SCHEDULE 28

STAFF TRANSFER

Schedule 28 (*Staff Transfer*)

1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

"Admission Agreement"	as defined in Part D;
"Fair Deal Employees"	as defined in Part D;
"Former Supplier"	a supplier supplying services to the Authority before any Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such supplier (or any sub- contractor of any such sub-contractor);
"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 D11-**D3** inclusive to Part D of this Schedule as notified to the Supplier by the Authority;
"Notified Sub-contractor"	a Sub-contractor identified in the Annex to this Schedule to whom Transferring Authority 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;
"Replacement Sub-contractor"	a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub- contractor of any such sub-contractor);

“Relevant Transfer”	a transfer of employment to which the Employment Regulations applies; and for the avoidance of doubt, references to “the Relevant Transfer” shall mean the relevant (given the context) Relevant Transfer;
“Relevant Transfer Date”	in relation to each Relevant Transfer, the date upon which the Relevant Transfer takes place; and for the avoidance of doubt, references to “the Relevant Transfer Date” shall mean the relevant (given the context) Relevant Transfer Date. For the purposes of Part D and its Annexes, where the Supplier or a Sub-contractor was the Former Supplier and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Sub- contractor), references to the Relevant Transfer Date shall become references to the relevant Operational Service Commencement Date;
“Service Transfer”	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-contractor to a Replacement Supplier or a Replacement Sub-contractor; and for the avoidance of doubt, references to “the Service Transfer” shall mean the relevant (given the context) Service Transfer;
“Service Transfer Date”	the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires; and for the avoidance of doubt, references to “the Service Transfer Date” shall mean the relevant (given the context) Service Transfer Date;
“Staffing Information”	in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, all information required in Annex E2 in the format specified and with the identities of Data Subjects anonymised where possible. The Authority may acting reasonably make changes to the format or information requested in Annex E2 from time to time.
“Statutory Schemes”	means the CSPS, NHSPS or LGPS as defined in the Annexes to Part D of this Schedule;
“Supplier's Final Supplier Personnel List”	a list provided by the Supplier of all Supplier Personnel who will transfer under the Employment Regulations on the Service Transfer Date;

"Supplier's Provisional Supplier Personnel List"	a list prepared and updated by the Supplier of all Supplier Personnel 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;
"Transferring Authority Employees"	those employees of the Authority to whom the Employment Regulations will apply on the Relevant Transfer Date;
"Transferring Former Supplier Employees"	in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date;
"Transferring Supplier Employees"	those employees of the Supplier and/or the Supplier's Sub-contractors to whom the Employment Regulations will apply on the Service Transfer Date;
"TUPE Commencement Determination"	as defined in Paragraph 1.4 of Part B;
"TUPE Exit Determination"	as defined in Paragraph 2.15 of Part E;

2 INTERPRETATION

2.1 Where a provision in this Schedule imposes an obligation on the Supplier to provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Sub-contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Authority, Former Supplier, Replacement Supplier or Replacement Sub-contractor, as the case may be.

PART A : TRANSFERRING AUTHORITY EMPLOYEES AT COMMENCEMENT OF SERVICES

1 RELEVANT TRANSFERS

1.1 The Authority and the Supplier agree that:

(a) the Parties do not expect the commencement of the provision of the Services or of any relevant part of the Services to be a Relevant Transfer in relation to any employee of the Authority;

(b) but should there be any Transferring Authority Employees then this Schedule 28 will apply to them as such, and accordingly (as a result of the operation of the Employment Regulations) the contracts of

employment between the Authority and the Transferring Authority 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 Notified Sub-contractor and each such Transferring Authority Employee.

1.2 The Authority shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of the Transferring Authority 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 Authority; and (ii) the Supplier and/or any Notified Sub-contractor (as appropriate).

2 AUTHORITY INDEMNITIES

2.1 Subject to Paragraph 2.2, the Authority shall indemnify the Supplier and any Notified Sub-contractor against any Employee Liabilities arising from or as a result of:

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

(b) the breach or non-observance by the Authority before the Relevant Transfer Date of:

(i) any collective agreement applicable to the Transferring Authority Employees; and/or

(ii) any custom or practice in respect of any Transferring Authority Employees which the Authority is contractually bound to honour;

(c) any claim by any trade union or other body or person representing the Transferring Authority Employees arising from or connected with any failure by the Authority to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date;

(d) 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:

(i) in relation to any Transferring Authority 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

(ii) in relation to any employee who is not a Transferring Authority 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 Authority to the Supplier and/or any Notified Sub-contractor 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;

(e) a failure of the Authority 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 Authority Employees arising before the Relevant Transfer Date;

