reserve basis which should be calculated allowing for projected final salary at the assumed date of retirement, leaving service or death (in the case of final salary benefits). The actuarial basis for this past service reserve basis should be aligned to the funding requirements of the Broadly

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

Comparable pension scheme in place at the time the bulk transfer terms are offered. The bulk transfer terms shall be subject to an underpin in relation to any service credits awarded in the Broadly Comparable pension scheme in accordance with Paragraph 10.3.3 such that the element of the past service reserve amount which relates to such service credits shall be no lower than that required by the bulk transfer terms that were agreed in accordance with Paragraph 10.3.3 but using the last day of the Fair Deal Eligible Employees' employment with the Supplier or Subcontractor (as appropriate) as the date used to determine the actuarial assumptions; and

- 10.6. if the transfer payment paid by the trustees of the Broadly Comparable pension scheme is less (in the opinion of the Actuary to the Replacement Supplier's Broadly Comparable pension scheme (or to the relevant Statutory Scheme if applicable)) than the transfer payment which would have been paid had Paragraph 10.5 been complied with, the Supplier shall (or shall procure that the Subcontractor shall) pay the amount of the difference to the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) or as the Buyer shall otherwise direct. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the difference as required under this Paragraph.

## **11. Broadly Comparable Pension Schemes In Other Circumstances**

- 11.1. If the terms of any of Paragraphs 2.2 of Annex D1: CSPS, 1.11 of Annex D2: NHSPS and/or **Error! Reference source not found.:** LGPS apply, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the cessation of participation in the Statutory Scheme, until the day before the Service Transfer Date, the relevant Fair Deal Eligible Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme at the date of cessation of participation in the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.
- 11.2. Such Broadly Comparable pension scheme must be:
  - 11.2.1. established by the date of cessation of participation in the Statutory Scheme;
  - 11.2.2. a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
  - 11.2.3. capable of receiving a bulk transfer payment from the relevant Statutory Scheme (where instructed to do so by the Buyer);

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- 11.2.4. capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and
  - 11.2.5. maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).
- 11.3. Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 11, the Supplier shall (and shall procure that any of its Subcontractors shall):
  - 11.3.1. supply to the Buyer details of its (or its Subcontractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the date of cessation of participation in the Statutory Scheme) covering all relevant Fair Deal Eligible Employees, as soon as it is able to do so before the cessation of participation in the Statutory Scheme (where possible) and in any event no later than seven (7) days after receipt of the certificate;
  - 11.3.2. be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995; and
  - 11.3.3. where required to do so by the Buyer, instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing a bulk transfer process with the Actuary to the relevant Statutory Scheme and to provide all such co-operation and assistance with any other Actuary appointed by the Buyer (where applicable). The Supplier must ensure that day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme are provided in respect of any Fair Deal Employee who consents to such a transfer from the Statutory Scheme and the Supplier shall be fully responsible for any costs of providing those credits in excess of the bulk transfer payment received by the Broadly Comparable pension scheme; and
  - 11.3.4. provide a replacement Broadly Comparable pension scheme in accordance with this Paragraph 11 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant Subcontractor and are still

eligible for New Fair Deal protection in the event that the Supplier and/or Subcontractor's Broadly Comparable pension scheme is closed to future accrual and/or terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).

- 11.4. Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 11, the Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of this Contract allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be sufficient to secure day for day and/or pound for pound credits (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) in the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). For the avoidance of doubt, should the amount offered by the Broadly Comparable pension scheme be less than the amount required by the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) to fund the required credits ("**the Shortfall**"), the Supplier or the Subcontractor (as agreed between them) must pay the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) the Shortfall as required, provided that in the absence of any agreement between the Supplier and any Subcontractor, the Shortfall shall be paid by the Supplier. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the Shortfall under this Paragraph.

## **12. Right Of Set-Off**

- 12.1. The Buyer shall have a right to set off against any payments due to the Supplier under this Contract an amount equal to:

- 12.1.1. any unpaid employer's contributions or employee's contributions or any other financial obligations under the CSPA or any CSPA Admission Agreement in respect of the CSPA Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

under any indemnity, bond or guarantee;

- 12.1.2. any unpaid employer's contributions or employee's contributions or any other financial obligations under the NHSPS or any Direction Letter/Determination in respect of the NHSPS Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee; or
- 12.1.3. any unpaid employer's contributions or employee's contributions or any other financial obligations under the LGPS or any LGPS Admission Agreement in respect of the LGPS Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee;
- 12.1.4. and shall pay such set off amount to the relevant Statutory Scheme.

- 12.2. The Buyer shall also have a right to set off against any payments due to the Supplier under this Contract all reasonable costs and expenses incurred by the Buyer as result of Paragraphs 12.1 above.



## Annex D1: (Not Applicable)

### Civil Service Pensions Schemes (CSPS)

#### 1. Definitions

In this Annex D1: CSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"CSPS Admission Agreement"</b>	an admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into for the CSPS in respect of the Services;
<b>"CSPS Eligible Employee"</b>	any Fair Deal Employee who at the relevant time is an eligible employee as defined in the CSPS Admission Agreement;
<b>"CSPS Fair Deal Employee"</b>	a Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the CSPS in accordance with the provisions of New Fair Deal;
<b>"CSPS"</b>	the Principal Civil Service Pension Scheme available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Arrangements and (ii) Death Benefits Arrangements; the Civil Service Additional Voluntary Contribution Scheme; and "alpha" introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014.

#### 2. Access to equivalent pension schemes after transfer

- 2.1. In accordance with New Fair Deal, the Supplier and/or any of its Subcontractors to which the employment of any CSPS Fair Deal Employee compulsorily transfers as a result of either the award of this Contract or a Relevant Transfer, if not an employer which participates automatically in the CSPS, shall each secure a CSPS Admission Agreement to ensure that CSPS Fair Deal Employees or CSPS Eligible Employees as appropriate shall be either admitted into, or offered continued membership of, the relevant section of the CSPS that they

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on the Relevant Transfer Date. The Supplier and/or any of its Subcontractors shall procure that the CSPA Fair Deal Employees continue to accrue benefits in the CSPA in accordance with the provisions governing the relevant section of the CSPA for service from (and including) the Relevant Transfer Date.

- 2.2. If the Supplier and/or any of its Subcontractors enters into a CSPA Admission Agreement in accordance with Paragraph 1 but the CSPA Admission Agreement is terminated during the term of this Contract for any reason at a time when the Supplier or Subcontractor still employs any CSPA Eligible Employees, the Supplier shall (and procure that its Subcontractors shall) at no extra cost to the Buyer, offer the remaining CSPA Eligible Employees membership of a pension scheme which is Broadly Comparable to the CSPA on the date those CSPA Eligible Employees ceased to participate in the CSPA in accordance with the provisions of Paragraph 11 of Part D.

## Annex D2: NHS Pension Schemes (Not Applicable)

### Definitions

In this Annex D2: NHSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Schedule 1 (Definitions):

**"Direction Letter/Determination"** an NHS Pensions Direction or Determination (as appropriate) issued by the Secretary of State in exercise of the powers conferred by section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 or by section 25 of the Public Service Pensions Act 2013 (as appropriate) and issued to the Supplier or a Subcontractor of the Supplier (as appropriate) relating to the terms of participation of the Supplier or Subcontractor in the NHSPS in respect of the NHSPS Eligible Employees;

**"NHS Broadly Comparable Employees"** means each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:

- (a) their employment with the Buyer, an NHS Body or other employer which participates automatically in the NHSPS; or
- (b) their employment with a Former Supplier who provides access to either the NHSPS pursuant to a Direction Letter/Determination or to a Broadly Comparable pension scheme in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal (or previous guidance), having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier),

but who is now ineligible to participate in the NHSPS under the rules of the NHSPS and in respect of whom the Buyer has agreed are to be provided with a Broadly Comparable pension scheme to provide Pension Benefits that are Broadly Comparable to those provided under the NHSPS.

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

**"NHSPS Eligible Employees"**

any NHSPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the NHSPS under a Direction Letter/Determination Letter.

**"NHSPS Fair Deal Employees"**

Means other than the NHS Broadly Comparable Employees, each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:

- (a) their employment with the Buyer, an NHS Body or other employer which participates automatically in the NHSPS; or
- (b) their employment with a Former Supplier who provides access to the NHSPS pursuant to an NHS Pensions Direction or Determination (as appropriate) issued by the Secretary of State in exercise of the powers conferred by section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 or by section 25 of the Public Service Pensions Act 2013 (as appropriate) in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal and were permitted to re-join the NHSPS, having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier),

and, in each case, being continuously engaged for more than fifty per cent (50%) of their employed time in the delivery of services (the same as or similar to the Services).

For the avoidance of doubt, an individual who is in or entitled to become a member of the NHSPS as a result of being engaged in the Services and being covered by an "open" Direction Letter or other NHSPS "access" facility but who has never been employed directly by an NHS Body (or other body which participates automatically in the NHSPS) is not an NHSPS Eligible Employee;

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

<b>"NHS Body"</b>	has the meaning given to it in section 275 of the National Health Service Act 2006 as amended by section 138(2)(c) of Schedule 4 to the Health and Social Care Act 2012;
<b>"NHS Pensions"</b>	NHS Pensions as the administrators of the NHSPS or such other body as may from time to time be responsible for relevant administrative functions of the NHSPS;
<b>"NHSPS"</b>	the National Health Service Pension Scheme for England and Wales, established pursuant to the Superannuation Act 1972 and governed by subsequent regulations under that Act including the NHS Pension Scheme Regulations;
<b>"NHS Pension Scheme Arrears"</b>	any failure on the part of the Supplier or its Subcontractors (if any) to pay employer's contributions or deduct and pay across employee's contributions to the NHSPS or meet any other financial obligations under the NHSPS or any Direction Letter in respect of the NHSPS Eligible Employees;
<b>"NHS Pension Scheme Regulations"</b>	as appropriate, any or all of the National Health Service Pension Scheme Regulations 1995 (SI 1995/300), the National Health Service Pension Scheme Regulations 2008 (SI 2008/653), the National Health Service Pension Scheme Regulations 2015 (2015/94) and any subsequent regulations made in respect of the NHSPS, each as amended from time to time;
<b>"NHS Premature Retirement Rights"</b>	rights to which any Fair Deal Employee (had they remained in the employment of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS) would have been or are entitled under the NHS Pension Scheme Regulations, the NHS Compensation for Premature Retirement Regulations 2002 (SI 2002/1311), the NHS (Injury Benefits) Regulations 1995 (SI 1995/866) and section 45 of the General Whitley Council conditions of service, or any other legislative or contractual provision which replaces, amends, extends or consolidates the same from time to time;
<b>"Pension Benefits"</b>	any benefits payable in respect of an individual (including but not limited to pensions related allowances and lump sums) relating to old age, invalidity or survivor's benefits provided under an occupational pension scheme; and

**"Retirement Benefits Scheme"**

a pension scheme registered under Chapter 2 of Part 4 of the Finance Act 2004.

## **1. Membership of the NHS Pension Scheme**

- 1.1. In accordance with New Fair Deal, the Supplier and/or any of its Subcontractors to which the employment of any NHSPS Fair Deal Employee compulsorily transfers as a result of either the award of this Contract or a Relevant Transfer, if not an NHS Body or other employer which participates automatically in the NHSPS, shall each secure a Direction Letter/Determination to enable the NHSPS Fair Deal Employees to retain either continuous active membership of or eligibility for the NHSPS for so long as they remain employed in connection with the delivery of the Services under this Contract.
- 1.2. Where it is not possible for the Supplier and/or any of its Subcontractors to secure a Direction Letter/Determination on or before the Relevant Transfer Date, the Supplier must secure a Direction Letter/Determination as soon as possible after the Relevant Transfer Date, and in the period between the Relevant Transfer Date and the date the Direction Letter/Determination is secure, the Provider must ensure that:
  - 1.2.1. all employer's and NHSPS Fair Deal Employees' contributions intended to go to the NHSPS are kept in a separate bank account; and
  - 1.2.2. the Pension Benefits and Premature Retirement Rights of NHSPS Fair Deal Employees are not adversely affected.
- 1.3. The Supplier must supply to the Buyer a complete copy of each Direction Letter/Determination within 5 Working Days of receipt of the Direction Letter/Determination.
- 1.4. The Supplier must ensure (and procure that each of its Subcontractors (if any) ensures) that all of its NHSPS Fair Deal Employees have a contractual right to continuous active membership of or eligibility for the NHSPS for so long as they have a right to membership or eligibility of that scheme under the terms of the Direction Letter/Determination.
- 1.5. The Supplier will (and will procure that its Subcontractors (if any) will) comply with the terms of the Direction Letter/Determination, the NHS Pension Scheme Regulations (including any terms which change as a result of changes in Law) and any relevant policy issued by the Department of Health and Social Care in respect of the NHSPS Fair Deal Employees for so long as it remains bound by the terms of any such Direction Letter/Determination.
- 1.6. Where any employee omitted from the Direction Letter/Determination supplied in accordance with Paragraph 1 of this Annex are subsequently

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

found to be an NHSPS Fair Deal Employee, the Supplier will (and will procure that its Subcontractors (if any) will) treat that person as if they had been an NHSPS Fair Deal Employee from the Relevant Transfer Date so that their Pension Benefits and NHS Premature Retirement Rights are not adversely affected.

- 1.7. The Supplier will (and will procure that its Subcontractors (if any) will) provide any indemnity, bond or guarantee required by NHS Pensions in relation to a Direction Letter/Determination.

**Continuation of early retirement rights after transfer**

- 1.8. From the Relevant Transfer Date until the Service Transfer Date, the Supplier must provide (and/or must ensure that its Subcontractors (if any) provide) NHS Premature Retirement Rights in respect of the NHSPS Fair Deal Employees that are identical to the benefits they would have received had they remained employees of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS.

**NHS Broadly Comparable Employees**

- 1.9. The Supplier shall (and procure that its Subcontractors shall), with effect from the Relevant Transfer Date, offer the NHSPS Broadly Comparable Employees membership of a pension scheme which is Broadly Comparable to NHSPS on the Relevant Transfer Date in accordance with Paragraph 10 of Part D. For the avoidance of doubt, this requirement is separate from any requirement to offer a Broadly Comparable pension scheme in accordance with Paragraph 1.11 below.

**What the Buyer will do if the Supplier breaches and/or cancels its pension obligations**

- 1.10. The Supplier agrees that the Buyer is entitled to make arrangements with NHS Pensions for the Buyer to be notified if the Supplier (or its Subcontractors) breaches the terms of its Direction Letter/Determination. Notwithstanding the provisions of the foregoing, the Supplier shall notify the Buyer in the event that it (or its Subcontractor) breaches the terms of its Direction Letter/Determination.
- 1.11. If the Supplier (or its Subcontractors, if relevant) ceases to participate in the NHSPS for whatever reason, the Supplier (or any such Subcontractor, as appropriate) shall offer the NHSPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the NHSPS on the date the NHSPS Eligible Employees ceased to participate in the NHSPS in accordance with the provisions of Paragraph 11 of Part D.
- 1.12. If the Buyer is entitled to terminate the Contract or the Supplier (or its Subcontractor, if relevant) ceases to participate in the NHSPS for whatever other reason, the Buyer may in its sole discretion, and instead of

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

exercising its right to terminate this Contract where relevant, permit the Supplier (or any such Subcontractor, as appropriate) to offer Broadly Comparable Pension Benefits, on such terms as decided by the Buyer. The provisions of Paragraph 10 (Bulk Transfer Obligations in relation to any Broadly Comparable pension scheme) of Part D: Pensions shall apply in relation to any Broadly Comparable pension scheme established by the Supplier or its Subcontractors.

- 1.13. In addition to the Buyer's right to terminate the Contract, if the Buyer is notified by NHS Pensions of any NHS Pension Scheme Arrears, the Buyer will be entitled to deduct all or part of those arrears from any amount due to be paid under this Contract or otherwise.

**Compensation when pension scheme access can't be provided**

- 1.14. If the Supplier (or its Subcontractor, if relevant) is unable to provide the NHSPS Eligible Employees with either membership of:
- 1.14.1. the NHSPS (having used its best endeavours to secure a Direction Letter/Determination); or
  - 1.14.2. a Broadly Comparable pension scheme,
  - 1.14.3. the Buyer may in its sole discretion permit the Supplier (or any of its Subcontractors) to compensate the NHSPS Eligible Employees in a manner that is Broadly Comparable or equivalent in cash terms, the Supplier (or Subcontractor as relevant) having consulted with a view to reaching agreement with any recognised trade union or, in the absence of such body, the NHSPS Fair Deal Employees. The Supplier must meet (or must procure that the relevant Subcontractor meets) the costs of the Buyer determining whether the level of compensation offered is reasonable in the circumstances.
- 1.15. This flexibility for the Buyer to allow compensation in place of Pension Benefits is in addition to and not instead of the Buyer's right to terminate the Contract.

**Indemnities that a Supplier must give**

- 1.16. The Supplier must indemnify and keep indemnified the Buyer and any Replacement Supplier against all Losses arising out of any claim by any NHSPS Fair Deal Employee or any NHS Broadly Comparable Employees that the provision of (or failure to provide) Pension Benefits and NHS Premature Retirement Rights from the Relevant Transfer Date, or the level of such benefit provided, constitutes a breach of his or her employment rights.