(f) any claim made by or in respect of any person employed or formerly employed by the Authority other than a Transferring Authority Employee for whom it is alleged the Supplier and/or any Notified Sub-contractor as appropriate may be liable by virtue of the Employment Regulations; and

(g) any claim made by or in respect of a Transferring Authority Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Authority Employee relating to any act or omission of the Authority 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 Sub-contractor 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 Sub-contractor (whether or not a Notified Sub-contractor) whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities:

(a) arising out of the resignation of any Transferring Authority Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Supplier and/or any Sub-contractor to occur in the period from (and including) the Relevant Transfer Date; or

(b) arising from the failure by the Supplier or any Sub-contractor to comply with its obligations under the Employment Regulations.

2.3 If any person who is not identified by the Authority as a Transferring Authority Employee claims, or it is determined in relation to any person who is not identified by the Authority as a Transferring Authority Employee, that his/her contract of employment has been transferred from the Authority to the Supplier and/or any Notified Sub-contractor pursuant to the Employment Regulations then:

(a) the Supplier shall, or shall procure that the Notified Sub-contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Authority; and

(b) the Authority may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of receipt of the notification by the Supplier and/or any Notified Sub-contractor, or take such other reasonable steps as the Authority considers appropriate to deal with the matter provided always that such steps are in compliance with Law.

2.4 If an offer referred to in Paragraph 2.3(b) is accepted, or if the situation has otherwise been resolved by the Authority, the Supplier shall, or shall procure that the Notified Sub-contractor shall, immediately release the person from his/her employment or alleged employment.

2.5 If by the end of the fifteen (15) Working Day period specified in Paragraph 2.3(b):

(a) no such offer of employment has been made;

(b) such offer has been made but not accepted; or

(c) the situation has not otherwise been resolved,

the Supplier and/or any Notified Sub-contractor may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

2.6 Subject to the Supplier and/or any Notified Sub-contractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in applicable Law, the Authority shall indemnify the Supplier and/or any Notified Sub-contractor (as appropriate) against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.5 provided that the Supplier takes, or procures that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.7 The indemnity in Paragraph 2.6:

(a) shall not apply to:

(i) any claim for:

(A) 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

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

in any case in relation to any alleged act or omission of the Supplier and/or any Sub-contractor; or

(ii) any claim that the termination of employment was unfair because the Supplier and/or Notified Sub-contractor neglected to follow a fair dismissal procedure; and

(b) shall apply only where the notification referred to in Paragraph 2.3(a) is made by the Supplier and/or any Notified Sub-contractor (as appropriate) to the Authority within six (6) months of the date of the alleged transfer described in Paragraph 2.3 of this PART A.

2.8 If any such person as is referred to in Paragraph 2.3 is neither re-employed by the Authority nor dismissed by the Supplier and/or any Notified Sub-contractor within the time scales set out in Paragraph 2.5 such person shall be treated as having transferred to the Supplier and/or any Notified Sub-contractor by operation of the Employment Regulations and the Supplier shall, or shall procure that the Notified Sub-contractor shall, (a) comply with such obligations as may be imposed upon it under applicable Law and (b) comply with the provisions of Part D and its Annexes of this Schedule 28 Staff Transfer if notified by the Authority to do so.

3 SUPPLIER INDEMNITIES AND OBLIGATIONS

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

(a) any act or omission by the Supplier or any Sub-contractor in respect of any Transferring Authority Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Authority Employee whether occurring before, on or after the Relevant Transfer Date;

(b) the breach or non-observance by the Supplier or any Sub-contractor on or after the Relevant Transfer Date of:

(i) any collective agreement applicable to the Transferring Authority Employees; and/or

(ii) any custom or practice in respect of any Transferring Authority Employees which the Supplier or any Sub- contractor is contractually bound to honour;

(iii) any claim by any trade union or other body or person representing any Transferring Authority Employees arising from or connected with any failure by the Supplier or any Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;

(c) any proposal by the Supplier or a Sub-contractor made before the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Authority Employees to their material detriment on or after their transfer to the Supplier or the relevant Sub-contractor (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 Authority 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;

(d) any statement communicated to or action undertaken by the Supplier or any Sub-contractor to, or in respect of, any Transferring Authority Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Authority in writing;

(e) 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:

(i) in relation to any Transferring Authority 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

(ii) in relation to any employee who is not a Transferring Authority 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 Authority to the Supplier or a Sub-contractor, 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;

(iii) a failure of the Supplier or any Sub-contractor 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 Authority Employees in respect of the period from (and including) the Relevant Transfer Date;

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

(g) a failure by the Supplier or any Sub-Contractor to comply with its obligations under Paragraph 2.8 above.

(h) 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 Authority whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Authority’s failure to comply with its obligations under the Employment Regulations.

3.2 The Supplier shall comply, and shall procure that each Sub-contractor 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, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of the Transferring Authority 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 Authority and the Supplier.

4 INFORMATION

4.1 The Supplier shall, and shall procure that each Sub-contractor shall, promptly provide to the Authority in writing such information as is necessary to enable the Authority to carry out its duties under regulation 13 of the Employment Regulations. The Authority shall promptly provide to the Supplier and each Notified Sub-contractor in writing such information as is necessary to enable the Supplier and each Notified Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

5 PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

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 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 Sub-contractor shall, comply with any requirement notified to it by the Authority relating to pensions in respect of any Transferring Authority Employee as set down in:

(a) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013;

(b) Old Fair Deal; and/or

(c) 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 Change Control Procedure.

6 PENSIONS

6.1 The Supplier shall, and/or shall procure that each of its Sub-contractors shall, comply with:

(a) 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

(b) Part D (and its Annexes) to this Staff Transfer Schedule.

PART B TRANSFERRING FORMER SUPPLIER EMPLOYEES AT COMMENCEMENT OF SERVICES

1 RELEVANT TRANSFERS

1.1 The Authority and the Supplier agree that:

(a) 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

(b) 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 Notified Sub-contractor and each such Transferring Former Supplier Employee.

1.2 The Authority 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 Authority shall procure that each Former Supplier makes, any necessary apportionments in respect of any periodic payments.

1.3 The Parties acknowledge that (subject to the other provisions of this Agreement) the commencement of the provision of Services under this Agreement may be gradual, and that accordingly there may be more than one Relevant Transfer Date in respect of any transfer(s) of employees from any Former Supplier(s). As a consequence, the Parties agree to work collaboratively between themselves and with each Former Supplier to achieve smoothly, and on an agreed timetable, any transfer(s) of employees from Former Suppliers.

1.4 In the event of disagreement between a Former Supplier and the Supplier or any Notified Sub-contractor about whether the Employment Regulations will apply in any given situation which is the same or similar to those specified in Paragraph 1.3 (and/or about which individuals will be the subject of the consequent transfer, or when), the Authority may (at its absolute discretion) elect to determine that

issue (acting reasonably) (**"a TUPE Commencement Determination"**). In the event of any TUPE Commencement Determination:

(a) the Supplier and the Authority will then proceed on the basis of and in line with any TUPE Commencement Determination, and will follow this Schedule 28 on the basis of and implementing the TUPE Commencement Determination; and

(b) the Supplier will procure that its Notified Sub-contractors will proceed on the basis of that TUPE Commencement Determination.

2 FORMER SUPPLIER INDEMNITIES

2.1 Subject to Paragraphs 2.2 and 6, the Authority shall procure that each Former Supplier shall indemnify the Supplier and any Notified Sub-contractor against any Employee Liabilities arising from or as a result of:

(a) 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;

(b) the breach or non-observance by the Former Supplier arising before the Relevant Transfer Date of:

(i) any collective agreement applicable to the Transferring Former Supplier Employees; and/or

(ii) any custom or practice in respect of any Transferring Former Supplier Employees which the Former Supplier is contractually bound to honour;

(c) 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:

(i) 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

(ii) 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 Sub-contractor 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;

(d) 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;

(e) 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 Sub-contractor as appropriate may be liable by virtue of this Contract and/or the Employment Regulations; and

(f) 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 Sub-contractor 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 Sub-contractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:

(a) 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 Sub-contractor to occur in the period from (and including) the Relevant Transfer Date; or

(b) arising from the failure by the Supplier and/or any Sub-contractor to comply with its obligations under the Employment Regulations.

2.3 If any person who is not identified by the Authority as a Transferring Former Supplier Employee claims, or it is determined in relation to any person who is not identified by the Authority as a Transferring Former Supplier Employee, that his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Notified Sub-contractor pursuant to the Employment Regulations then:

(a) the Supplier shall, or shall procure that the Notified Sub-contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Authority and, where required by the Authority, to the Former Supplier; and

(b) the Former Supplier may offer (or may procure that a third party may offer) employment to such person within fifteen (15) Working Days of the notification by the Supplier and/or the Notified Sub-contractor or take such other reasonable steps as the Former Supplier considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.

2.4 If an offer referred to in Paragraph 2.3(b) is accepted, or if the situation has otherwise been resolved by the Former Supplier and/or the Authority, the Supplier shall, or shall procure that the Notified Sub-contractor shall, immediately release the person from his/her employment or alleged employment.