## Annex D3: (Not Applicable)

### Local Government Pension Schemes (LGPS)

#### 1. Definitions

1.1. In this Annex D3: LGPS to Part D: Pensions, the following words have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"2013 Regulations"</b>	the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) (as amended from time to time);
<b>"Administering Authority"</b>	in relation to <b>the Fund [insert name]</b> , the relevant Administering Authority of that Fund for the purposes of the Local Government Pension Scheme Regulations 2013;
<b>"Fund Actuary"</b>	the actuary to a Fund appointed by the Administering Authority of that Fund;
<b>"Fund"</b>	<b>[insert name], a pension fund within the LGPS;</b>
<b>["Initial Contribution Rate"]</b>	[XX %] of pensionable pay (as defined in the 2013 Regulations);]
<b>"LGPS"</b>	the Local Government Pension Scheme as governed by the LGPS Regulations, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the Local Government Pension Scheme;
<b>"LGPS Admission Agreement"</b>	an admission agreement within the meaning in Schedule 1 of the Local Government Pension Scheme Regulations 2013;
<b>"LGPS Admission Body"</b>	an admission body (within the meaning of Part 3 of Schedule 2 of the Local Government Pension Scheme Regulations 2013);
<b>"LGPS Eligible Employees"</b>	any Fair Deal Employee who at the relevant time is an eligible employee as defined in the LGPS Admission Agreement or otherwise any Fair Deal Employees who immediately before the Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would

have been entitled to be or become a member of, the LGPS or of a scheme Broadly Comparable to the LGPS; and

**"LGPS Fair Deal Employees"**

any Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the LGPS or a pension scheme that is Broadly Comparable to the LGPS in accordance with the provisions in accordance with the provisions of New Fair Deal and/or the Best Value Direction; and

**"LGPS Regulations"**

the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the LGPS.

## **2. Supplier must become a LGPS admission body**

- 2.1. In accordance with the principles of New Fair Deal and/or the Best Value Direction, the Supplier and/or any of its Subcontractors to which the employment of any LGPS Fair Deal Employee compulsorily transfers as a result of either the award of this Contract or a Relevant Transfer, if not a scheme employer which participates automatically in the LGPS, shall each become an LGPS Admission Body by entering into an LGPS Admission Agreement on or before the Relevant Transfer Date to enable the LGPS Fair Deal Employees to retain either continuous active membership of or eligibility for the LGPS on and from the Relevant Transfer Date for so long as they remain employed in connection with the delivery of the Services under this Contract.

### **OPTION 1**

- 2.2. [Any LGPS Fair Deal Employees who:

- 2.2.1. were active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date shall be admitted to the LGPS with effect on and from the Relevant Transfer Date; and
- 2.2.2. were eligible to join the LGPS (or a Broadly Comparable pension scheme) but were not active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date shall retain the ability to join the LGPS on or after the Relevant Transfer Date if they wish to do so.]

### **OPTION 2**

- [Any LGPS Fair Deal Employees whether:

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- 2.2.3. active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date; or
- 2.2.4. eligible to join the LGPS (or a Broadly Comparable pension scheme) but not active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date

shall be admitted to the LGPS with effect on and from the Relevant Transfer Date. The Supplier shall not automatically enrol or re-enrol for the purposes of the Pensions Act 2008 any LGPS Fair Deal Employees in any pension scheme other than the LGPS unless they cease to be eligible for membership of the LGPS.]

- 2.3. The Supplier will (and will procure that its Subcontractors (if any) will) provide at its own cost any indemnity, bond or guarantee required by an Administering Authority in relation to an LGPS Admission Agreement.

### **3. Broadly Comparable Scheme**

- 3.1. If the Supplier and/or any of its Subcontractors is unable to obtain an LGPS Admission Agreement in accordance with Paragraph 2.1 because the Administering Authority will not allow it to participate in the Fund, the Supplier shall (and procure that its Subcontractors shall), with effect from the Relevant Transfer Date, offer the LGPS Fair Deal Employees membership of a pension scheme which is Broadly Comparable to LGPS on the Relevant Transfer Date in accordance with the provisions of Paragraph 10 of Part D.
- 3.2. If the Supplier and/or any of its Subcontractors becomes an LGPS Admission Body in accordance with Paragraph 2.1 but the LGPS Admission Agreement is terminated during the term of this Contract for any reason at a time when the Supplier or Subcontractors still employs any LGPS Eligible Employees, the Supplier shall (and procure that its Subcontractors shall) at no extra cost to the Buyer, offer the remaining LGPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the LGPS on the date the LGPS Eligible Employees ceased to participate in the LGPS in accordance with the provisions of Paragraph 11 of Part D.

### **4. Discretionary Benefits**

- 4.1. Where the Supplier and/or any of its Subcontractors is an LGPS Admission Body, the Supplier shall (and procure that its Subcontractors shall) comply with its obligations under regulation 60 of the 2013 Regulations in relation to the preparation of a discretionary policy statement.

## **5. LGPS Risk Sharing**

- 5.1. Subject to Paragraphs 5.4 to 5.10, if at any time during the term of this Contract the Administering Authority, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Supplier or any Subcontractor to pay employer contributions or other payments to the Fund in aggregate in excess of the Initial Contribution Rate, the excess of employer contributions above the Initial Contribution Rate for a Contract Year (the “**Excess Amount**”) shall be paid by the Supplier or the Subcontractor, as the case may be, and the Supplier shall be reimbursed by the Buyer.
- 5.2. Subject to Paragraphs 5.4 to 5.9 and 5.11, if at any time during the term of this Contract, the Administering Authority, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Supplier or any Subcontractor to pay employer contributions or payments to the Fund in aggregate below the Initial Contribution Rate for a Contract Year, the Supplier shall reimburse the Buyer an amount equal to A–B (the “**Refund Amount**”) where:
  - 5.2.1. the amount which would have been paid if contributions and payments had been paid equal to the Initial Contribution Rate for that Contract Year; and
  - 5.2.2. the amount of contributions or payments actually paid by the Supplier or Subcontractor for that Contract Year, as the case may be, to the Fund.
- 5.3. Subject to Paragraphs 5.4 to 5.10, where the Administering Authority obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when the LGPS Admission Agreement ceases to have effect and the Supplier or any Subcontractor is required to pay any exit payment under Regulation 64(2) of the 2013 Regulations (the “Exit Payment”), such Exit Payment shall be paid by the Supplier or any Subcontractor (as the case may be) and the Supplier shall be reimbursed by the Buyer.
- 5.4. The Supplier and any Subcontractors shall at all times be responsible for the following costs:
  - 5.4.1. any employer contributions relating to the costs of early retirement benefits arising on redundancy or as a result of business efficiency under Regulation 30(7) of the 2013 Regulations or otherwise;
  - 5.4.2. any payment of Fund benefits to active members on the grounds of ill health or infirmity of mind or body under Regulation 35 of the 2013 Regulations or otherwise;
  - 5.4.3. any payment of Fund benefits to deferred or deferred pensioner

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

members on the grounds of ill health or infirmity of mind or body under Regulation 38 of the 2013 Regulations or otherwise;

- 5.4.4. any employer contributions relating to the costs of early or flexible retirement where the actuarial reduction is waived in whole or in part or a cost neutral reduction is not applied with the consent of the Supplier or any relevant Subcontractor including without limitation any decision made under Regulation 30(8) of the 2013 Regulations or Schedule 2 of The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014;
  - 5.4.5. any employer contributions relating to the costs of enhanced benefits made at the discretion of the Supplier or any relevant Subcontractors including without limitation additional pension awarded under Regulation 31 of the 2013 Regulations or otherwise;
  - 5.4.6. any increase to the employer contribution rate resulting from the award of pay increases by the Supplier or relevant Subcontractors in respect of all or any of the LGPS Eligible Employees in excess of the pay increases assumed in the Fund's most recent actuarial valuation (unless the Supplier and/or any Subcontractor is contractually bound to provide such increases on the Relevant Transfer Date);
  - 5.4.7. to the extent not covered above, any other costs arising out of or in connection with the exercise of any discretion or the grant of any consent under the LGPS Regulations by the Supplier or any relevant Subcontractors where a member does not have an absolute entitlement to that benefit under the LGPS;
  - 5.4.8. any cost of the administration of the Fund that are not met through the Supplier's or Subcontractor's employer contribution rate, including without limitation an amount specified in a notice given by the Administering Authority under Regulation 70 of the 2013 Regulations;
  - 5.4.9. the costs of any reports and advice requested by or arising from an instruction given by the Supplier or a Subcontractor from the Fund Actuary; and/or
  - 5.4.10. any interest payable under the 2013 Regulations or LGPS Administration Agreement.
- 5.5. For the purposes of calculating any Exit Payment, Excess Amount or Refund Amount, any part of such an amount which is attributable to any costs which the Supplier or Subcontractors are responsible for in accordance with Paragraph 5.4 above shall be disregarded and excluded from the calculation. In the event of any dispute as to level of any cost that

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- should be excluded from the calculation, the opinion of the Fund Actuary shall be final and binding.
- 5.6. Where the Administering Authority obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when the LGPS Admission Agreement ceases to have effect and the Supplier or any Subcontractor receives payment of an exit credit payment under Regulation 64(2) of the 2013 Regulations (the "Exit Credit"), the Supplier shall (or procure that any Subcontractor shall) reimburse the Buyer an amount equal to the Exit Credit within twenty (20) Working Days of receipt of the Exit Credit.
- 5.7. The Supplier shall (or procure that the Subcontractor shall) notify the Buyer in writing within twenty (20) Working Days:
- 5.7.1. of the end of each Contract Year of any Excess Amount or Refund Amount due in respect of the Contract Year that has just ended and provide a reasonable summary of how the Excess Amount or Refund Amount was calculated; and
- 5.7.2. of being informed by the Administering Authority of any Exit Payment or Exit Credit that is determined by as being due from or to the Supplier or a Subcontractor and provide a copy of any revised rates and adjustments certificate detailing the Exit Payment or Exit Credit and its calculation.
- 5.8. Within twenty (20) Working Days of receiving the notification under Paragraph 5.7 above, the Buyer shall either:
- 5.8.1. notify the Supplier in writing of its acceptance of the Excess Amount, Refund Amount or Exit Payment;
- 5.8.2. request further information or evidence about the Excess Amount, Refund Amount or Exit Payment from the Supplier; and/or
- 5.8.3. request a meeting with the Supplier to discuss or clarify the information or evidence provided.
- 5.9. Where the Excess Amount, Refund Amount or Exit Payment is agreed following the receipt of further information or evidence or following a meeting in accordance with Paragraph 5.8 above, the Buyer shall notify the Supplier in writing. In the event that the Supplier and the Buyer are unable to agree the amount of the Excess Amount, Refund Amount or Exit Payment then they shall follow the Dispute Resolution Procedure.
- 5.10. Any Excess Amount or Exit Payment agreed by the Buyer or in accordance with the Dispute Resolution Procedure shall be paid by the Buyer within timescales as agreed between Buyer and Supplier. The amount to be paid by the Buyer shall be an amount equal to the Excess Amount or Exit Payment less an amount equal to any corporation tax relief which has been claimed in respect of the Excess Amount or Exit Payment

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

by the Supplier or a Subcontractor.

- 5.11. Any Refund Amount agreed by the Buyer or in accordance with the Dispute Resolution Procedure as payable by the Supplier or any Subcontractor to the Buyer, shall be paid by the Supplier or any Subcontractor forthwith as the liability has been agreed. In the event the Supplier or any Subcontractor fails to pay any agreed Refund Amount, the Buyer shall demand in writing the immediate payment of the agreed Refund Amount by the Supplier and the Supplier shall make payment within seven (7) Working Days of such demand.
- 5.12. This Paragraph 5 shall survive termination of this Contract.

## **Annex D4: Other Schemes (Not Applicable)**

***[Guidance: Placeholder for Pension Schemes other than LGPS, CSPA & NHS]***



## **Part E: Staff Transfer on Exit**

### **1 Obligations before a Staff Transfer**

- 1.1 The Supplier agrees that within 20 Working Days of the earliest of:
  - 1.2 At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Buyer or at the direction of the Buyer to any Replacement Supplier and/or any Replacement Subcontractor
    - 1.2.1 the Supplier's Final Supplier Staff List, which shall identify the basis upon which they are Transferring Supplier Employees and
    - 1.2.2 the Staffing Information in relation to the Supplier's Final Supplier Staff List (insofar as such information has not previously been provided).
  - 1.3 The Buyer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Subcontractor.
  - 1.4 The Supplier warrants, for the benefit of The Buyer, any Replacement Supplier, and any Replacement Subcontractor that all information provided pursuant to Paragraphs 1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
  - 1.5 From the date of the earliest event referred to in Paragraphs 1.1.1 1.1.2 and 1.1.3, the Supplier agrees that it shall not assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Staff List and shall, unless otherwise instructed by the Buyer (acting reasonably):
    - 1.5.1 not replace or re-deploy any Supplier Staff listed on the Supplier Provisional Supplier Staff List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces.
    - 1.5.2 not make, promise, propose, permit or implement any material changes to the terms and conditions of (i) employment and/or (ii) pensions, retirement and death benefits (including not to make pensionable any category of earnings which were not previously pensionable or reduce the pension contributions payable) of the Supplier Staff (including any payments connected with the termination of employment);
    - 1.5.3 not increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Staff save for fulfilling assignments and projects previously scheduled and agreed;
    - 1.5.4 not introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

any employees listed on the Supplier's Provisional Supplier Staff List;

- 1.5.5 not increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services);
- 1.5.6 not terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Staff List save by due disciplinary process;
- 1.5.7 not dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Buyer and/or the Replacement Supplier and/or Replacement Subcontractor;
- 1.5.8 give the Buyer and/or the Replacement Supplier and/or Replacement Subcontractor reasonable access to Supplier Staff and/or their consultation representatives to inform them of the intended transfer and consult any measures envisaged by the Buyer, Replacement Supplier and/or Replacement Subcontractor in respect of persons expected to be Transferring Supplier Employees;
- 1.5.9 co-operate with the Buyer and the Replacement Supplier to ensure an effective consultation process and smooth transfer in respect of Transferring Supplier Employees in line with good employee relations and the effective continuity of the Services, and to allow for participation in any pension arrangements to be put in place to comply with New Fair Deal;
- 1.5.10 promptly notify the Buyer or, at the direction of the Buyer, any Replacement Supplier and any Replacement Subcontractor of any notice to terminate employment given by the Supplier or received from any persons listed on the Supplier's Provisional Supplier Staff List regardless of when such notice takes effect;
- 1.5.11 not for a period of 12 Months from the Service Transfer Date re-employ or re-engage or entice any employees, suppliers or Subcontractors whose employment or engagement is transferred to the Buyer and/or the Replacement Supplier (unless otherwise instructed by the Buyer (acting reasonably));
- 1.5.12 not to adversely affect pension rights accrued by all and any Fair Deal Employees in the period ending on the Service Transfer Date;
- 1.5.13 fully fund any Broadly Comparable pension schemes set up by the Supplier;
- 1.5.14 maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Subcontractor in the

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

provision of the Services on the expiry or termination of this Contract (including identification of the Fair Deal Employees);

- 1.5.15 promptly provide to the Buyer such documents and information mentioned in Paragraph 3.1.1 of Part D: Pensions which the Buyer may reasonably request in advance of the expiry or termination of this Contract; and
- 1.5.16 fully co-operate (and procure that the trustees of any Broadly Comparable pension scheme shall fully co-operate) with the reasonable requests of the Supplier relating to any administrative tasks necessary to deal with the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Subcontractor in the provision of the Services on the expiry or termination of this Contract.
- 1.6 On or around each anniversary of the Start Date and up to four times during the last 12 Months of the Term, the Buyer may make written requests to the Supplier for information relating to the manner in which the Services are organised. Within 20 Working Days of receipt of a written request the Supplier shall provide such information as the Buyer may reasonably require which shall include:
- 1.6.1 the numbers of employees engaged in providing the Services;
- 1.6.2 the percentage of time spent by each employee engaged in providing the Services;
- 1.6.3 the extent to which each employee qualifies for membership of any of the Fair Deal Schemes (as defined in Part D: Pensions); and
- 1.6.4 a description of the nature of the work undertaken by each employee by location.
- 1.7 The Supplier shall provide all reasonable cooperation and assistance to the Buyer, any Replacement Supplier and/or any Replacement Subcontractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Supplier shall provide to the Buyer or, at the direction of the Buyer, to any Replacement Supplier and/or any Replacement Subcontractor (as appropriate), in respect of each person on the Supplier's Final Supplier Staff List who is a Transferring Supplier Employee:
- 1.7.1 the most recent month's copy pay slip data;
- 1.7.2 details of cumulative pay for tax and pension purposes;

- 1.7.3 details of cumulative tax paid;
- 1.7.4 tax code;
- 1.7.5 details of any voluntary deductions from pay; and
- 1.7.6 bank/building society account details for payroll purposes.

## **2 Staff Transfer when the contract ends**

- 2.1 The Buyer and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Subcontractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations will apply. The Buyer and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Subcontractor (as the case may be) and each such Transferring Supplier Employee
- 2.2 The Supplier shall, and shall procure that each Subcontractor shall, comply with all its obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Subcontractor shall perform and discharge, all its obligations in respect of all the Transferring Supplier Employees arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Schemes which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Subcontractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Subcontractor.
- 2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor against any Employee Liabilities arising from or as a result of:

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- 2.3.1 any act or omission of the Supplier or any Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date.
- 2.3.2 the breach or non-observance by the Supplier or any Subcontractor occurring on or before the Service Transfer Date of:
- 2.3.3 any collective agreement applicable to the Transferring Supplier Employees; and/or
- 2.3.4 any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Subcontractor is contractually bound to honour;
- 2.3.5 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Subcontractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
- 2.3.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
  - 2.3.6.1 in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and
  - 2.3.6.2 in relation to any employee who is not identified in the Supplier's Final Supplier Staff List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to the Buyer and/or Replacement Supplier and/or any Replacement Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;
- 2.3.7 a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the Service Transfer Date);
- 2.3.8 any claim made by or in respect of any person employed or formerly

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

employed by the Supplier or any Subcontractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List for whom it is alleged the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor may be liable by virtue of this Contract and/or the Employment Regulations; and

- 2.3.9 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Subcontractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Buyer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.
- 2.4 The indemnity in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Subcontractor whether occurring or having its origin before, on or after the Service Transfer Date, Including any Employee Liabilities;
- 2.4.1 arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier and/or any Replacement Subcontractor to occur in the period on or after the Service Transfer Date); or
- 2.4.2 arising from the Replacement Supplier's failure, and/or Replacement Subcontractor's failure, to comply with its obligations under the Employment Regulations.
- 2.5 Subject to Paragraphs 2.6 and 2.7, if any employee of the Supplier who is not identified in the Supplier's Final Transferring Supplier Employee List claims, or it is determined in relation to any employees of the Supplier, that his/her contract of employment has been transferred from the Supplier to the Replacement Supplier and/or Replacement Subcontractor pursuant to the Employment Regulations then:
- 2.5.1 the Replacement Supplier and/or Replacement Subcontractor will, within 5 Working Days of becoming aware of that fact, notify the Buyer and the Supplier in writing;
- 2.5.2 the Supplier may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within 15 Working Days of receipt of notice from the Replacement Supplier and/or Replacement Subcontractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law;
- 2.5.3 if such offer of employment is accepted, or if the situation has otherwise

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

been resolved by the Supplier or a Subcontractor, the Replacement Supplier and/or Replacement Subcontractor shall immediately release the person from its employment or alleged employment;

2.5.4 if after the period referred to in Paragraph 2.5.2 no such offer has been made, or such offer has been made but not accepted, or the situation has not otherwise been resolved, the Replacement Supplier and/or Replacement Subcontractor may within 5 Working Days give notice to terminate the employment of such person;

2.5.5 and subject to the Replacement Supplier's and/or Replacement Subcontractor's compliance with Paragraphs 2.5.1 to 2.5.4 the Supplier will indemnify the Replacement Supplier and/or Replacement Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Supplier's employees referred to in Paragraph 2.5 provided that the Replacement Supplier takes, or shall procure that the Replacement Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.6 The indemnity in Paragraph 2.5 shall not apply to:

any claim for:

2.6.1 discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or

2.6.2 equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

2.6.3 arising as a result of any alleged act or omission of the Replacement Supplier and/or Replacement Subcontractor; or

2.6.4 any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Subcontractor neglected to follow a fair dismissal procedure.

2.7 The indemnity in Paragraph 2.5 shall not apply to any termination of employment occurring later than 6 Months from the Service Transfer Date.

2.8 If at any point the Replacement Supplier and/or Replacement Subcontractor accepts the employment of any such person as is described in Paragraph 2.5, such person shall be treated as a Transferring Supplier Employee and Paragraph 2.5 shall cease to apply to such person.

2.9 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of any person identified in the

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

Supplier's Final Supplier Staff list before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

2.9.1 the Supplier and/or any Subcontractor; and

2.9.2 the Replacement Supplier and/or the Replacement Subcontractor.

2.10 The Supplier shall promptly provide the Buyer and any Replacement Supplier and/or Replacement Subcontractor, in writing such information as is necessary to enable the Buyer, the Replacement Supplier and/or Replacement Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Replacement Supplier and/or Replacement Subcontractor, shall promptly provide to the Supplier and each Subcontractor in writing such information as is necessary to enable the Supplier and each Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.

2.11 Subject to Paragraph 2.9, the Buyer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Subcontractor and its Subcontractors against any Employee Liabilities arising from or as a result of:

2.11.1 any act or omission, whether occurring before, on or after the Service Transfer Date, of the Replacement Supplier and/or Replacement Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee.

2.11.2 the breach or non-observance by the Replacement Supplier and/or Replacement Subcontractor on or after the Service Transfer Date of:

2.11.2.1 any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List; and/or

2.11.3 any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List which the Replacement Supplier and/or Replacement Subcontractor is contractually bound to honour;

2.11.4 any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List arising from or connected with any failure by the



**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- Replacement Supplier and/or Replacement Subcontractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
- 2.11.5 any proposal by the Replacement Supplier and/or Replacement Subcontractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List on or after their transfer to the Replacement Supplier or Replacement Subcontractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Supplier's Final Supplier Staff List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;
- 2.11.6 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Subcontractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;
- 2.11.7 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- 2.11.8 in relation to any Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
- 2.11.9 in relation to any employee who is not a Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier or Subcontractor, to the Replacement Supplier or Replacement Subcontractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;
- 2.11.10 a failure of the Replacement Supplier or Replacement Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List in respect of the period from (and including) the Service Transfer Date; and
- 2.11.11 any claim made by or in respect of a Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Subcontractor in relation to obligations under regulation 13 of the Employment

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

**Regulations.**

The indemnity in Paragraph 2.10 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Subcontractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Subcontractor (as applicable) to comply with its obligations under the Employment Regulations, or to the extent the Employee Liabilities arise out of the termination of employment of any person who is not identified in the Supplier's Final Supplier Staff List in accordance with Paragraph 2.5 (and subject to the limitations set out in Paragraphs 2.6 and 2.7 above).

## **ANNEX E1: LIST OF NOTIFIED SUBCONTRACTORS**

## **ANNEX E2: STAFFING INFORMATION**

### **EMPLOYEE INFORMATION (ANONYMISED)**

Name of Transferor:

Number of Employees in-scope to transfer:

Completion notes

*If you have any Key Subcontractors, please complete all the above information for any staff employed by such Key Subcontractor(s) in a separate spreadsheet.*

*This spreadsheet is used to collect information from the current employer (transferor) about employees performing the relevant services to help plan for a potential TUPE transfer. Some or all of this information may be disclosed to bidders as part of a procurement process. The information should not reveal the employees' identities.*

*If the information cannot be included on this form, attach the additional information, such as relevant policies, and cross reference to the item number and employee number where appropriate.*

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

<b>EMPLOYEE DETAILS &amp; KEY TERMS</b>							
<b>Details</b>	<b>Job Title</b>	<b>Grade / band</b>	<b>Work Location</b>	<b>Age</b>	<b>Employment status (for example, employee, fixed-term employee, self-employed, agency worker)?</b>	<b>Continuous service date (dd/mm/yy)</b>	<b>Date employment started with existing employer</b>
<b>Emp No 1</b>							
<b>Emp No 2</b>							
<b>Emp No</b>							
<b>Emp No</b>							
<b>Emp No</b>							
<b>Emp No</b>							
<b>Emp No</b>							
<b>Emp No</b>							

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

	EMPLOYEE DETAILS & KEY TERMS							
Details	Contract end date (if fixed term contract or temporary contract)	Contractual notice period	Contractual weekly hours	Regular overtime hours per week	Mobility flexibility clause contract?	or in	Previously TUPE transferred to organisation? If so, please specify (i) date of transfer, (ii) name of transferor, and (iii) whether ex public sector	Any collective agreements?
Emp No 1								
Emp No 2								
Emp No								
Emp No								
Emp No								
Emp No								

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

Emp No								
	ASSIGNMENT	CONTRACTUAL PAY AND BENEFITS						
Details	% of working time dedicated to the provision of services under the contract	Salary (or hourly rate of pay)	Payment interval (weekly / fortnightly / monthly)	Bonus payment for previous 12 months (please specify whether contractual or discretionary entitlement)	Pay review method	Frequency of pay reviews	Agreed pay increases	Next pay review date
Emp No 1								
Emp No 2								
Emp No								
Emp No								
Emp No								



**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

<b>Emp No</b>								
<b>Emp No</b>								

**CONTRACTUAL PAY AND BENEFITS**

<b>Details</b>	<b>Any existing or future commitment to training that has a time-off or financial implication</b>	<b>Car allowance (£ per year)</b>	<b>Lease or company car details</b>	<b>Any other allowances paid (e.g. shift allowance, standby allowance, travel allowance)</b>	<b>Private medical insurance (please specify whether single or family cover)</b>	<b>Life assurance (xSalary)</b>	<b>Long Term Disability / PHI (% of Salary)</b>	<b>Any other benefits in kind</b>
<b>Emp No 1</b>								
<b>Emp No 2</b>								
<b>Emp No</b>								
<b>Emp No</b>								
<b>Emp No</b>								
<b>Emp No</b>								

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

<b>Emp No</b>								
---------------	--	--	--	--	--	--	--	--

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

CONTRACTUAL PAY AND BENEFITS						
Details	Annual leave entitlement (excluding bank holidays)	Bank holiday entitlement	Method of calculating holiday pay (i.e. based on fixed salary only or incl. entitlements to variable remuneration such as bonuses, allowances, commission or overtime pay?)	Maternity or paternity or shared parental leave entitlement and pay	Sick leave entitlement and pay	Redundancy pay entitlement (statutory / enhanced / contractual / discretionary)
Emp No 1						
Emp No 2						
Emp No						
Emp No						
Emp No						
Emp No						
Emp No						

<b>PENSIONS</b>						
<b>Details</b>	<b>Employee pension contribution rate</b>	<b>Employer pension contribution rate</b>	<b>Please provide the name of the pension scheme and a link to the pension scheme website</b>	<b>Is the scheme an occupational pension scheme as defined in the Pension Schemes Act 1993?</b>	<b>If the scheme is not an occupational pension scheme, what type of scheme is it? E.g. personal pension scheme?</b>	<b>Type of pension provision e.g. defined benefit (CARE or final salary, and whether a public sector scheme e.g. CSPA, NHSPS, LGPS etc. or a broadly comparable scheme) or a defined contribution scheme or an auto enrolment master trust?</b>
<b>Emp No 1</b>						
<b>Emp No 2</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						

<b>PENSIONS</b>						
<b>Details</b>	<b>If the Employee is in the Local Government Pension Scheme, please supply details of Fund and Administering Authority.</b>	<b>If the Employee is in the Civil Service Pension Scheme, please provide details of the Admission Agreement.</b>	<b>If the Employee is in the NHSPS, please provide details of the Direction Letter.</b>	<b>If the Employee is in a broadly comparable pension scheme, please supply a copy of the GAD certificate of Broad Comparability.</b>	<b>Did Fair Deal or any other similar pension protection for ex-public sector employees apply to the employee when they TUPE transferred into your employment? If so, what was the nature of that protection (e.g. right to participate in a public sector pension scheme, or a broadly comparable scheme, or to bulk transfer past pension service into their current scheme)?</b>	<b>If Fair Deal, Best Value or other pension protection applied, which public sector employer did they originally transfer out of and when?</b>
<b>Emp No 1</b>						
<b>Emp No 2</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						
<b>Emp No</b>						

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

OTHER			
Details	Security Check Level	Security Clearance Expiry date	Additional info or comments
Emp No 1			
Emp No 2			
Emp No			
Emp No			
Emp No			
Emp No			
Emp No			

## **Schedule 8 (Implementation Plan and Testing)**

**NOT USED**

## **Schedule 9 (Installation Works) – NOT USED**



## **Schedule 10 (Service Levels)**

### **1. Definitions**

- 1.1. In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Critical Service Level Failure"</b>	has the meaning given to it in the Award Form;
<b>"Service Credits"</b>	any service credits specified in the Annex to Part A of this Schedule being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels;
<b>"Service Credit Cap"</b>	has the meaning given to it in the Award Form;
<b>"Service Level Failure"</b>	means a failure to meet the Service Level Performance Measure in respect of a Service Level;
<b>"Service Level Performance Measure"</b>	shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule; and
<b>"Service Level Threshold"</b>	shall be as set out against the relevant Service Level in the Annex to Part A of this Schedule.

### **2. What happens if you don't meet the Service Levels**

- 2.1. The Supplier shall at all times provide the Deliverables to meet or exceed the Service Level Performance Measure for each Service Level.
- 2.2. The Supplier acknowledges that any Service Level Failure shall entitle the Buyer to the rights set out in Part A of this Schedule including the right to any Service Credits and that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to meet any Service Level Performance Measure.
- 2.3. The Supplier shall send Performance Monitoring Reports to the Buyer detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Schedule.
- 2.4. A Service Credit shall be the Buyer's exclusive financial remedy for a Service Level Failure except where:

- 2.4.1. the Supplier has over the previous (twelve) 12 Month period exceeded the Service Credit Cap; and/or
- 2.4.2. the Service Level Failure:
  - a) exceeds the relevant Service Level Threshold;
  - b) has arisen due to a Prohibited Act or wilful Default by the Supplier;
  - c) results in the corruption or loss of any Government Data; and/or
  - d) results in the Buyer being required to make a compensation payment to one or more third parties; and/or
- 2.4.3. the Buyer is also entitled to or does terminate this Contract pursuant to Clause 14.4 of the Core Terms (When the Buyer can end the contract).
- 2.5. Not more than once in each Contract Year, the Buyer may, on giving the Supplier at least three (3) Months' notice, change the weighting of Service Level Performance Measure in respect of one or more Service Levels and the Supplier shall not be entitled to object to, or increase the Charges as a result of such changes, provided that:
  - 2.5.1. the total number of Service Levels for which the weighting is to be changed does not exceed the number applicable as at the Start Date;
  - 2.5.2. the principal purpose of the change is to reflect changes in the Buyer's business requirements and/or priorities or to reflect changing industry standards; and
  - 2.5.3. there is no change to the Service Credit Cap.

### **3. Critical Service Level Failure**

On the occurrence of a Critical Service Level Failure:

- 3.1. any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and
- 3.2. the Buyer shall (subject to the Service Credit Cap) be entitled to withhold and retain as compensation a sum equal to any Charges which would otherwise have been due to the Supplier in respect of that

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

Service Period ("**Compensation for Critical Service Level Failure**"),  
provided that the operation of this Paragraph 3 shall be without prejudice to the  
right of the Buyer to terminate this Contract and/or to claim damages from the  
Supplier for material Default.

## **Part A: Service Levels and Service Credits**

### **1. Service Levels**

If the level of performance of the Supplier:

1.1. is likely to or fails to meet any Service Level Performance Measure; or

1.2. is likely to cause or causes a Critical Service Failure to occur,

the Supplier shall immediately notify the Buyer in writing and the Buyer, in its absolute discretion and without limiting any other of its rights, may:

1.2.1 require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring;

1.2.2 instruct the Supplier to comply with the Rectification Plan Process;

1.2.3 if a Service Level Failure has occurred, deduct the applicable Service Level Credits payable by the Supplier to the Buyer; and/or

1.2.4 if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including the right to terminate for material Default).

### **2. Service Credits**

2.1. The Buyer shall use the Performance Monitoring Reports supplied by the Supplier to verify the calculation and accuracy of the Service Credits, if any, applicable to each Service Period.

2.2. Service Credits are a reduction of the amounts payable in respect of the Deliverables and do not include VAT. The Supplier shall set-off the value of any Service Credits against the appropriate invoice in accordance with calculation formula in the Annex to Part A of this Schedule.