2.5 If by the end of the fifteen (15) Working Day period specified in Paragraph 2.3(b):

(a) no such offer of employment has been made;

(b) such offer has been made but not accepted; or

(c) the situation has not otherwise been resolved,

the Supplier and/or any Notified Sub-contractor may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

2.6 Subject to the Supplier and/or any Notified Sub-contractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in Law, the Authority shall give to the Supplier (or relevant Sub-contractor) the benefit (after deduction of the Authority's reasonable legal and administrative costs of any enforcement action) of any indemnities given by the Former Supplier against Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.5 provided that the Supplier takes, or shall procure that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.7 The indemnity in Paragraph 2.6:

(a) shall not apply to:

(i) any claim for:

(A) 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

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

in any case in relation to any alleged act or omission of the Supplier and/or any Sub-contractor; or

(ii) any claim that the termination of employment was unfair because the Supplier and/or Notified Sub-contractor neglected to follow a fair dismissal procedure; and

(b) shall apply only where the notification referred to in Paragraph 2.3(a) is made by the Supplier and/or any Notified Sub-contractor (as appropriate) to the Authority and, if applicable, the Former Supplier, within six (6) months of the date of the alleged transfer described in Paragraph 2.3.

2.8 If any such person as is described in Paragraph 2.3 is neither re-employed by the Former Supplier nor dismissed by the Supplier and/or any Notified Sub-contractor within the time scales set out in Paragraph 2.5, such person shall be treated as having transferred to the Supplier or Notified Sub-contractor and the Supplier shall, or shall procure that the Notified Sub-contractor shall, comply with such obligations as may be imposed upon it under the Law.

3 SUPPLIER INDEMNITIES AND OBLIGATIONS

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

(a) any act or omission by the Supplier or any Sub-contractor 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 whether occurring before, on or after the Relevant Transfer Date;

(b) the breach or non-observance by the Supplier or any Sub-contractor on or after the Relevant Transfer Date of:

(i) any collective agreement applicable to any Transferring Former Supplier Employee; and/or

(ii) any custom or practice in respect of any Transferring Former Supplier Employees which the Supplier or any Sub-contractor is contractually bound to honour;

(c) 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 Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;

(d) any proposal by the Supplier or a Sub-contractor 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 Sub-contractor (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;

(e) any statement communicated to or action undertaken by the Supplier or a Sub-contractor 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 Authority and/or the Former Supplier in writing;

(f) 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:

(i) 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

(ii) 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 Sub-contractor, 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;

(g) a failure of the Supplier or any Sub-contractor 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;

(h) 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 Sub- contractor 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 of the Employment Regulations; and

(i) a failure by the Supplier or any Sub-Contractor 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, without limitation, 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 Sub-contractor 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 Sub-contractor 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 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 Supplier and the Former Supplier.

4 INFORMATION

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

5 PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

5.1 The Supplier shall, and shall procure that each Sub-contractor shall, comply with any requirement notified to it by the Authority relating to pensions in respect of any Transferring Former Supplier Employee as set down in:

(a) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013;

(b) Old Fair Deal; and/or

(c) 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 PROCUREMENT OBLIGATIONS

6.1 Notwithstanding any other provisions of this Part B, where in this Part B the Authority 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 Authority's contract with the Former Supplier contains a contractual right in that regard which the Authority may enforce, or otherwise so that it requires only that the Authority 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 Sub-contractor shall, comply with:

(a) 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

7.2 Part D (and its Annexes) to this Staff Transfer Schedule.

PART C NOT USED

PART D PENSIONS

Authority notes to bidders:

The provisions of this Part D will be refined and further tailored, once there is greater clarity about the pension arrangements applying to people who are expected to TUPE transfer from Former Suppliers at commencement, including the extent to which they are ex-public sector employees.

Current indications are that these provisions will not apply to any Transferring Former Supplier Employees. But these provisions are being retained in case they might apply to any unexpected Transferring Former Supplier Employee and in the unlikely event that there is any unexpected Transferring Authority Employee.

1 DEFINITIONS

1.1 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 to this Part D:

"Actuary"	a Fellow of the Institute and Faculty of Actuaries;
"Admission Agreement"	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;
"Best Value Direction"	the Best Value Authorities Staff Transfers (Pensions) Direction 2007 or the Welsh Authorities Staff Transfers (Pensions) Direction 2012 (as appropriate);
"Broadly Comparable"	(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/or (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, and "**Broad Comparability**" shall be construed accordingly;
"CSPS"	the schemes as defined in Annex D1 to this Part D;
"Direction Letter/Determination"	has the meaning in Annex D2 to this Part D;

"Fair Deal Eligible Employees"	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 Comparable pension scheme at the relevant time in accordance with Paragraph 10 or 11 of this Part D);
"Fair Deal Employees"	any of: (a) Transferring Authority Employees; (b) Transferring Former Supplier Employees; and/or (c) employees who are not Transferring Authority 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 Sub- Contractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.5 of Parts A or B or Paragraph 1.4 of Part C; (d) where the Supplier or a Sub-contractor was the Former Supplier, the employees of the Supplier (or Sub-contractor) (e) who at the Relevant Transfer Date are or become entitled to New Fair Deal or Best Value Direction protection in respect of any (f) of the Statutory Schemes or a Broadly Comparable pension scheme provided in accordance with Paragraph 10 of this Part D as notified by the Authority;
"Fund Actuary"	a Fund Actuary as defined in Annex D3 to this Part D;
"LGPS"	the scheme as defined in Annex D3 to this Part D;
"NHSPS"	the schemes as defined in Annex D2 to this Part D; and
"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 Authority.

2 PARTICIPATION

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:

(a) 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

(b) subject to Paragraph 5 of Annex D3: 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 Sub-contractor is a sub-contractor of the Former Supplier) and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Sub-contractor) at the Operational Service Commencement Date, this Part D and its Annexes shall be modified accordingly so that the Supplier (or Sub-contractor) shall comply with its requirements from the Operational Service Commencement 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 Sub-contractor) 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 Authority.

3 PROVISION OF INFORMATION

3.1 The Supplier undertakes to the Authority:

(a) to provide all information which the Authority may reasonably request concerning matters referred to in this Part D as expeditiously as possible;

(b) 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 Authority (such consent not to be unreasonably withheld or delayed); and

(c) retain such records as would be necessary to manage the pension aspects in relation to any current or former Fair Deal Eligible Employees arising on expiry or termination of this Contract.

4 INDEMNITIES

4.1 The Supplier shall indemnify and keep indemnified the Authority, NHS Pensions, any Replacement Supplier and/or any Replacement Sub-contractor on demand from and against all and any Losses whatsoever suffered or incurred by it or them which:

(a) 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;

(b) 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 Sub-contractor 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;

(c) relate to claims by Fair Deal Employees of the Supplier and/or of any Sub-contractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:

(i) 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;

(ii) arise out of the failure of the Supplier and/or any relevant Sub-contractor to comply with the provisions of this Part D before the date of termination or expiry of this Contract; and/or

(d) arise out of or in connection with the Supplier (or its Sub-contractor) 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:

(a) shall survive termination of this Contract; and

(b) shall not be affected by the caps on liability contained in Clause 23 (*Limitations on Liability*).

5 DISPUTES

5.1 The Dispute Resolution Procedure will not apply to any dispute (i) between the Authority and/or 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 Authority and/or the Supplier be referred to an independent Actuary:

(a) who will act as an expert and not as an arbitrator;

(b) whose decision will be final and binding on the Authority and/or the Supplier; and

(c) whose expenses shall be borne equally by the Authority and/or 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 THIRD PARTY RIGHTS

6.1 The Parties agree Clause 43 (*Third Party Rights*) 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 in respect of to him or her 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 Sub-contractor in his or her own right under section 1(1) of the CRTPA.

7 BREACH

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

(a) commits an irremediable breach of any provision or obligation it has under this Part D; or

(b) 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 twenty eight (28) days of the date of a notice from the Authority giving particulars of the breach and requiring the Supplier to remedy it.

8 TRANSFER TO ANOTHER EMPLOYER/SUB-CONTRACTORS

8.1 Save on expiry or termination of this Contract, if the employment of any Fair Deal Eligible 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 or shall procure that any relevant Sub- contractor shall:

(a) notify the Authority as far as reasonably practicable in advance of the transfer to allow the Authority to make the necessary arrangements for participation with the relevant Statutory Scheme(s);

(b) consult with about, and inform those Fair Deal Eligible Employees of, the pension provisions relating to that transfer; and

(c) procure that the employer to which the Fair Deal Eligible 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 Eligible Employees so transferred to the New Employer.

9 PENSION ISSUES ON EXPIRY OR TERMINATION

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 Sub-contractors 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 and/or NHS Pension and/or CSPS and/or the relevant Administering Authority and/or the Authority 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 SCHEME ON 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 Sub-contractors 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 Authority.

10.2 Such Broadly Comparable pension scheme must be:

(a) established by the Relevant Transfer Date;

(b) a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;

(c) 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 Authority);

(d) 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 Authority); and

(e) maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Authority).