## 2. Annex A to Part A: Service Levels and Service Credits Table

No.	Service Level	Target Performance Level	Performance Monitoring Period	Performance Evidence	Measurement Methodology	Service Credit
1	<b>Objective A - Programme Reach (Service Level)</b> The minimum number of participants (Mentors) the Supplier recruits during the term of the programme.	The Supplier should recruit a baseline number of 600 recruits. The supplier should recruit a minimum of 200 mentors in Financial Year 1 [2 Oct 2023 – 31 March 2024]	2 October 2023 to 28 February 2025. Measured in the month following Performance Monitoring Period.	The relevant Performance Management Report provided in March 2025 provides evidence of compliance. Progress towards the target will be monitored on a monthly basis during the term of the contact.	Evidence of the number of participants the Supplier has recruited for the Early Career Teacher Mentor Training Programme.	<b>1.00% of Contract Value</b> [Service Credit will only be applied to baseline number of recruits (600) and not applied to in-year profile]
2	<b>Objective A - Programme Reach (Service Level)</b> The Mentors who have engaged in the training offer support a minimum of 1800 mentees though the contract term.	The Supplier's approach should enable trained Mentors to support a minimum number of 1,800 mentees.	2 October 2023 to 28 February 2025 Measured in the month following Performance Monitoring Period.	The relevant Performance Management Report provided in March 2025 provides evidence of compliance. Progress towards the target will be monitored on a monthly basis during the term of the contact.	Evidence of the number of mentees being supported by Mentors the Supplier has trained through the Early Career Teacher Mentor Training Programme.	<b>Not applicable</b>
3	<b>Objective A – Participant Retention Rate (Service Level)</b> The percentage of participants (Mentors) that complete the training programme.	The Supplier should achieve a 90% retention rate of participants that start and <i>complete</i> the programme.	2 October 2023 to 28 February 2025 Measured in the month following Performance Monitoring Period.	The relevant monthly Performance Management Report provide evidence of compliance.	Evidence of the number of participants that complete the Early Career Teacher Mentor Training Programme.	<b>Not applicable</b>
4	<b>Objective A - Programme Inclusivity (Service Level)</b> Ensure the Early Career Teacher Mentor Training Programme supports equality, diversity and inclusion (EDI) within the	The Supplier's approach should ensure that at least 10% of participants (Mentors) are from under-represented groups (disability, black or ethnic minority) or working in one of the 24 Priority	2 October 2023 to 28 February 2025 Measured in the month following Performance Monitoring Period.	The relevant monthly Performance Management Report provide evidence of compliance. Hard to reach areas will be defined and reviewed in year 2 based on data from year 1.	EDI metrics to be provided in monthly performance meeting reports.	<b>Not applicable</b>

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

	Education sector.	Education Investment Areas (subject to change).				
5	<b>Objective A Impact Outcome</b>  Mentors' knowledge and skills and confidence;  Mentees' teaching practice and wellbeing;  Mentee's likelihood of remaining in the teaching profession in the next 3 years.	Across all measures  Achieve a minimum 70% response rate  Achieve a minimum 5% increase in participants selecting '4 Agree' or '5 Strongly Agree' from start to end of programme	2 October 2023 to 28 February 2025  Measured in the month following Performance Monitoring Period.	Progress towards the target will be monitored on a monthly basis during the term of the contract, using programme registration and completion data.	Pre and post skill scans  Post programme mentee feedback  Measurement on a 5-point Likert scale.	<b>1.0% of Contract Value</b>  0.33% Y1 0.66% Y2  Based on 200 mentors being trained in Y1 and 400 in Y2
6	<b>Objective B Impact Outcome</b>  Recipients of the wider package of mentoring professional development find the training:  Relevant  High quality	Achieve a minimum 50% response rate  Achieve 80% of participants selecting '4 Agree' or '5 Strongly Agree' at end of training to questions about quality of training and relevance to role.	As above	As above	Post training participant feedback  Measurement on a 5-point Likert scale.	N/A
7	<b>Objective A and Objective B - Customer Satisfaction and User Experience (Service Level)</b> Ensure that all recipients of the Early Career Teacher Mentor Training Programme offer (Objective A) are satisfied with the training experience and	The Customer Satisfaction survey shall: (i) Assess the end user's overall level of satisfaction from the point of engagement to the provision of CPD (ii) Measure the quality of	2 October 2023 to 31 March 2025 Annual performance measure – reported in March 2024 and March 2025.	The relevant Performance Management Report provide in the relevant month provides evidence of compliance with the Relevant Service Requirement and Target Performance Levels for each relevant quarter.	Formula to produce CSAT score = (Total No. of 4 or 5 scores ÷ total no of responses) x 100	<b>1.00% Contract Value (0.5% on an annual basis)</b> [Service credit will only apply to satisfaction with <b>Objective A</b> . No service credit will be applied to Objective B. Supplier solution must differentiate customer satisfaction against each objective.]

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

	services provided under the programme. Ensure that all recipients of the wider package of mentoring activities and professional development support (Objective B) are satisfied with the training experience and services provided under the programme.	continuous professional development delivery to end users. (iii) Achieve a Customer Satisfaction Score (CSAT) of at least 90%. (iv) Achieve a minimum response rate of 50% Scale of rating to be used: 5 = very satisfied 4 = satisfied 3 = neither satisfied nor dissatisfied 2 = dissatisfied 1 = very dissatisfied				
8	<b>Objective C – Grants with FE Sector Providers are signed on a timely basis (Service Level)</b> Ensure that Provider applications for grant funding are processed, and grant agreements entered into, to enable eligible participants to commence their training as planned.	Supplier must have issued the relevant Provider with a grant to sign within 10 working days from point of approval.	10 April 2023 to 28 February 2025 Measured in the month following Performance Monitoring Period	The relevant monthly Performance Management Report provide evidence of compliance.	Confirmation that grant letters have been issued no later than 10 working days following receipt of an application for eligible funding.	<b>Not Applicable</b>
9	<b>Objective C – Grants are paid in accordance with agreed payment plan (Service Level)</b> Ensure that Provider's receive their	Supplier must ensure prompt payment is made to the supplier within 10 WDs following receipt of complete and	10 April 2023 to 28 February 2025 Measured in the month following Performance Monitoring Period.	The relevant monthly Performance Management Report provides evidence of compliance.	Confirmation that grant funds have been issued in accordance with payment plans.	<b>Not Applicable</b>

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

	anticipated grant funding when it is expected.	undisputed grant claim.				
10	<b>Service Readiness Milestones (Service Level)</b> Ensure that key readiness milestones are achieved, providing assurance that service can be delivered on time.	i) Supplier to complete all mobilisation activities by 31 August 2023. ii) Supplier to commence initial phase of mentor training on by 2 October 2023.	1 April 2023 to 2 October 2023 Measured in the month following Performance Monitoring Period.	The relevant monthly Performance Management Report provides evidence of compliance.	Confirmation and demonstration that all required mobilisation activity has concluded. Confirmation and demonstration that individuals have commenced their mentoring training programme.	<b>0.5% of Contract Value</b> <b>0.5% of Contract Value</b>
11	<b>Website Availability – promoting online solution, needs to be available (Service Level)</b> Ensure that technical services are performing to required standards, and that website services uptime is 99.5%, with any issue resolved in a timely manner.	(i) Website services comply with Web Content Accessibility Guidelines (WCAG) 2.1. (ii) (iii) Websites used to deliver Delivery Plan interventions deliver an average up time of 99.5%.	(iv) 31 August 2023 – 31 March 2025 (v)	The relevant Performance Management Report provide in the relevant month provides evidence of compliance with the Relevant Service Requirement and Target Performance Levels for each month covered by the report.	Contractor to test conformance and measure IT service down time each month, but report on a quarterly basis in the Performance Management Report.	<b>1.0% Contract Value</b> (0.14% per quarter across the Performance Monitoring Period.)
12	<b>Performance Management Reviews (Service Level)</b> The Contractor will provide information, data and evidence to enable the DfE to review delivery of the Specification and associated service contract.	The Performance Management Report is submitted to the Department by the 7th working day following conclusion of the relevant monthly reporting period.	1 April 2023 to 31 March 2025 Measured in the month following Performance Monitoring Period	The monthly Performance Management Report is issued to the DfE Contract Manager in the required timescales. The Performance Management Report responds to the minimum requirements set out in Section 10 'Governance and Programme Monitoring Arrangements' of the Specification.	Review of report against Relevant Service Requirement	<b>Not Applicable</b>



				For the avoidance of doubt, a correct monthly Performance Management Report will include the minimum requirement stipulated for relevant Quarterly Performance Management Reports when relevant.		
--	--	--	--	--	--	--

## Part B: Performance Monitoring

### 1. Performance Monitoring and Performance Review

- 1.1. Within twenty (20) Working Days of the Start Date the Supplier shall provide the Buyer with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.
- 1.2. The Supplier shall provide the Buyer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales as outlined in Schedule 2 (Specification).
- 1.3. The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a Monthly basis. The Performance Review Meetings will be the forum for the review by the Supplier and the Buyer of the Performance Monitoring Reports. The Performance Review Meetings shall take place in the timescales as specified in Schedule 2 (Specification), and will be attended by the Supplier's Representative and the Buyer's Representative.
- 1.4. The Performance Review Meetings will be fully minuted by the Buyer and the minutes will be circulated by the Buyer to all attendees at the relevant meeting and any other recipients agreed at the relevant meeting.
- 1.5. The minutes of the preceding Month's Performance Review Meeting will be agreed by both the Supplier's Representative and the Buyer's Representative at each meeting.
- 1.6. The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

Service Credits for any specified Service Period.

## **Schedule 11 (Continuous Improvement)**

### **1. Supplier's Obligations**

- 1.1. The Supplier must, throughout the Contract Period, identify new or potential improvements to the provision of the Deliverables with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables and their supply to the Buyer.
- 1.2. The Supplier must adopt a policy of continuous improvement in relation to the Deliverables, which must include regular reviews with the Buyer of the Deliverables and the way it provides them, with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables. The Supplier and the Buyer must provide each other with any information relevant to meeting this objective.
- 1.3. The approach to continuous improvement must be delivered in accordance with the requirements for continuous improvement as required in Schedule 2 (Specification).
- 1.4. The continuous improvement approach must take account of, as a minimum:
  - 1.4.1. the emergence of relevant new and evolving technologies;
  - 1.4.2. changes in business processes of the Supplier or the Buyer and ways of working that would provide cost savings and/or enhanced benefits to the Buyer (such as methods of interaction, supply chain efficiencies, reduction in energy consumption and methods of sale);
  - 1.4.3. new or potential improvements to the provision of the Deliverables including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Deliverables; and
  - 1.4.4. measuring and reducing the sustainability impacts of the Supplier's operations and supply-chains relating to the Deliverables and identifying opportunities to assist the Buyer in meeting their sustainability objectives.
- 1.5. The Supplier shall update the Buyer on continuous improvements in line with the reporting requirements set out in Schedule 2 (Specification)
- 1.6. All costs arising from any improvement made pursuant to it and the

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

costs of implementing any improvement, shall have no effect on and are included in the Charges.

- 1.7. Should the Supplier's costs in providing the Deliverables to the Buyer be reduced as a result of any changes implemented, the Buyer and the Supplier will consider and agree whether the savings should be reinvested in the Deliverables, with any changes implemented in accordance with Clause 28 (Changing the contract). Otherwise, all of the cost savings shall be passed on to the Buyer by way of a consequential reduction in the Charges for the Deliverables.
- 1.8. At any time during the Contract Period of the Contract, the Supplier may make a proposal for gainshare. If the Buyer deems gainshare to be applicable then the Buyer and Supplier shall discuss how a gainshare proposal shall be implemented in accordance with an agreed gainshare ratio.

## Schedule 12 (Benchmarking)

### 1. Definitions

1.1. In this Schedule, the following expressions shall have the following meanings:

<b>"Benchmark Review"</b>	a review of the Deliverables carried out in accordance with this Schedule to determine whether those Deliverables represent Good Value;
<b>"Benchmarked Deliverables"</b>	any Deliverables included within the scope of a Benchmark Review pursuant to this Schedule;
<b>"Comparable Rates"</b>	the Charges for Comparable Deliverables;
<b>"Comparable Deliverables"</b>	deliverables that are identical or materially similar to the Benchmarked Deliverables (including in terms of scope, specification, volume and quality of performance) provided that if no identical or materially similar Deliverables exist in the market, the Supplier shall propose an approach for developing a comparable Deliverables benchmark;
<b>"Comparison Group"</b>	a sample group of organisations providing Comparable Deliverables which consists of organisations which are either of similar size to the Supplier or which are similarly structured in terms of their business and their service offering so as to be fair comparators with the Supplier or which, are best practice organisations;
<b>"Equivalent Data"</b>	data derived from an analysis of the Comparable Rates and/or the Comparable Deliverables (as applicable) provided by the Comparison Group;
<b>"Good Value"</b>	that the Benchmarked Rates are within the Upper Quartile; and
<b>"Upper Quartile"</b>	in respect of Benchmarked Rates, that based on an analysis of Equivalent Data, the Benchmarked Rates, as compared to the range of prices for Comparable Deliverables, are within the top 25% in terms of best value for money for the recipients of Comparable Deliverables.

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

**2. When you should use this Schedule**

- 2.1. The Supplier acknowledges that the Buyer wishes to ensure that the Deliverables, represent value for money to the taxpayer throughout the Contract Period.
- 2.2. This Schedule sets out to ensure the Contract represents value for money throughout and that the Buyer may terminate the Contract by issuing a Termination Notice to the Supplier if the Supplier refuses or fails to comply with its obligations as set out in Paragraph 3 of this Schedule.
- 2.3. Amounts payable under this Schedule shall not fall with the definition of a Cost.

**3. Benchmarking**

**3.1. How benchmarking works**

- 3.1.1. The Buyer may, by written notice to the Supplier, require a Benchmark Review of any or all of the Deliverables.
- 3.1.2. The Buyer shall not be entitled to request a Benchmark Review during the first six (6) Month period from the Start Date or at intervals of less than twelve (12) Months after any previous Benchmark Review.
- 3.1.3. The purpose of a Benchmark Review will be to establish whether the Benchmarked Deliverables are, individually and/or as a whole, Good Value.
- 3.1.4. The Deliverables that are to be the Benchmarked Deliverables will be identified by the Buyer in writing.
- 3.1.5. Upon its request for a Benchmark Review the Buyer shall nominate a benchmarker. The Supplier must approve the nomination within ten (10) Working Days unless the Supplier provides a reasonable explanation for rejecting the appointment. If the appointment is rejected then the Buyer may propose an alternative benchmarker. If the Parties cannot agree the appointment within twenty (20) days of the initial request for Benchmark review then a benchmarker shall be selected by the Chartered Institute of Financial Accountants.
- 3.1.6. The cost of a benchmarker shall be borne by the Buyer (provided that each Party shall bear its own internal costs of the Benchmark Review) except where the Benchmark Review demonstrates that the Benchmarked Service and/or the Benchmarked Deliverables are not Good Value, in which case the Parties shall share the cost of the benchmarker in such proportions as the Parties agree (acting reasonably). Invoices by the benchmarker shall be raised against the Supplier and the relevant portion shall be reimbursed by the Buyer.

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

**3.2. Benchmarking Process**

- 3.2.1. The benchmarker shall produce and send to the Buyer, for Approval, a draft plan for the Benchmark Review which must include:
  - a) a proposed cost and timetable for the Benchmark Review;
  - b) a description of the benchmarking methodology to be used which must demonstrate that the methodology to be used is capable of fulfilling the benchmarking purpose; and
  - c) a description of how the benchmarker will scope and identify the Comparison Group.
- 3.2.2. The benchmarker, acting reasonably, shall be entitled to use any model to determine the achievement of value for money and to carry out the benchmarking.
- 3.2.3. The Buyer must give notice in writing to the Supplier within ten (10) Working Days after receiving the draft plan, advising the benchmarker and the Supplier whether it Approves the draft plan, or, if it does not approve the draft plan, suggesting amendments to that plan (which must be reasonable). If amendments are suggested then the benchmarker must produce an amended draft plan and this Paragraph 3.2.3 shall apply to any amended draft plan.
- 3.2.4. Once both Parties have approved the draft plan then they will notify the benchmarker. No Party may unreasonably withhold or delay its Approval of the draft plan.
- 3.2.5. Once it has received the Approval of the draft plan, the benchmarker shall:
  - i. finalise the Comparison Group and collect data relating to Comparable Rates. The selection of the Comparable Rates (both in terms of number and identity) shall be a matter for the benchmarker's professional judgment using:
    - a. information from other service providers to the Buyer;
    - b. survey information;
    - c. information from "in-house" providers to the Buyer to the extent that the benchmarker considers that they are valid comparators;
    - d. market intelligence;
    - e. the benchmarker's own data and experience;
    - f. relevant published information; and
    - g. pursuant to Paragraph 3.2.6 below, information from other suppliers or purchasers on Comparable Rates;
  - ii. by applying the adjustment factors listed in Paragraph 3.2.7 and from an analysis of the Comparable Rates, derive the Equivalent Data;
  - iii. using the Equivalent Data, calculate the Upper Quartile;

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- iv. determine whether or not each Benchmarked Rate is, and/or the Benchmarked Rates as a whole are, Good Value.
- 3.2.6. The Supplier shall use all reasonable endeavours and act in good faith to supply information required by the benchmarker in order to undertake the benchmarking. The Supplier agrees to use its reasonable endeavours to obtain information from other suppliers or purchasers on Comparable Rates.
- 3.2.7. In carrying out the benchmarking analysis the benchmarker may have regard to the following matters when performing a comparative assessment of the Benchmarked Rates and the Comparable Rates in order to derive Equivalent Data:
  - a) the contractual terms and business environment under which the Comparable Rates are being provided (including the scale and geographical spread of the customers);
  - b) exchange rates;
  - c) any other factors reasonably identified by the Supplier, which, if not taken into consideration, could unfairly cause the Supplier's pricing to appear non-competitive.

**3.3. Benchmarking Report**

- 3.3.1. For the purposes of this Schedule "Benchmarking Report" shall mean the report produced by the benchmarker following the Benchmark Review and as further described in this Schedule;
- 3.3.2. The benchmarker shall prepare a Benchmarking Report and deliver it to the Buyer, at the time specified in the plan Approved pursuant to Paragraph 3.2.3, setting out its findings. Those findings shall be required to:
  - a) include a finding as to whether or not a Benchmarked Service and/or whether the Benchmarked Deliverables as a whole are, Good Value;
  - b) if any of the Benchmarked Deliverables are, individually or as a whole, not Good Value, specify the changes that would be required to make that Benchmarked Service or the Benchmarked Deliverables as a whole Good Value; and
  - c) include sufficient detail and transparency so that the Party requesting the Benchmarking can interpret and understand how the Supplier has calculated whether or not the Benchmarked Deliverables are, individually or as a whole, Good Value.
- 3.3.3. The Parties agree that any changes required to this Contract identified in the Benchmarking Report shall be implemented at the direction of the Buyer in accordance with Clause 28 (Changing the contract).



**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

## **Schedule 13 (Contract Management)**

### **1. Definitions**

In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Operational Board"</b>	the board established in accordance with Paragraph 4 of this Schedule;
<b>"Contract Manager"</b>	the manager appointed in accordance with Paragraph 1 of this Schedule;

### **2. Contract Management**

- 2.1 The Supplier and the Buyer shall each appoint a Contract Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.
- 2.2 The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.
- 2.3 Without prejudice to Paragraph 4 below, the Parties agree to operate the boards specified as set out in the Annex to this Schedule.

### **3. Role of the Supplier Contract Manager**

- 3.1 The Supplier Contract Manager shall be:
  - 3.1.1 the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;
  - 3.1.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Contract Manager's responsibilities and obligations;
  - 3.1.3 able to cancel any delegation and recommence the position himself; and
  - 3.1.4 replaced only after the Buyer has received notification of the proposed change.
- 3.2 The Buyer may provide revised instructions to the Supplier's Contract Manager in regards to the Contract and it will be the Supplier Contract Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.
- 3.3 Receipt of communication from the Supplier Contract Manager by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under the Contract.

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

**4. Role of The Operational Board**

- 4.1 The Operational Board shall be established by the Buyer for the purposes of this Contract on which the Supplier and the Buyer shall be represented.
- 4.2 The Operational Board members, frequency and location of board meetings and planned start date by which the board shall be established are set out in Annex A to the Schedule.
- 4.3 In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably withheld or delayed). Each Buyer board member shall have at all times a counterpart Supplier board member of equivalent seniority and expertise.
- 4.4 Each Party shall ensure that its board members shall make all reasonable efforts to attend board meetings at which that board member's attendance is required. If any board member is not able to attend a board meeting, that person shall use all reasonable endeavours to ensure that a delegate attends the Operational Board meeting in his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.
- 4.5 The purpose of the Operational Board meetings will be to review the Supplier's performance under this Contract. The agenda for each meeting shall be set by the Buyer and communicated to the Supplier in advance of that meeting.

**5. Contract Risk Management**

- 5.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Contract.
- 5.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:
  - the identification and management of risks;
  - the identification and management of issues; and
  - monitoring and controlling project plans.
- 5.3 The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.
- 5.4 The Supplier will maintain a risk register of the risks relating to the Contract which the Buyer and the Supplier have identified.

## **Annex: Operational Boards**

The Parties agree to operate the following boards at the locations and at the frequencies set out below:

Operation Board	Location	Frequency
Performance Review Meeting	Virtual (Default) Office Location (as agreed by the parties)	Monthly
Quarterly Strategic Review Meeting* (* - this meeting is an extended Performance Review Meeting, not an additional meeting in the relevant month)	Virtual (Default) Office Location (as agreed by the parties)	Quarterly

Each Operation Board will be conducted in accordance with Schedule 2 (Specification) – 10 Governance and Programme Monitoring Arrangements.

## Schedule 14 (Business Continuity and Disaster Recovery)

### 1. Definitions

- 1.1. In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

"BCDR Plan"	has the meaning given to it in Paragraph 2 of this Schedule;
"Business Continuity Plan"	has the meaning given to it in Paragraph 2.2.2 of this Schedule;
"Disaster Recovery Plan"	has the meaning given to it in Paragraph 2.2.3 of this Schedule;
"Related Supplier"	any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time;
"Review Report"	has the meaning given to it in Paragraph 6.3 of this Schedule; and
"Supplier's Proposals"	has the meaning given to it in Paragraph 6.3 of this Schedule;

### 2. BCDR Plan

- 2.1. No more than ninety (90) Working Days after the contract is signed, the Supplier shall prepare and deliver to the Buyer for the Buyer's written approval a plan (a "**BCDR Plan**"), which shall detail the processes and arrangements that the Supplier shall follow to:
- 2.1.1. ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and
  - 2.1.2. the recovery of the Deliverables in the event of a Disaster
- 2.2. The BCDR Plan shall be divided into three sections:
- 2.2.1. Section 1 which shall set out general principles applicable to the BCDR Plan;
  - 2.2.2. Section 2 which shall relate to business continuity (the "Business Continuity Plan"); and
  - 2.2.3. Section 3 which shall relate to disaster recovery (the "Disaster Recovery Plan").
- 2.3. Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within

twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

### **3. General Principles of the BCDR Plan (Section 1)**

#### **3.1. Section 1 of the BCDR Plan shall:**

- 3.1.1. set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
- 3.1.2. provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Buyer by a Related Supplier;
- 3.1.3. contain an obligation upon the Supplier to liaise with the Buyer and any Related Suppliers with respect to business continuity and disaster recovery;
- 3.1.4. detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Buyer and any of its other Related Supplier in each case as notified to the Supplier by the Buyer from time to time;
- 3.1.5. contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
- 3.1.6. contain a risk analysis, including:
  - a) failure or disruption scenarios and assessments of likely frequency of occurrence;
  - b) identification of any single points of failure within the provision of Deliverables and processes for managing those risks;
  - c) identification of risks arising from an Insolvency Event of the Supplier, any Key Subcontractors and/or Supplier Group member;
  - d) identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and
  - e) a business impact analysis of different anticipated failures or disruptions;

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- 3.1.7. provide for documentation of processes, including business processes, and procedures;
  - 3.1.8. set out key contact details for the Supplier (and any Subcontractors) and for the Buyer;
  - 3.1.9. identify the procedures for reverting to "normal service";
  - 3.1.10. set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
  - 3.1.11. identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the BCDR Plan; and
  - 3.1.12. provide for the provision of technical assistance to key contacts at the Buyer as required by the Buyer to inform decisions in support of the Buyer's business continuity plans.
- 3.2. The BCDR Plan shall be designed so as to ensure that:
- 3.2.1. the Deliverables are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
  - 3.2.2. the adverse impact of any Disaster is minimised as far as reasonably possible;
  - 3.2.3. it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
  - 3.2.4. it details a process for the management of disaster recovery testing.
- 3.3. The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Deliverables and the business operations supported by the provision of Deliverables.
- 3.4. The Supplier shall not be entitled to any relief from its obligations under the Service Levels, or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Contract.

**4. Business Continuity (Section 2)**

- 4.1. The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

provision of Deliverables remain supported and to ensure continuity of the business operations supported by the Services including:

- 4.1.1. the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Deliverables; and
- 4.1.2. the steps to be taken by the Supplier upon resumption of the provision of Deliverables in order to address the effect of the failure or disruption.
- 4.2. The Business Continuity Plan shall:
  - 4.2.1. address the various possible levels of failures of or disruptions to the provision of Deliverables;
  - 4.2.2. set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Deliverables;
  - 4.2.3. specify any applicable Service Levels with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Service Levels in respect of the provision of other Deliverables during any period of invocation of the Business Continuity Plan; and
  - 4.2.4. set out the circumstances in which the Business Continuity Plan is invoked.

**5. Disaster Recovery (Section 3)**

- 5.1. The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Buyer supported by the Services following



**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.

- 5.2. The Supplier's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:
  - 5.2.1. loss of access to the Buyer Premises;
  - 5.2.2. loss of utilities to the Buyer Premises;
  - 5.2.3. loss of the Supplier's helpdesk or CAFM system;
  - 5.2.4. loss of a Subcontractor;
  - 5.2.5. emergency notification and escalation process;
  - 5.2.6. contact lists;
  - 5.2.7. staff training and awareness;
  - 5.2.8. BCDR Plan testing;
  - 5.2.9. post implementation review process;
  - 5.2.10. any applicable Service Levels with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;
  - 5.2.11. details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
  - 5.2.12. access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and
  - 5.2.13. testing and management arrangements.

**6. Review and changing the BCDR Plan**

- 6.1. The Supplier shall review the BCDR Plan:
  - 6.1.1. on a regular basis and as a minimum once every six (6) Months;
  - 6.1.2. within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 7; and
  - 6.1.3. where the Buyer requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Buyer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Buyer for the Buyer's approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the Buyer for any costs

that it may incur above any estimate without the Buyer's prior written approval.

- 6.2. Each review of the BCDR Plan pursuant to Paragraph 6 shall assess its suitability having regard to any change to the Deliverables or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within such period as the Buyer shall reasonably require.
- 6.3. The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Buyer a report (a "Review Report") setting out the Supplier's proposals (the "Supplier's Proposals") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.
- 6.4. Following receipt of the Review Report and the Supplier's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Supplier's Proposals. If the Parties are unable to agree Review Report and the Supplier's Proposals within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 6.5. The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Deliverables.

## **7. Testing the BCDR Plan**

- 7.1. The Supplier shall test the BCDR Plan:
  - 7.1.1. regularly and in any event not less than once in every Contract Year;
  - 7.1.2. in the event of any major reconfiguration of the Deliverables
  - 7.1.3. at any time where the Buyer considers it necessary (acting in its sole discretion).
- 7.2. If the Buyer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Buyer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Buyer unless the BCDR Plan fails the additional test in

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

which case the Supplier's costs of that failed test shall be borne by the Supplier.

- 7.3. The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Buyer and shall liaise with the Buyer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Buyer.
- 7.4. The Supplier shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Buyer. Copies of live test data used in any such testing shall be (if so required by the Buyer) destroyed or returned to the Buyer on completion of the test.
- 7.5. The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Buyer a report setting out:
  - 7.5.1. the outcome of the test;
  - 7.5.2. any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
  - 7.5.3. the Supplier's proposals for remedying any such failures.
- 7.6. Following each test, the Supplier shall take all measures requested by the Buyer to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at its own cost, by the date reasonably required by the Buyer.

**8. Invoking the BCDR Plan**

- 8.1. In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke the BCDR Plan (and shall inform the Buyer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Buyer.

**9. Circumstances beyond your control**

- 9.1. The Supplier shall not be entitled to relief under Clause 24 (Circumstances beyond your control) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

## **Schedule 15 (Minimum Standards of Reliability)**

**NOT USED**

## Schedule 16 (Security)

### Part A: Security Requirements

#### 1. Definitions

- 1.1. In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

**"Breach of Security"**

the occurrence of:

any unauthorised access to or use of the Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/or

the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract,

in either case as more particularly set out in the Security Policy where the Buyer has required compliance there with in accordance with Paragraph 2;

**"Security Management Plan"**

the Supplier's security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Supplier to the Buyer and as updated from time to time.

#### 2. Complying with security requirements and updates to them

- 2.1. The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer it shall also comply with the Security Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.
- 2.2. Where the Security Policy applies the Buyer shall notify the Supplier of any changes or proposed changes to the Security Policy.
- 2.3. If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

of the Deliverables it may propose a Variation to the Buyer. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall be subject to the Variation Procedure.

- 2.4. Until and/or unless a change to the Charges is agreed by the Buyer pursuant to the Variation Procedure the Supplier shall continue to provide the Deliverables in accordance with its existing obligations.

### **3. Security Standards**

- 3.1. The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on security.
- 3.2. The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:
  - 3.2.1. is in accordance with the Law and this Contract;
  - 3.2.2. as a minimum demonstrates Good Industry Practice;
  - 3.2.3. meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data; and
  - 3.2.4. where specified by the Buyer in accordance with Paragraph 2 complies with the Security Policy and the ICT Policy.
- 3.3. The references to standards, guidance and policies contained or set out in Paragraph 3.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 3.4. In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Buyer's Representative of such inconsistency immediately upon becoming aware of the same, and the Buyer's Representative shall, as soon as practicable,

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

advise the Supplier which provision the Supplier shall be required to comply with.

#### **4. Security Management Plan**

##### **4.1. Introduction**

- 4.2. The Supplier shall develop and maintain a Security Management Plan in accordance with this Schedule. The Supplier shall thereafter comply with its obligations set out in the Security Management Plan.

#### **5. Content of the Security Management Plan**

5.1. The Security Management Plan shall:

- 5.1.1. comply with the principles of security set out in Paragraph 3 and any other provisions of this Contract relevant to security;
- 5.1.2. identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Supplier;
- 5.1.3. detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Deliverables, processes associated with the provision of the Deliverables, the Buyer Premises, the Sites and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- 5.1.4. be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- 5.1.5. set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Contract;
- 5.1.6. set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Contract and, where

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

necessary in accordance with the Security Policy as set out in Paragraph 2 ; and

- 5.1.7. be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the provision of the Deliverables and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

## **6. Development of the Security Management Plan**

- 6.1.1. Within twenty (20) Working Days after the Start Date and in accordance with Paragraph 7, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.
- 6.1.2. If the Security Management Plan submitted to the Buyer in accordance with Paragraph 6, or any subsequent revision to it in accordance with Paragraph 7, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the Buyer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.
- 6.1.3. The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph 6.1.2. However, a refusal by the Buyer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 5 shall be deemed to be reasonable.
- 6.1.4. Approval by the Buyer of the Security Management Plan pursuant to Paragraph 6.1.2 or of any change to the Security Management Plan in accordance with Paragraph 7 shall not relieve the Supplier of its obligations under this Schedule.

## **7. Amendment of the Security Management Plan**

- 7.1.1. The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:
  - a) emerging changes in Good Industry Practice;



**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- b) any change or proposed change to the Deliverables and/or associated processes;
  - c) where necessary in accordance with Paragraph 2.2, any change to the Security Policy;
  - d) any new perceived or changed security threats; and
  - e) any reasonable change in requirements requested by the Buyer.
- 7.1.2. The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Buyer. The results of the review shall include:
- a) suggested improvements to the effectiveness of the Security Management Plan;
  - b) updates to the risk assessments; and
  - c) suggested improvements in measuring the effectiveness of controls.
- 7.1.3. Subject to Paragraph 7.1.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph 7, a request by the Buyer or otherwise) shall be subject to the Variation Procedure.
- 7.1.4. The Buyer may, acting reasonably, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

## **8. Security breach**

- 8.1. Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.
- 8.2. Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 8, the Supplier shall:
- 8.2.1. immediately use all reasonable endeavours (which shall include any action or changes reasonably required by the Buyer) necessary to:
    - a) minimise the extent of actual or potential harm caused by any Breach of Security;

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- b) remedy such Breach of Security to the extent possible and protect the integrity of the Buyer and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security;
  - c) prevent an equivalent breach in the future exploiting the same cause failure; and
  - d) as soon as reasonably practicable provide to the Buyer, where the Buyer so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a cause analysis where required by the Buyer.
- 8.3. In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with Paragraph 2 ) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.

## **Schedule 17 (Service Recipients) – NOT USED**

## **Schedule 18 (Supply Chain Visibility) (Not Used)**

## Schedule 19 (Cyber Essentials Scheme)

### 1. Definitions

1.1. In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Cyber Essentials Scheme"</b>	the Cyber Essentials Scheme developed by the Government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats (as may be amended from time to time). Details of the Cyber Essentials Scheme can be found at: <a href="https://www.gov.uk/government/publications/cyber-essentials-scheme-overview">https://www.gov.uk/government/publications/cyber-essentials-scheme-overview</a>
<b>"Cyber Essentials Basic Certificate"</b>	the certificate awarded on the basis of self-assessment, verified by an independent certification body, under the Cyber Essentials Scheme and is the basic level of assurance;
<b>"Cyber Essentials Certificate"</b>	Cyber Essentials Basic Certificate or the Cyber Essentials Plus Certificate to be provided by the Supplier as set out in the Award Form
<b>"Cyber Essential Scheme Data"</b>	sensitive and personal information and other relevant information as referred to in the Cyber Essentials Scheme
<b>"Cyber Essentials Plus Certificate"</b>	the certification awarded on the basis of external testing by an independent certification body of the Supplier's cyber security approach under the Cyber Essentials Scheme and is a more advanced level of assurance.

### 2. What Certification do you need

- 2.1. Where the Award Form requires that the Supplier provide a Cyber Essentials Certificate the Supplier shall provide a valid Cyber Essentials Certificate to the Buyer. Where the Supplier fails to comply with this Paragraph 1 it shall be prohibited from commencing the provision of Deliverables under the Contract until such time as the Supplier has evidenced to the Buyer its compliance with this Paragraph 1.
- 2.2. Where the Supplier continues to Process Cyber Essentials Scheme Data during the Contract Period of the Contract the Supplier shall

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- deliver to the Buyer evidence of renewal of the Cyber Essentials Certificate on each anniversary of the first applicable certificate obtained by the Supplier under Paragraph 1.
- 2.3. Where the Supplier is due to Process Cyber Essentials Scheme Data after the Start date of the Contract but before the end of the Contact Period, the Supplier shall deliver to the Buyer evidence of:
- 2.3.1. a valid and current Cyber Essentials Certificate before the Supplier Processes any such Cyber Essentials Scheme Data; and
- 2.3.2. renewal of the valid Cyber Essentials Certificate on each anniversary of the first Cyber Essentials Scheme certificate obtained by the Supplier under Paragraph 1.
- 2.4. In the event that the Supplier fails to comply with Paragraphs 2.2 or 2.3 (as applicable), the Buyer reserves the right to terminate this Contract for material Default.
- 2.5. The Supplier shall ensure that all Sub-Contracts with Subcontractors who Process Cyber Essentials Data contain provisions no less onerous on the Subcontractors than those imposed on the Supplier under this Contract in respect of the Cyber Essentials Scheme under Paragraph 1 of this Schedule.
- 2.6. This Schedule shall survive termination or expiry of this Contract.