10.3 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 Sub-contractors shall):

(a) supply to the Authority details of its (or its Sub-contractor'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;

(b) 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;

(c) 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 Authority (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

(d) 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 Sub-contractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Sub- contractor'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 Sub-contractors shall) prior to the termination of this Contract:

(a) 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 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(c) 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(c) but using the last day of the Fair Deal Eligible Employees' employment with the Supplier or Sub-contractor (as appropriate) as the date used to determine the actuarial assumptions; and

(b) 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 10.4(a) been complied with, the Supplier shall (or shall procure that the Sub- contractor 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 Authority shall otherwise direct. The Supplier shall indemnify the Authority or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Authority directs) for any failure to pay the difference as required under this Paragraph.

11 BROADLY COMPARABLE PENSION SCHEME IN OTHER CIRCUMSTANCES sara

11.1 If the terms of any of Paragraphs 2.2 of Annex D1: CSPS, 5.2 of Annex D2: NHSPS and/or 3.2 of Annex D3: LGPS apply, the Supplier must (and must, where relevant, procure that each of its Sub-contractors 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 Authority.

11.2 Such Broadly Comparable pension scheme must be:

(a) established by the date of cessation of participation in the Statutory Scheme;

(b) a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;

(c) capable of receiving a bulk transfer payment from the relevant Statutory Scheme (where instructed to do so by the Authority);

(d) 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 Authority); and

(e) maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Authority).

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 Sub-contractors shall):

(a) supply to the Authority details of its (or its Sub-contractor'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;

(b) 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

(c) where required to do so by the Authority, 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 Authority (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

(d) 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 Sub-contractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Sub- contractor'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 Sub-contractors 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 Sub- contractor (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 Sub-contractor, the Shortfall shall be paid by the Supplier. The Supplier shall indemnify the Authority or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Authority directs) for any failure to pay the Shortfall under this Paragraph.

12 RIGHT OF SET-OFF

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

(a) any unpaid employer's contributions or employee's contributions or any other financial obligations under the CSPS or any CSPS Admission Agreement in respect of the CSPS Eligible Employees whether due from the Supplier or from any relevant Sub-contractor or due from any third party under any indemnity, bond or guarantee;

(b) 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 Sub-contractor or due from any third party under any indemnity, bond or guarantee; or

(c) 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 Sub-contractor or due from any third party under any indemnity, bond or guarantee;

(d) and shall pay such set off amount to the relevant Statutory Scheme.

12.2 The Authority 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 Authority as result of Paragraphs 12.1 above.

ANNEX D1: CSPS

1 DEFINITIONS

1.1 In this Annex D1: CSPS to Part D: Pensions, the following words have the following meanings:

"CSPS Admission Agreement"	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;
"CSPS Eligible Employee"	any CSPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the CSPS under a CSPS Admission Agreement;
"CSPS Fair Deal Employee"	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;
"CSPS"	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 FUTURE SERVICE BENEFITS

2.1 In accordance with New Fair Deal, the Supplier and/or any of its Sub-contractors 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 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 Sub-contractors shall procure that the CSPS Fair Deal Employees continue to accrue benefits in the CSPS in accordance with the provisions governing the relevant section of the CSPS for service from (and including) the Relevant Transfer Date.

2.2 If the Supplier and/or any of its Sub-contractors enters into a CSPS Admission Agreement in accordance with Paragraph 2.1 but the CSPS Admission Agreement is terminated during the term of this Contract for any reason at a time when the Supplier or Sub-contractor still employs any CSPS Eligible Employees, the Supplier shall (and procure that its Sub-contractors shall) at no extra cost to the Authority, offer the remaining CSPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the CSPS on the date those CSPS Eligible Employees ceased to participate in the CSPS in accordance with the provisions of Paragraph 11 of Part D.

ANNEX D2: NHSPS

1 DEFINITIONS

1.1 In this Annex D2: NHSPS to Part D: Pensions, the following words have the following meanings:

"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 Sub-contractor of the Supplier (as appropriate) relating to the terms of participation of the Supplier or Sub-contractor in the NHSPS in respect of the NHSPS Fair Deal 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 Authority, 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 Authority, 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 Authority 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.
"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 Authority, 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 Authority, 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/Determination or other NHSPS "access" facility but who has never been employed directly by the Authority, an NHS Body or other body which participates automatically in the NHSPS is not an NHSPS Fair Deal Employee;

"NHS Body" 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;

"NHS Pensions" 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;

"NHSPS" the National Health Service Pension Scheme for England and Wales, established pursuant to the

	Superannuation Act 1972 and the Public Service Pensions Act 2013 governed by subsequent regulations under those Acts including the NHS Pension Scheme Regulations;
"NHS Pension Scheme Regulations"	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;
"NHS Premature Retirement Rights"	rights to which any NHSPS Fair Deal Employee (had they remained in the employment of the Authority, an NHS Body or other employer which participates automatically in the NHSPS) would have been or is 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;
"Pension Benefits"	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

2 MEMBERSHIP OF THE NHSPS

2.1 In accordance with New Fair Deal, the Supplier and/or any of its Sub-contractors 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.

2.2 Where it is not possible for the Supplier and/or any of its Sub-contractors 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:

(a) all employer's and NHSPS Fair Deal Employees' contributions intended to go to the NHSPS are kept in a separate bank account; and

(b) the Pension Benefits and Premature Retirement Rights of NHSPS Fair Deal Employees are not adversely affected.

2.3 The Supplier must supply to the Authority a complete copy of each Direction Letter/Determination within five (5) Working Days of receipt of the Direction Letter/Determination.

2.4 The Supplier must ensure (and procure that each of its Sub-contractors (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.

2.5 The Supplier will (and will procure that its Sub-contractors (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.

2.6 Where any employee omitted from the Direction Letter/Determination supplied in accordance with Paragraph 2 of this Annex are subsequently found to be an NHSPS Fair Deal Employee, the Supplier will (and will procure that its Sub-contractors (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.

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

3 NHS PREMATURE RETIREMENT RIGHTS

3.1 From the Relevant Transfer Date until the Service Transfer Date, the Supplier must provide (and/or must ensure that its Sub-contractors (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 Authority, an NHS Body or other employer which participates automatically in the NHSPS.

4 NHS BROADLY COMPARABLE EMPLOYEES

4.1 The Supplier shall (and procure that its Sub-contractors 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 5.2 below.

5 BREACH AND CANCELLATION OF ANY DIRECTION LETTER/DETERMINATION(S)

5.1 The Supplier agrees that the Authority is entitled to make arrangements with NHS Pensions for the Authority to be notified if the Supplier (or its Sub-contractors) breaches the terms of its Direction Letter/Determination. Notwithstanding the provisions of the foregoing, the Supplier shall notify the Authority in the event that it (or its Sub-contractor) breaches the terms of its Direction Letter/Determination.

5.2 If the Supplier (or its Sub-contractors, if relevant) ceases to participate in the NHSPS for whatever reason, the Supplier (or any such Sub-contractor, 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.

6 COMPENSATION

6.1 If the Supplier (or its Sub-contractor, if relevant) is unable to provide the NHSPS Fair Deal Employees with either membership of:

(a) the NHSPS (having used its best endeavours to secure a Direction Letter/Determination); or

(b) a Broadly Comparable pension scheme,

the Authority may in its sole discretion permit the Supplier (or any of its Sub-contractors) to compensate the NHSPS Fair Deal Employees in a manner that is Broadly Comparable or equivalent in cash terms, the Supplier (or Sub-contractor 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 Sub-contractor meets) the costs of the Authority determining whether the level of compensation offered is reasonable in the circumstances.

6.2 This flexibility for the Authority to allow compensation in place of Pension Benefits is in addition to and not instead of the Authority's right to terminate the Contract under Paragraph 7 (*Breach*) of Part D of this Schedule.

7 SUPPLIER INDEMNITIES

7.1 The Supplier must indemnify and keep indemnified the Authority 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: LGPS

1 DEFINITIONS

1.1 In this Annex D3 LGPS to Part D: Pensions, the following words have the following meanings:

“2013 Regulations”	the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) (as amended from time to time);
"Administering Authority"	in relation to **the Fund [insert name]**, the relevant administering authority of that Fund for the purposes of the 2013 Regulations;
"Fund Actuary"	the actuary to a Fund appointed by the Administering Authority of the Fund;
"Fund"	**the pension fund within the LGPS as notified by the Authority;**
“Initial Contribution Rate”	the % of pensionable pay as notified by the Authority (and as defined in the 2013 Regulations);]
"LGPS"	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;
"LGPS Admission Agreement"	an admission agreement within the meaning in Schedule 1 of the 2013 Regulations;
"LGPS Admission Body"	an admission body (within the meaning of Part 3 of Schedule 2 of the 2013 Regulations);
"LGPS Eligible Employees"	any LGPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the LGPS under an LGPS Admission Agreement;
"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 2013 Regulations and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (SI 2014/525), 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 TO BECOME AN 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 Sub-contractors 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:

(a) 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

(b) 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:

(c) active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date; or

(d) 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 Sub-contractors (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 Sub-contractors 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 Sub-contractors 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 Sub-contractors 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 Sub-contractors still employs any LGPS Eligible Employees, the Supplier shall (and procure that its Sub-contractors shall) at no extra cost to the Authority, 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 Sub-contractors is an LGPS Admission Body, the Supplier shall (and procure that its Sub-contractors 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 Sub- contractor 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 Sub-contractor, as the case may be, and the Supplier shall be reimbursed by the Authority. SARAH

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 Sub-contractor 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 Authority an amount equal to A–B (the "**Refund Amount**") where:

A = 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

B = the amount of contributions or payments actually paid by the Supplier or Sub-contractor 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 Sub-contractor 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 Sub-contractor (as the case may be) and the Supplier shall be reimbursed by the Authority.