## **Schedule 20 (Processing Data)**

### **1 Status of the Controller**

1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA 2018. A Party may act as:

1.1.1 “Controller” in respect of the other Party who is “Processor”;

1.1.2 “Processor” in respect of the other Party who is “Controller”;

1.1.3 “Joint Controller” with the other Party;

1.1.4 “Independent Controller” of the Personal Data where the other Party is also “Controller”,

in respect of certain Personal Data under a Contract and shall specify in Annex 1 (*Processing Personal Data*) which scenario they think shall apply in each situation.

### **2 Where one Party is Controller and the other Party its Processor**

2.1 Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (*Processing Personal Data*) by the Controller.

2.2 The Processor shall notify the Controller immediately if it considers that any of the Controller’s instructions infringe the Data Protection Legislation.

2.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:

2.3.1 a systematic description of the envisaged Processing and the purpose of the Processing;

2.3.2 an assessment of the necessity and proportionality of the Processing in relation to the Services;

2.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and

2.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

2.4 The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:

2.4.1 Process that Personal Data only in accordance with Annex 1 (*Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it is so required the Processor shall notify the Controller before Processing the Personal Data unless prohibited by Law;

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- 2.4.2 ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 18.4 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
- (a) nature of the data to be protected;
  - (b) harm that might result from a Personal Data Breach;
  - (c) state of technological development; and
  - (d) cost of implementing any measures;
- 2.4.3 ensure that:
- (a) the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 (*Processing Personal Data*));
  - (b) it uses all reasonable endeavours to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
    - (i) are aware of and comply with the Processor's duties under this Schedule 20, Clauses 18 (Data protection), 19 (What you must keep confidential) and 20 (When you can share information);
    - (ii) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
    - (iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by the Contract; and
    - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data;
- 2.4.4 not transfer Personal Data outside of the UK unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
- (a) the transfer is in accordance with Article 45 of the UK GDPR (or section 73 of DPA 2018); or
  - (b) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 of the DPA 2018) as determined by the Controller which could include relevant parties entering into the International Data Transfer Agreement (the "**IDTA**"), or International Data Transfer Agreement Addendum to the European Commission's SCCs (the "**Addendum**"), as published by the Information



**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

Commissioner's Office from time to time, as well as any additional measures determined by the Controller;

- (c) the Data Subject has enforceable rights and effective legal remedies;
- (d) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
- (e) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data;

2.4.5 where the Personal Data is subject to EU GDPR, not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

- (a) the transfer is in accordance with Article 45 of the EU GDPR; or
- (b) the transferring Party has provided appropriate safeguards in relation to the transfer in accordance with Article 46 of the EU GDPR as determined by the non-transferring Party which could include relevant parties entering into Standard Contractual Clauses in the European Commission's decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time as well as any additional measures determined by the non-transferring Party;
- (c) the Data Subject has enforceable rights and effective legal remedies;
- (d) the transferring Party complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the non-transferring Party in meeting its obligations); and
- (e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data; and

2.4.6 at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- 2.5 Subject to Paragraph 2.6 of this Schedule 20, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the Contract it:
  - 2.5.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
  - 2.5.2 receives a request to rectify, block or erase any Personal Data;
  - 2.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - 2.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;
  - 2.5.5 receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
  - 2.5.6 becomes aware of a Personal Data Breach.
- 2.6 The Processor's obligation to notify under Paragraph 2.5 of this Schedule 20 shall include the provision of further information to the Controller, as details become available.
- 2.7 Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Paragraph 2.5 of this Schedule 20 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
  - 2.7.1 the Controller with full details and copies of the complaint, communication or request;
  - 2.7.2 such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - 2.7.3 the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
  - 2.7.4 assistance as requested by the Controller following any Personal Data Breach; and/or
  - 2.7.5 assistance as requested by the Controller with respect to any request from the Information Commissioner's Office or any other regulatory authority, or any consultation by the Controller with the Information Commissioner's Office or any other regulatory authority.
- 2.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Schedule 20. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
  - 2.8.1 the Controller determines that the Processing is not occasional;

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- 2.8.2 the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
- 2.8.3 the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 2.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 2.10 The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 2.11 Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:
  - 2.11.1 notify the Controller in writing of the intended Subprocessor and Processing;
  - 2.11.2 obtain the written consent of the Controller;
  - 2.11.3 enter into a written agreement with the Subprocessor which give effect to the terms set out in this Schedule 20 such that they apply to the Subprocessor; and
  - 2.11.4 provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
- 2.12 The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
- 2.13 The Buyer may, at any time on not less than 30 Working Days' notice, revise this Schedule 20 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).
- 2.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Buyer may on not less than 30 Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

**3 Where the Parties are Joint Controllers of Personal Data**

- 3.1 In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement Paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex 2 to this Schedule 20 (*Processing Data*).

**Independent Controllers of Personal Data**

- 3.2 With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- Protection Legislation in respect of their Processing of such Personal Data as Controller.
- 3.3 Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
- 3.4 Where a Party has provided Personal Data to the other Party in accordance with Paragraph 3.2 of this Schedule 20 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
- 3.5 The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
- 3.6 The Parties shall only provide Personal Data to each other:
- 3.6.1 to the extent necessary to perform their respective obligations under the Contract;
- 3.6.2 in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the UK GDPR); and
- 3.6.3 where it has recorded it in Annex 1 (*Processing Personal Data*).
- 3.7 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.
- 3.8 A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.
- 3.9 Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract (**“Request Recipient”**):
- 3.9.1 the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

- 3.9.2 where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
- (a) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
  - (b) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.
- 3.10 Each Party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to the Contract and shall:
- 3.10.1 do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
  - 3.10.2 implement any measures necessary to restore the security of any compromised Personal Data;
  - 3.10.3 work with the other Party to make any required notifications to the Information Commissioner's Office or any other regulatory authority and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
  - 3.10.4 not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
- 3.11 Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 (*Processing Personal Data*).
- 3.12 Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 (*Processing Personal Data*).
- 3.13 Notwithstanding the general application of Paragraphs 2.1 to 2.14 of this Schedule 20 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with Paragraphs 3.2 to 3.12 of this Schedule 20.

## Annex 1 - Processing Personal Data

1. This Annex shall be completed by the Controller, who may take account of the view of the Processor, however the final decision as to the content of this Annex shall be with the Buyer at its absolute discretion.
  - 1.1 The contact details of the Buyer's Data Protection Officer are: Emma Wharram [dataprotection.office@education.gov.uk](mailto:dataprotection.office@education.gov.uk)
  - 1.2 The contact details of the Supplier's Data Protection Officer are: Tina Lucas [tlucas@cognitionlearninggroup.com](mailto:tlucas@cognitionlearninggroup.com)
  - 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
  - 1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p><b>The Buyer (The Department for Education) is Controller and the Supplier (Cognition Education) is Processor.</b></p> <p>The Parties acknowledge that in accordance with Paragraph 2 and for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor of the following Personal Data:</p> <p><b>Mentor/Mentee/Mentoring Coordinator/FE Leader Application:</b></p> <ul style="list-style-type: none"><li>• Name</li><li>• Organisation</li><li>• Job role/title,</li><li>• Email address</li><li>• Phone number</li><li>• Access requirements/dietary requirements for event management (if relevant)</li></ul> <p>Recognising the diversity of the Further Education sector, 15% of programme places may be ringfenced for mentors who meet one of the following criteria;</p> <ul style="list-style-type: none"><li>• either have a disability</li><li>• are from black and/or minority ethnic group</li><li>• are from one of the 24 Education Investment Areas</li></ul> <p>1.</p> <p>The ringfencing of places has been designed to minimise the amount of special category data collected. Participants applying for one of these places will state which criteria they are applying under</p>

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

	<p>but won't be required to provide supporting evidence or detail about why they meet the criteria for a ringfenced place.</p> <p><b>Grant Lead Application:</b></p> <ul style="list-style-type: none"> <li>• Name</li> <li>• Address</li> <li>• College group name</li> <li>• Region</li> <li>• Primary grant lead full name</li> <li>• Primary grant lead email</li> <li>• Primary grant lead job role</li> <li>• Secondary grant lead full name</li> <li>• Secondary grant lead email</li> <li>• Secondary grant lead job role</li> </ul> <p>Cognition Education may also collect data relating to participants' perceptions of training impact, teaching experience and / or Qualifications.</p> <p><b>Organisation bank details:</b></p> <ul style="list-style-type: none"> <li>- Grant reimbursement evidence (timesheets, payslips, invoices for recruitment agency).</li> </ul> <p>All data collected and processed as part of the 2023-25 Teacher Mentoring Programme, will be done so with the intention to;</p> <ul style="list-style-type: none"> <li>• enable DfE and the delivery partner, Cognition Education (CE) to determine participant(s) eligibility and support delivery of training programmes;</li> <li>• enable CE to approve, distribute and monitor the use of optional grant funding to eligible FE Providers in England;</li> <li>• enable CE to complete marketing activities, promote uptake of training and support intended beneficiaries;</li> <li>• facilitate aggregate MI reporting of participant's activities throughout programme duration to ensure compliance with GFA; and allow CE and DfE to undertake regularity checks to ascertain whether public funding has been used for agreed purposes and to take corrective action in the event of non-compliance.</li> </ul>
Duration of the Processing	<p>Processing of personal data may commence from date of contract signature (subject to DfE Security Assurance and Data Protection approvals being in place) and continue up to 31 August 2025 (unless two-year contract extension is exercised at which point this</p>

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

	<p>schedule will be reviewed and updated, if required). Duration of data processing will allow for:</p> <ul style="list-style-type: none"> <li>• two years of programme delivery up until 31 March 2025</li> <li>• financial reconciliations (Grant recipients to complete Annex G/ verify expenditure for 10% random sample) and;</li> <li>• survey returns and potential evaluation purposes.</li> </ul> <p>2.</p>
Nature and purposes of the Processing	<p><i>The nature of the processing undertaken by Cognition Education will include the collection, storage and subsequent erasure of personal data.</i></p> <p><i>The purpose of the Processing undertaken by Cognition Education will be to process and assess programme applications, support participants throughout programme duration and conduct monitoring and assurance activities.</i></p>
Type of Personal Data	As above
Categories of Data Subject	Members of staff within Further Education providers
Plan for return and destruction of the data once the Processing is complete  UNLESS requirement under law to preserve that type of data	<p>As set out above, Data may be processed and retained by the Supplier up to 31 August 2025 (unless two-year contract extension is exercised at which point this schedule will be reviewed and updated, if required). Following completion of processing activity, the Supplier should securely transfer any data to DfE needed for future programme delivery, before deletion of all personal data collected under the Teacher Mentoring Programme.</p>



**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

Locations at which the Supplier and/or its Sub-contractors process Personal Data under this Contract	Cognition Education Teacher Mentoring website will be hosted in the UK. Data held in CRM, Zoho, will be stored within their EU datacenter.
Protective Measures that the Supplier and, where applicable, its Sub-contractors have implemented to protect Personal Data processed under this Contract Agreement against a breach of security (insofar as that breach of security relates to data) or a Personal Data Breach	<p>Data will only be accessible to the TMP programme team with access granted on a need-to-know basis only and will be password protected. Data subjects will agree to participate when submitting application forms.</p> <p>All members of the TMP programme team will undergo GDPR training prior to starting work on the programme, with refresher training undertaken annually.</p>

## Schedule 21 (Variation Form)

This form is to be used in order to change a contract in accordance with Clause 28 of the Core Terms (Changing the Contract)

Contract Details		
This variation is between:	[Buyer] ("the Buyer") And [insert name of Supplier] ("the Supplier")	
Contract name:	[insert name of contract to be changed] ("the Contract")	
Contract reference number:	[insert contract reference number]	
Details of Proposed Variation		
Variation initiated by:	[delete] as applicable: Buyer/Supplier]	
Variation number:	[insert variation number]	
Date variation is raised:	[insert date]	
Proposed variation		
Reason for the variation:	[insert reason]	
An Impact Assessment shall be provided within:	[insert number] days	
Impact of Variation		
Likely impact of the proposed variation:	[Supplier to insert] assessment of impact]	
Outcome of Variation		
Contract variation:	This Contract detailed above is varied as follows: <ul style="list-style-type: none"> <li>[Buyer to insert] original Clauses or Paragraphs to be varied and the changed clause]</li> </ul>	
Financial variation:	Original Contract Value:	£ [insert amount]
	Additional cost due to variation:	£ [insert amount]
	New Contract value:	£ [insert amount]

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

1. This Variation must be agreed and signed by both Parties to the Contract and shall only be effective from the date it is signed by the Buyer
2. Words and expressions in this Variation shall have the meanings given to them in the Contract.
3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

Signed by an authorised signatory for and on behalf of the Buyer

Signature

Date

Name (in Capitals)

Address

---

Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature

Date

Name (in Capitals)

Address

**Schedule 7 (Staff Transfer)**

Crown Copyright 2022

## **Schedule 22 (Insurance Requirements)**

### **1. The insurance you need to have**

- 1.1 The Supplier shall take out and maintain or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule and any other insurances as may be required by applicable Law (together the “**Insurances**”). The Supplier shall ensure that each of the Insurances is effective no later than the Start Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and
- 1.2 The Insurances shall be:
  - 1.2.1 maintained in accordance with Good Industry Practice;
  - 1.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;
  - 1.2.3 taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and
  - 1.2.4 maintained until the End Date except in relation to Professional Indemnity where required under the Annex Part C which shall be maintained for at least six (6) years after the End Date.
- 1.3 The Supplier shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Buyer shall be indemnified in respect of claims made against the Buyer in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.

### **2. How to manage the insurance**

- 2.1 Without limiting the other provisions of this Contract, the Supplier shall:
  - 2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
  - 2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
  - 2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

### **3. What happens if you aren't insured**

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.

**Schedule 22 (Insurance Requirements)**

Crown Copyright 2022

- 3.2 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Buyer may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

**4. Evidence of insurance you must provide**

- 4.1 The Supplier shall upon the Start Date and within 15 Working Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to the Buyer, that the Insurances are in force and effect and meet in full the requirements of this Schedule.

**5. Making sure you are insured to the required amount**

- 5.1 The Supplier shall ensure that any Insurances which are stated to have a minimum limit "in the aggregate" are maintained at all times for the minimum limit of indemnity specified in this Contract and if any claims are made which do not relate to this Contract then the Supplier shall notify the Buyer and provide details of its proposed solution for maintaining the minimum limit of indemnity.

**6. Cancelled Insurance**

- 6.1 The Supplier shall notify the Buyer in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 6.2 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Buyer (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

**7. Insurance claims**

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or the Contract for which it may be entitled to claim under any of the Insurances. In the event that the Buyer receives a claim relating to or arising out of the Contract or the Deliverables, the Supplier shall co-operate with the Buyer and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.
- 7.2 Except where the Buyer is the claimant party, the Supplier shall give the Buyer notice within twenty (20) Working Days after any insurance claim in excess of **£100,000** relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Buyer) full details of the incident giving rise to the claim.

**PART A**

**Schedule 22 (Insurance Requirements)**

Crown Copyright 2022

- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Buyer any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.



## **ANNEX: REQUIRED INSURANCES**

### **PART A: THIRD PARTY PUBLIC AND PRODUCTS LIABILITY INSURANCE**

#### **1 Insured**

3.1 The Supplier

#### **4 Interest**

4.1 To indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay as damages, including claimant's costs and expenses, in respect of accidental:

(a) death or bodily injury to or sickness, illness or disease contracted by any person; and

(b) loss of or damage to physical property;

happening during the period of insurance (as specified in Paragraph 5) and arising out of or in connection with the provision of the Deliverables and in connection with this Contract.

#### **5 Limit of indemnity**

5.1 Not less than **£5,000,000** in respect of any one occurrence, the number of occurrences being unlimited in any annual policy period.

#### **6 Territorial limits**

United Kingdom

#### **7 Period of insurance**

7.1 From the date of this Contract for the period of the Contract and renewable on an annual basis unless agreed otherwise by the Buyer in writing.

#### **8 Cover features and extensions**

8.1 Indemnity to principals clause under which the Buyer shall be indemnified in respect of claims made against the Buyer in respect of death or bodily injury or third party property damage arising out of or in connection with the Contract and for which the Supplier is legally liable.

#### **9 Principal exclusions**

9.1 War and related perils.

9.2 Nuclear and radioactive risks.

9.3 Liability for death, illness, disease or bodily injury sustained by employees of the Insured arising out of the course of their employment.

**Schedule 22 (Insurance Requirements)**

Crown Copyright 2022

- 9.4 Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable Law in respect of such vehicles.
- 9.5 Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the Insured.
- 9.6 Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.
- 9.7 Liability arising from the ownership, possession or use of any aircraft or marine vessel.
- 9.8 Liability arising from seepage and pollution unless caused by a sudden, unintended, unexpected and accidental occurrence.

**PART B: UNITED KINGDOM COMPULSORY INSURANCES**

The Supplier shall meet its insurance obligations under applicable Law in full, including, United Kingdom employers' liability insurance and motor third party liability insurance.