5.4 The Supplier and any Sub-contractors shall at all times be responsible for the following costs:

(a) 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;

(b) 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;

(c) any payment of Fund benefits to deferred or deferred pensioner members on the grounds of ill health or infirmity of mind or body under Regulation 38 of the 2013 Regulations or otherwise;

(d) 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 Sub-contractor 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;

(e) any employer contributions relating to the costs of enhanced benefits made at the discretion of the Supplier or any relevant Sub- contractors including without limitation additional pension awarded under Regulation 31 of the 2013 Regulations or otherwise;

(f) any increase to the employer contribution rate resulting from the award of pay increases by the Supplier or relevant Sub-contractors 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 Sub-contractor is contractually bound to provide such increases on the Relevant Transfer Date);

(g) 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 Sub-contractors where a member does not have an absolute entitlement to that benefit under the LGPS;

(h) any cost of the administration of the Fund that are not met through the Supplier's or Sub-contractor'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;

(i) the costs of any reports and advice requested by or arising from an instruction given by the Supplier or a Sub-contractor from the Fund Actuary; and/or

(j) 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 Sub-contractors 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 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 Sub-contractor 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 Sub- contractor shall) reimburse the Authority 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 Sub-contractor shall) notify the Authority in writing within twenty (20) Working Days:

(a) 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

(b) 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 Sub-contractor 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 Authority shall either:

(a) notify the Supplier in writing of its acceptance of the Excess Amount, Refund Amount or Exit Payment;

(b) request further information or evidence about the Excess Amount, Refund Amount or Exit Payment from the Supplier; and/or

(c) 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 Authority shall notify the Supplier in writing. In the event that the Supplier and the Authority 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 Authority or in accordance with the Dispute Resolution Procedure shall be paid by the Authority within timescales as agreed between Authority and Supplier. The amount to be paid by the Authority 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 by the Supplier or a Sub-contractor.

5.11 Any Refund Amount agreed by the Authority or in accordance with the Dispute Resolution Procedure as payable by the Supplier or any Sub-contractor to the Authority, shall be paid by the Supplier or any Sub-contractor forthwith as the liability has been agreed. In the event the Supplier or any Sub-contractor fails to pay any agreed Refund Amount, the Authority 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

PART E : EMPLOYMENT EXIT PROVISIONS

1 PRE-SERVICE TRANSFER OBLIGATIONS

1.1 The Supplier agrees that:

(a) within twenty (20) Working Days of the earliest of:

(i) receipt of a notification from the Authority of a Service Transfer or intended Service Transfer;

(ii) receipt of the giving of notice of early termination or any Partial Termination of this Contract; and

(iii) the date which is twelve (12) months before the end of the Term;

(b) and in any event within twenty (20) Working Days of receipt of a written request from the Authority at any time (provided that the Authority shall only be entitled to make one such request in any six (6) month period),

the Supplier shall provide in a suitably anonymised format so as to comply with the DPA, the Supplier's Provisional Supplier Personnel List, together with the Staffing Information; and the Supplier shall provide an updated Supplier's Provisional Supplier Personnel List and updated Staffing Information at such intervals as are reasonably requested by the Authority.

1.2 At least twenty (20) Working Days prior to the Service Transfer Date, the Supplier shall provide to the Authority or at the direction of the Authority to any Replacement Supplier and/or any Replacement Sub-contractor:

(a) the Supplier's Final Supplier Personnel List in respect of that Service Transfer, which shall identify which of the Supplier Personnel are Transferring Supplier Employees; and

(b) the Staffing Information in relation to the relevant Supplier’s Final Supplier Personnel List (insofar as such information has not previously been provided).

1.3 The Authority shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Sub-contractor.

1.4 The Supplier warrants, for the benefit of the Authority, any Replacement Supplier, and any Replacement Sub-contractor that all information provided pursuant to Paragraphs 1.1 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 Paragraph 1.1(a), the Supplier agrees, that it shall not, and agrees to procure that each Sub-contractor shall not, assign any person to the provision of the relevant Services who is not listed on the relevant Supplier’s Provisional