**PART C: ADDITIONAL INSURANCES**

PART BProfessional Indemnity Insurance	PART CWith cover (for a single event or a series of related events and in the aggregate) of not less than one million pounds (£1,000,000)
--	---

## **Schedule 23 (Guarantee) – NOT USED**

## **Schedule 24 (Financial Difficulties)**

### **1. Definitions**

- 1.1. In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>“Applicable Financial Indicators”</b>	means the financial indicators from Annex 1 which are to apply to the FDE Group Members as set out in Annex 2;
<b>"Financial Distress Service Continuity Plan"</b>	a plan setting out how the Supplier will ensure the continued performance and delivery of the Deliverables in accordance with the Contract if a Financial Distress Event occurs. This plan should include what the Buyer would need to put in place to ensure performance and delivery of the Deliverables in accordance with this Contract up to and including any Insolvency Event in respect of the relevant FDE Group entity;
<b>“Financial Indicators”</b>	in respect of the Supplier, Key Sub-contractors and the Guarantor, means each of the financial indicators set out in Annex 1; and in respect of each Monitored Supplier, means those Applicable Financial Indicators;
<b>“Financial Target Thresholds”</b>	means the target thresholds for each of the Financial Indicators set out in Annex 1;
<b>“Primary Metric”</b>	Credit rating pursuant to Paragraph <b>Error!</b> <b>Reference source not found.</b>

### **2. When this Schedule applies**

- 2.1. The Parties shall comply with the provisions of this Schedule in relation to the assessment of the financial standing of the FDE Group and the consequences of a change to that financial standing.
- 2.2. The terms of this Schedule shall survive under the Contract until the termination or expiry of the Contract.

### **3. Financial Indicators**

- 3.1. The Supplier shall monitor and report on the Financial Indicators for each entity in the FDE Group against the Financial Target Thresholds at least at the frequency set out in Annex 1 (where specified) and in any event, on a regular basis and no less than once a year within one hundred and twenty (120) days after the accounting reference date
- 3.2. Subject to the calculation methodology set out at Annex 1 of this

**Schedule 24 (Financial Difficulties)**

Crown Copyright 2022

Schedule, the Financial Indicators and the corresponding calculations and thresholds used to determine whether a Financial Distress Event has occurred in respect of those Financial Indicators, shall be as set out in Appendix I: *Standard Financial Ratios of Assessing and Monitoring the Economic and Financial Standing of Bidders and Suppliers – May 2021* (as amended, supplemented or replaced from time to time) which as at the Start Date can be found at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/987132/Assessing\\_and\\_monitoring\\_the\\_economic\\_and\\_financial\\_standing\\_of\\_suppliers\\_guidance\\_note\\_May\\_2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/987132/Assessing_and_monitoring_the_economic_and_financial_standing_of_suppliers_guidance_note_May_2021.pdf)

- 3.3. Each report submitted by the Supplier pursuant to Paragraph 3 shall:
  - 3.3.1. be a single report with separate sections for each of the FDE Group entities;
  - 3.3.2. contain a sufficient level of information to enable the Buyer to verify the calculations that have been made in respect of the Financial Indicators;
  - 3.3.3. include key financial and other supporting information (including any accounts data that has been relied on) as separate annexes; and
  - 3.3.4. be based on the audited accounts for the date or period on which the Financial Indicator is based or, where the Financial Indicator is not linked to an accounting period or an accounting reference date, on unaudited management accounts prepared in accordance with their normal timetable.
- 3.4. For the purposes of determining whether a Financial Distress Event has occurred, and for the purposes of determining relief under Paragraph 6 if financial indicators are the Primary Metric, the Financial Indicator of an FDE Group entity shall be deemed to have dropped below the applicable Financial Target Threshold if:
  - 3.4.1. a report submitted by the Supplier pursuant to Paragraph 3.1 shows that any FDE Group entity has failed to meet or exceed the Financial Target Threshold for any one of the Financial Indicators set out in Annex 1 of this Schedule;
  - 3.4.2. a report submitted by the Supplier pursuant to Paragraph 3.1 does not comply with the requirements set out in Paragraph 3.3; or
  - 3.4.3. the Supplier does not deliver a report pursuant to Paragraph 3.1 in accordance with the applicable monitoring and reporting

frequency.

#### **4. What happens if there is a financial distress event**

- 4.1. The Supplier shall promptly notify (or shall procure that its auditors promptly notify) the Buyer in writing following the occurrence of a Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event and in any event, ensure that such notification is made within 10 Working Days of the date on which the Supplier first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event.
- 4.2. In the event of a Financial Distress Event then, immediately upon notification of the Financial Distress Event (or if the Buyer becomes aware of the Financial Distress Event without notification and brings the event to the attention of the Supplier), the Supplier shall have the obligations and the Buyer shall have the rights and remedies as set out in Paragraphs 4.4 to 4.6.
- 4.3. The Supplier shall (and shall procure that each Additional FDE Group Member (if applicable) shall):
  - 4.3.1. at the request of the Buyer meet the Buyer as soon as reasonably practicable (and in any event within three (3) Working Days of the initial notification (or awareness) of the Financial Distress Event) to review the effect of the Financial Distress Event on the continued performance of the Contract and delivery of the Deliverables in accordance the Contract; and
  - 4.3.2. where the Buyer reasonably believes (taking into account the discussions and any representations made under Paragraph 4.4.1) that the Financial Distress Event could impact on the continued performance of the Contract and delivery of the Deliverables in accordance with the Contract:
  - 4.3.3. submit to the Buyer for its Approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within ten (10) Working Days of the initial notification (or awareness) of the Financial Distress Event);
  - 4.3.4. use reasonable endeavours to put in place the necessary measures with each Additional FDE Group Member to ensure that it is able to provide financial information relating to that Additional FDE Group Member to the Buyer; and
  - 4.3.5. provide such financial information relating to FDE Group

entity as the Buyer may reasonably require.

- 4.4. If the Buyer does not (acting reasonably) approve the draft Financial Distress Service Continuity Plan, it shall inform the Supplier of its reasons and the Supplier shall take those reasons into account in the preparation of a further draft Financial Distress Service Continuity Plan, which shall be resubmitted to the Buyer within five (5) Working Days of the rejection of the first or subsequent (as the case may be) drafts. This process shall be repeated until the Financial Distress Service Continuity Plan is either:
  - 4.4.1. Approved;
  - 4.4.2. referred, by notice sent by either Party to the other Party explaining why it thinks the Financial Distress Service Continuity Plan has not been Approved, to commercial negotiation led by senior representatives who have authority to agree the Financial Distress Service Continuity Plan (to be held within 28 days of the date of the notice); or
  - 4.4.3. finally rejected by the Buyer.
- 4.5. Following Approval of the Financial Distress Service Continuity Plan by the Buyer, the Supplier shall:
  - 4.5.1. on a regular basis (which shall not be less than monthly), review the Financial Distress Service Continuity Plan and assess whether it remains adequate and up to date to ensure the continued performance the Contract and delivery of the Deliverables in accordance with the Contract;
  - 4.5.2. provide a written report of the results of each review and assessment carried out under Paragraph 4.6.1 to the Buyer;
  - 4.5.3. where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with Paragraph 4.6.1, submit an updated Financial Distress Service Continuity Plan to the Buyer for its Approval, and the provisions of Paragraphs 4.5 shall apply to the review and Approval process for the updated Financial Distress Service Continuity Plan; and
  - 4.5.4. comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).
- 4.6. Where the Supplier reasonably believes that the relevant Financial Distress Event (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Buyer and subject to the agreement of the Parties, the Supplier may be relieved of its

obligations under Paragraph 4.6.

## **5. When the Buyer can terminate for financial distress**

5.1. The Buyer shall be entitled to terminate this Contract for material Default if:

- 5.1.1. the Supplier fails to notify the Buyer of a Financial Distress Event in accordance with Paragraph 4.1;
- 5.1.2. the Supplier fails to comply with any part of Paragraph 4.4;
- 5.1.3. subject to Paragraph 5.2, the Buyer finally rejects a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 4.5.3;
- 5.1.4. the senior representatives who have authority to agree the Financial Distress Service Continuity Plan (acting reasonably) do not meet within 28 days of the date of the notice of referral pursuant to Paragraph 4.5.2;
- 5.1.5. the senior representatives who have authority to agree the Financial Distress Service Continuity Plan (acting reasonably) do not agree the Financial Distress Service Continuity Plan after it has been referred pursuant to Paragraph 4.5.2; and/or
- 5.1.6. the Supplier fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 4.6.4.

5.2. A material Default may only occur under Paragraph 5.1.3 after the expiry of the first five (5) Working Days period for the Supplier to submit a revised draft of the first draft of the Financial Distress Service Continuity Plan starting on and from the date on which the Buyer first notified the Supplier that Supplier must submit a revised draft of the first draft Financial Distress Service Continuity Plan.

## **6. What happens If your Primary Metric is still good**

- 5.3. Without prejudice to the Supplier's obligations and the Buyer's rights and remedies under Paragraph 5, if, following the occurrence of a Financial Distress Event, the Supplier evidences to the Buyer's satisfaction that the Primary Metric shows that the Financial Distress Event no longer exists, then:
- 5.4. the Supplier shall be relieved automatically of its obligations under Paragraphs 4.4 to 4.6; and
- 5.5. the Buyer shall not be entitled to require the Supplier to provide financial information in accordance with Paragraph 4.4.2c).



# ANNEX 1: FINANCIAL INDICATORS

## Part C: Financial Indicators

Financial Indicator	Calculation <sup>1</sup>	Financial Target Threshold:	Monitoring and Reporting Frequency
<b>1</b>  <b>Operating Margin</b>	$\text{Operating Margin} = \frac{\text{Operating Profit}}{\text{Revenue}}$ $6.1\% = 80,949 / 1,322,344$ <b>29% excluding Interco charge</b>	 >5%  >5%	<i>Tested and reported yearly in arrears within 120 / 90 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting reference date</i>
<b>2</b>  <b>Net Debt to EBITDA Ratio</b>	$\text{Net Debt to EBITDA ratio} = \frac{\text{Net Debt}}{\text{EBITDA}}$ $1.2 \text{ times} = \frac{474,664 \text{ (ex Interco)}}{403,713 \text{ (ex Interco charge)}}$	 <3.5 times  <3.5 times	<i>Tested and reported yearly in arrears within 120 days of each accounting reference date based upon EBITDA for the 12 months ending on, and Net Debt at, the relevant accounting reference date</i>
<b>3</b>  <b>Acid Ratio</b>	$\text{Acid Ratio} = \frac{\text{Current Assets} - \text{Inventories}}{\text{Current Liabilities}}$ $2.3 \text{ times} = \frac{(1,109,177)}{474,664 \text{ ex interco}}$	 > 0.8 times  > 0.8 times	<i>Tested and reported yearly in arrears within 120 days of each accounting reference date based upon figures at the relevant accounting reference date</i>

## **ANNEX 2 – ADDITIONAL FDE GROUP MEMBERS AND MONITORED SUPPLIERS**

### **Part A: Additional FDE Group Members**

<b>Entity Name</b>	<b>Company Number</b>	<b>Applicable Financial Indicators</b>  (These are the Financial Indicators from the table in Part C of Annex 2 which are to apply to the Additional FDE Group Members)
NA		

### **Part B: Monitored Suppliers**

None

## Schedule 25 (Rectification Plan)

Request for <b>[Revised]</b> Rectification Plan			
Details of the Notifiable Default:	<b>[Guidance: Explain the Notifiable Default, with clear schedule and clause references as appropriate]</b>		
Deadline for receiving the <b>[Revised]</b> Rectification Plan:	<b>[add]</b> date (minimum 10 days from request)		
Signed by Buyer:		Date:	
Supplier <b>[Revised]</b> Rectification Plan			
Cause of the Notifiable Default	<b>[add]</b> cause]		
Anticipated impact assessment:	<b>[add]</b> impact]		
Actual effect of Notifiable Default:	<b>[add]</b> effect]		
Steps to be taken to rectification:	<b>Steps</b>	<b>Timescale</b>	
	1.	<b>[date]</b>	
	2.	<b>[date]</b>	
	3.	<b>[date]</b>	
	4.	<b>[date]</b>	
	<b>[...]</b>	<b>[date]</b>	
Timescale for complete Rectification of Notifiable Default	<b>[X]</b> Working Days		
Steps taken to prevent recurrence of Notifiable Default	<b>Steps</b>	<b>Timescale</b>	
	1.	<b>[date]</b>	
	2.	<b>[date]</b>	
	3.	<b>[date]</b>	
	4.	<b>[date]</b>	

**Schedule 25 (Rectification Plan)**

Crown Copyright 2022

	[...]	[date]	
Signed by the Supplier:		Date:	
<b>Review of Rectification Plan Buyer</b>			
Outcome of review	[Plan Accepted] [Plan Rejected] [Revised Plan Requested]		
Reasons for rejection (if applicable)	[add reasons]		
Signed by Buyer		Date:	

## Schedule 26 (Sustainability)

### Definitions

**“Modern Slavery Assessment Tool”**

means the modern slavery risk identification and management tool which can be found online at: <https://supplierregistration.cabinetoffice.gov.uk/msat>

**“Supply Chain Map”**

means details of (i) the Supplier, (ii) all Subcontractors and (iii) any other entity that the Supplier is aware is in its supply chain that is not a Subcontractor, setting out at least:

- (a) the name, registered office and company registration number of each entity in the supply chain;
- (b) the function of each entity in the supply chain; and
- (c) the location of any premises at which an entity in the supply chain carries out a function in the supply chain;]

**“Waste Hierarchy”**

means prioritisation of waste management in the following order of preference as set out in the Waste (England and Wales) Regulation 2011:

- (d) Prevention;
- (e) Preparing for re-use;
- (f) Recycling;
- (g) Other Recovery; and
- (h) Disposal.

### Part A

## 1. Public Sector Equality Duty

1.1. In addition to legal obligations, where the Supplier is providing a Deliverable to which the Public Sector Equality duty applies, the Supplier shall support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under the Contract in a way that seeks to:

1.1.1. eliminate discrimination, harassment or victimisation and any other conduct prohibited by the Equality Act 2010; and

1.1.2. advance:

1.1.2.1. equality of opportunity; and

1.1.2.2. good relations,

between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex,

sexual orientation, and marriage and civil partnership) and those who do not share it.

---

## **2. Employment Law**

2.1. The Supplier must perform its obligations meeting the requirements of all applicable Law regarding employment.

---

## **3. Modern Slavery**

3.1. The Supplier:

---

- 3.1.1. shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
- 3.1.2. shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identity papers with the employer and shall be free to leave their employer after reasonable notice;
- 3.1.3. warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world;

- 3.1.4. warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences anywhere around the world;
  - 3.1.5. shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offences anywhere around the world;
  - 3.1.6. shall have and maintain throughout the Term its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;
  - 3.1.7. shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under the Contract;
  - 3.1.8. shall prepare and deliver to the Buyer, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with this Paragraph **Modern Slavery**;
  - 3.1.9. shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
  - 3.1.10. shall not use or allow child or slave labour to be used by its Subcontractors; and
  - 3.1.11. shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to the Buyer and Modern Slavery Helpline.
- 

#### **4. Environmental Requirements**

---

- 4.1. The Supplier must perform its obligations meeting in all material respects the requirements of all applicable Laws regarding the environment.



4.2. In performing its obligations under the Contract, the Supplier shall, where applicable to the Contract, to the reasonable satisfaction of the Buyer:

4.2.1. prioritise waste management in accordance with the Waste Hierarchy as set out in Law;

4.2.2. be responsible for ensuring that any waste generated by the Supplier and sent for recycling, disposal or other recovery as a consequence of this Contract is taken by a licensed waste carrier to an authorised site for treatment or disposal and that the disposal or treatment of waste complies with the Law; and

4.2.3. ensure that it and any third parties used to undertake recycling, disposal or other recovery as a consequence of this Contract do so in a legally compliant way, and can demonstrate that reasonable checks are undertaken to ensure this on a regular basis and provide relevant data and evidence of recycling, recovery and disposal.

4.3. In circumstances that a permit, licence or exemption to carry or send waste generated under this Contract is revoked, the Supplier shall cease to carry or send waste or allow waste to be carried by any Subcontractor until authorisation is obtained from the Environment Agency.

4.4. In performing its obligations under the Contract, the Supplier shall to the reasonable satisfaction of the Buyer (where the anticipated Charges in any Contract Year are above £5 million per annum (excluding VAT)), where related to and proportionate to the contract in accordance with PPN 06/21), publish and maintain a credible Carbon Reduction Plan in accordance with PPN 06/21.

4.5. The Supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:

<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>.

---

## 5. Supplier Code of Conduct

---

5.1. In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government which can be found online at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/779660/20190220-Supplier\\_Code\\_of\\_Conduct.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf)

The Buyer expects to meet, and expects its suppliers and subcontractors to meet, the standards set out in that Code.

---

## 6. Reporting

---

The Supplier shall comply with reasonable requests by the Buyer for information evidencing compliance with any of the requirements in Paragraphs **Public Sector Equality Duty-Supplier Code of Conduct** of this

Part A above within fourteen (14) days of such request, provided that such requests are limited to two per requirement per Contract Year.

---

## **Schedule 27 (Key Subcontractors) – NOT USED**

## **Schedule 28 (ICT Services) – NOT USED**

## Schedule 29 (Key Supplier Staff)

- 1.1 The Annex 1 to this Schedule lists the key roles (“**Key Roles**”) and names of the persons who the Supplier shall appoint to fill those Key Roles at the Start Date (“**Key Staff**”).
- 1.2 The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.
- 1.3 The Buyer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Staff.
- 1.4 The Supplier shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:
  - 1.4.1 requested to do so by the Buyer or the Buyer Approves such removal or replacement (not to be unreasonably withheld or delayed);
  - 1.4.2 the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
  - 1.4.3 the person’s employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.
- 1.5 The Supplier shall:
  - 1.5.1 notify the Buyer promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
  - 1.5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
  - 1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff’s employment contract, this will mean at least three (3) Months’ notice;
  - 1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such

change does not have an adverse impact on the provision of the Deliverables; and

- 1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom he or she has replaced.
- 1.6 The Buyer may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Buyer considers in any respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.

## Annex 1- Key Roles

Key Role	Key Staff	Contract Details
Supplier Contract Manager	████████	████████
Supplier Authorised Representative	████████	████████
Supplier Compliance Officer	████████	████████
Supplier Data Protection Officer	████████	████████
Supplier Marketing Contact	████████	████████
Aspire Development (UK Ltd.) Managing Director	████████	████████



## Schedule 30 (Exit Management)

### 1.0 Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Exclusive Assets"</b>	Supplier Assets used exclusively by the Supplier or a Key Subcontractor in the provision of the Deliverables;
<b>"Exit Information"</b>	has the meaning given to it in Paragraph 3.1 of this Schedule;
<b>"Exit Manager"</b>	the person appointed by each Party to manage their respective obligations under this Schedule;
<b>"Net Book Value"</b>	the current net book value of the relevant Supplier Asset(s) calculated in accordance with the Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice);
<b>"Non-Exclusive Assets"</b>	those Supplier Assets used by the Supplier or a Key Subcontractor in connection with the Deliverables but which are also used by the Supplier or Key Subcontractor for other purposes;
<b>"Replacement Goods"</b>	any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Replacement Services"</b>	any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Termination Assistance Period"</b>	the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of this Schedule;
<b>"Transferable Assets"</b>	Exclusive Assets which are capable of legal transfer to the Buyer;

**"Transferable Contracts"**

Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation;

**"Transferring Assets"**

has the meaning given to it in Paragraph 8.2.1 of this Schedule;

**"Transferring Contracts"**

has the meaning given to it in Paragraph 8.2.3 of this Schedule;

**"Virtual Library"**

the data repository hosted by the Supplier containing the accurate information about the Contract and the Deliverables in accordance with Paragraph 2.2 of this Schedule.

**2. Supplier must always be prepared for contract exit**

2.1. The Supplier shall within 30 days from the Start Date provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.

2.2. During the Contract Period, the Supplier shall within 30 days from the Start Date (or such other period as is specified in the Award Form) create and maintain a Virtual Library containing:

2.2.1. a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and

2.2.2. a configuration database detailing the technical infrastructure, a schedule of the IPRs which the Buyer reasonably requires to benefit from the Deliverables (including who is the owner of such IPRs, the contact details of the owner and whether or not such IPRs are held in escrow), any plans required to be delivered by the Supplier pursuant to Schedule 14 (Business Continuity and Disaster Recovery) or Schedule 24 (Financial Difficulties) and operating procedures through which the Supplier provides the Deliverables,

and the Supplier shall ensure the Virtual Library is structured and maintained in accordance with open standards and the security requirements set out in this Contract and is readily accessible by the Buyer at all times. All information contained in the Virtual Library

should be maintained and kept up to date in accordance with the time period set out in the Award Form.

2.3.

2.3.1. Where Schedule 7 (Staff Transfer) applies to this Contract, the Supplier shall add to the Virtual Library a list of Supplier Staff and Staffing Information (as that term is defined in Schedule 7 (Staff Transfer)) in connection with the Deliverables in accordance with the timescales set out in Paragraphs 1.1, 1.2 of Part E of Schedule 7 (Staff Transfer).

2.4. The Supplier shall:

2.4.1. ensure that all Exclusive Assets listed in the Virtual Library are clearly physically identified as such; and

2.4.2. procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.

2.5. Each Party shall appoint an Exit Manager within three (3) Months of the Start Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Contract.

### 3. Assisting re-competition for Deliverables

3.1. The Supplier shall, on reasonable notice, provide to the Buyer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), such information (including any access) as the Buyer shall reasonably require in order to facilitate the preparation by the Buyer of any invitation to tender and/or to facilitate any potential Replacement Suppliers undertaking due diligence (the "**Exit Information**").

3.2. The Supplier acknowledges that the Buyer may disclose the Supplier's Confidential Information (excluding the Supplier's or its Subcontractors' prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.

3.3. The Supplier shall provide complete updates of the Exit Information on

an as-requested basis as soon as reasonably practicable and notify the Buyer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Deliverables (and shall consult the Buyer in relation to any such changes).

- 3.4. The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Deliverables; and not be disadvantaged in any procurement process compared to the Supplier.

#### 4. Exit Plan

- 4.1. The Supplier shall, within three (3) Months after the Start Date, deliver to the Buyer a plan which complies with the requirements set out in Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Buyer (the "**Exit Plan**").
- 4.2. The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 4.3. The Exit Plan shall set out, as a minimum
- 4.3.1. how the Exit Information is obtained;
  - 4.3.2. a mechanism for dealing with partial termination on the assumption that the Supplier will continue to provide the remaining Deliverables under this Contract;
  - 4.3.3. the management structure to be employed during the Termination Assistance Period;
  - 4.3.4. a detailed description of both the transfer and cessation processes, including a timetable;
  - 4.3.5. how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;
  - 4.3.6. details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to affect such

transfer;

- 4.3.7. the scope of Termination Assistance that may be required for the benefit of the Buyer (including which services set out in Annex 1 are applicable);
  - 4.3.8. how Termination Assistance will be provided, including a timetable and critical issues for providing Termination Assistance;
  - 4.3.9. any charges that would be payable for the provision of Termination Assistance (calculated in accordance with Paragraph 4.4 below) together with a capped estimate of such charges;
  - 4.3.10. proposals for the training of key members of the Replacement Supplier's staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;
  - 4.3.11. proposals for providing the Buyer or a Replacement Supplier copy of all documentation relating to the use and operation of the Deliverables and required for their continued use;
  - 4.3.12. proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;
  - 4.3.13. proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;
  - 4.3.14. proposals for the disposal of any redundant Deliverables and materials;
  - 4.3.15. how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
  - 4.3.16. any other information or assistance reasonably required by the Buyer or a Replacement Supplier.
- 4.4. Any charges payable as a result of the Supplier providing Termination Assistance shall be calculated and charged in accordance with Schedule 3 (*Charges*). The Supplier shall be entitled to increase or vary the Charges only if it can demonstrate in the Exit Plan that the provision of Termination Assistance requires additional resources and, in any event, any change to the Charges resulting from the provisions of Termination Assistance will be strictly proportionate to the level of resources required for the provision of the Termination Assistance Services.

4.5. The Supplier shall:

4.5.1. maintain and update the Exit Plan (and risk management plan) no less frequently than:

- a) every six (6) months throughout the Contract Period;
- b) no later than twenty (20) Working Days after a request from the Buyer for an up-to-date copy of the Exit Plan;
- c) as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than ten (10) Working Days after the date of the Termination Assistance Notice;
- d) as soon as reasonably possible following, and in any event no later than twenty (20) Working Days following, any material change to the Deliverables (including all changes under the Variation Procedure); and

4.5.2. jointly review and verify the Exit Plan if required by the Buyer and promptly correct any identified failures.

4.6. Only if (by notification to the Supplier in writing) the Buyer agrees with a draft Exit Plan provided by the Supplier under Paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for this Contract.

4.7. A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.

## 5. Termination Assistance

5.1. The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:

5.1.1. the nature of the Termination Assistance required; and

5.1.2. the start date and period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the End Date.

5.2. The Buyer shall have an option to extend the Termination Assistance

Period beyond the initial period specified in the Termination Assistance Notice in one or more extensions, in each case provided that:

- 5.2.1. no such extension shall extend the Termination Assistance Period beyond the date eighteen (18) Months after the End Date; and
- 5.2.2. the Buyer shall notify the Supplier of any such extension by serving not less than twenty (20) Working Days' written notice upon the Supplier.
- 5.3. The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.
- 5.4. In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).

## **6. Termination Assistance Period**

- 6.1. Throughout the Termination Assistance Period the Supplier shall:
  - 6.1.1. continue to provide the Deliverables (as applicable) and otherwise perform its obligations under this Contract and, if required by the Buyer, provide the Termination Assistance;
  - 6.1.2. provide to the Buyer and/or its Replacement Supplier any reasonable assistance and/or access requested by the Buyer and/or its Replacement Supplier including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Deliverables to the Buyer and/or its Replacement Supplier;
  - 6.1.3. use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Buyer;
  - 6.1.4. subject to Paragraph 6.3, provide the Deliverables and the Termination Assistance at no detriment to the Service Levels, the provision of the Management Information or any other reports nor to any other of the Supplier's obligations under this Contract;
  - 6.1.5. at the Buyer's request and on reasonable notice, deliver up-to-date contents of the Virtual Library to the Buyer; and
  - 6.1.6. seek the Buyer's prior written consent to access any Buyer

Premises from which the de-installation or removal of Supplier Assets is required.

- 6.2. If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in Paragraph 6.1.2 without additional costs to the Buyer, any additional costs incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.
- 6.3. If the Supplier demonstrates to the Buyer's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Levels, the Parties shall vary the relevant Service Levels and/or the applicable Service Credits accordingly.

## **7. Obligations when the contract is terminated**

- 7.1. The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 7.2. Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:
  - 7.2.1. cease to use the Government Data;
  - 7.2.2. vacate any Buyer Premises;
  - 7.2.3. remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;
  - 7.2.4. provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:
    - a) such information relating to the Deliverables as remains in the possession or control of the Supplier; and
    - b) such members of the Supplier Staff as have been involved in the design, development and provision of the Deliverables and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in



responding to such requests for access.

- 7.3. Upon partial termination, termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Assistance and its compliance with the other provisions of this Schedule), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party in respect of the terminated Services and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Services or Termination Assistance or for statutory compliance purposes.
- 7.4. Except where this Contract provides otherwise, all licences, leases and authorisations granted by the Buyer to the Supplier in relation to the Deliverables shall be terminated with effect from the end of the Termination Assistance Period.

## 8. Assets, Sub-contracts and Software

- 8.1. Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier shall not, without the Buyer's prior written consent:
- 8.1.1. terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables; or
  - 8.1.2. (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.
- 8.2. Within twenty (20) Working Days of receipt of the up-to-date contents of the Virtual Library provided by the Supplier, the Buyer shall notify the Supplier setting out:
- 8.2.1. which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");
  - 8.2.2. which, if any, of:
    - a) the Exclusive Assets that are not Transferable Assets; and
    - b) the Non-Exclusive Assets,
    - c) the Buyer and/or the Replacement Supplier requires the

continued use of; and

- 8.2.3. which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "**Transferring Contracts**"), in order for the Buyer and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services. Where requested by the Supplier, the Buyer and/or its Replacement Supplier shall discuss in good faith with the Supplier which Transferable Contracts are used by the Supplier in matters unconnected to the Services or Replacement Services.
- 8.3. With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Buyer and/or the Replacement Supplier for their Net Book Value less any amount already paid for them through the Charges.
- 8.4. Risk in the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.
- 8.5. Where the Buyer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
- 8.5.1. procure a non-exclusive, perpetual, royalty-free licence for the Buyer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
- 8.5.2. procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.
- 8.6. The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Buyer and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignment.
- 8.7. The Buyer shall:
- 8.7.1. accept assignments from the Supplier or join with the Supplier in

procuring a novation of each Transferring Contract; and

- 8.7.2. once a Transferring Contract is novated or assigned to the Buyer and/or the Replacement Supplier, discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.
- 8.8. The Supplier shall hold any Transferring Contracts on trust for the Buyer until the transfer of the relevant Transferring Contract to the Buyer and/or the Replacement Supplier has taken place.
- 8.9. The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Buyer (and/or Replacement Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 23 (Other people's rights in this contract) shall not apply to this Paragraph 8.9 which is intended to be enforceable by third party beneficiaries by virtue of the CRTPA.

## **9. No charges**

- 9.1. Unless otherwise stated, the Buyer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with this Schedule.

## **10. Dividing the bills**

- 10.1. All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Buyer and/or the Replacement and the Supplier as follows:
  - a) the amounts shall be annualised and divided by 365 to reach a daily rate;
  - b) the Buyer or Replacement Supplier (as applicable) shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and
  - c) the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

## **ANNEX 1: SCOPE OF TERMINATION ASSISTANCE**

- 11.1. The Buyer may specify that any of the following services will be provided by the Supplier as part of its Termination Assistance:
- 11.2. notifying the Subcontractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;
- 11.3. providing assistance and expertise as necessary to examine all operational and business processes (including all supporting documentation) in place and re-writing and implementing processes and procedures such that they are appropriate for use by the Buyer and/or the Replacement Supplier after the end of the Termination Assistance Period;
- 11.4. providing details of work volumes and staffing requirements over the 12 Months immediately prior to the commencement of Termination Assistance;
- 11.5. providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Deliverables and re-writing and implementing these during and for a period of 12 Months after the Termination Assistance Period;
- 11.6. providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Deliverables and re-writing and implementing these such that they are appropriate for the continuation of provision of the Deliverables after the Termination Assistance Period;
- 11.7. agreeing with the Buyer an effective communication strategy and joint communications plan which sets out the implications for Supplier Staff, Buyer staff, customers and key stakeholders;
- 11.8. agreeing with the Buyer a handover plan for all of the Supplier's responsibilities as set out in the Security Management Plan;
- 11.9. providing an information pack listing and describing the Deliverables for use by the Buyer in the procurement of the Replacement Deliverables
- 11.10. answering all reasonable questions from the Buyer and/or the Replacement Supplier regarding the Deliverables;
- 11.11. agreeing with the Buyer and/or the Replacement Supplier a plan for the migration of the Government Data to the Buyer and/or the Replacement Supplier;

11.12. providing access to the Buyer and/or the Replacement Supplier during the Termination Assistance Period and for a period not exceeding 6 Months afterwards for the purpose of the smooth transfer of the provision of the Deliverables to the Buyer and/or the Replacement Supplier:

- a) to information and documentation relating to the Deliverables that is in the possession or control of the Supplier or its Subcontractors (and the Supplier agrees and will procure that its Subcontractors do not destroy or dispose of that information within this period) including the right to take reasonable copies of that material; and
- b) following reasonable notice and during the Supplier's normal business hours, to members of the Supplier Staff who have been involved in the provision or management of the provision of the Deliverables and who are still employed or engaged by the Supplier or its Subcontractors, including those employees filling the relevant Key Staff positions and Key Staff with specific knowledge in respect of the Exit Plan;

11.13. knowledge transfer services, including:

- a) making available to the Buyer and/or the Replacement Supplier expertise to analyse training requirements and provide all necessary training for the use of tools by such staff at the time of termination or expiry as are nominated by the Buyer and/or the Replacement Supplier (acting reasonably);
- b) transferring all training material and providing appropriate training to those Buyer and/or Replacement Supplier staff responsible for internal training in connection with the provision of the Deliverables;
- c) providing as early as possible for transfer to the Buyer and/or the Replacement Supplier of all knowledge reasonably required for the provision of the Deliverables which may, as appropriate, include information, records and documents;
- d) providing the Supplier and/or the Replacement Supplier with access to sufficient numbers of the members of the Supplier Staff or Subcontractors' personnel of suitable experience and skill and as have been involved in the design, development, provision or management of provision of the Deliverables and who are still employed or engaged by the Supplier or its Subcontractors; and
- e) allowing the Buyer and/or the Replacement Supplier to work

alongside and observe the performance of the Services by the Supplier at its Sites used to fulfil the Services (subject to compliance by the Buyer and the Replacement Supplier with any applicable security and/or health and safety restrictions,

- f) and any such person who is provided with knowledge transfer services will sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require)).

**11.14. The Supplier will:**

- 11.14.1. provide a documented plan relating to the training matters referred to in Paragraph 11.13 for agreement by the Buyer at the time of termination or expiry of this Contract; and
- 11.14.2. co-operate fully in the execution of the handover plan agreed pursuant to Paragraph 11.7, providing skills and expertise of a suitable standard.

11.15. To facilitate the transfer of knowledge from the Supplier to the Buyer and/or its Replacement Supplier, the Supplier shall provide a detailed explanation of the procedures and operations used to provide the Services to the operations staff of the Buyer and/or the Replacement Supplier.

11.16. The information which the Supplier will provide to the Buyer and/or the Replacement Supplier pursuant to Paragraph 11.11 shall include:

- 11.14.3. copies of up-to-date procedures and operations manuals;
- 11.14.4. product information;
- 11.14.5. agreements with third party suppliers of goods and services which are to be transferred to the Buyer and/or the Replacement Supplier; and
- 11.14.6. key support contact details for third party supplier personnel under contracts which are to be assigned or novated to the Buyer pursuant to this Schedule,
- 11.14.7. and such information shall be updated by the Supplier at the end of the Termination Assistance Period.

11.17. During the Termination Assistance Period the Supplier shall grant any agent or personnel (including employees, consultants and suppliers) of the Replacement Supplier and/or the Buyer access, during business hours and upon reasonable prior written notice, to any Sites for the

purpose of effecting a prompt knowledge transfer provided that:

- 11.14.8. any such agent or personnel (including employees, consultants and suppliers) having such access to any Sites shall:
  - a) sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require); and
  - b) during each period of access comply with the security, systems and facilities operating procedures of the Supplier relevant to such Site and that the Buyer deems reasonable; and
- 11.14.9. the Buyer and/or the Replacement Supplier shall pay the reasonable, proven and proper costs of the Supplier incurred in facilitating such access.

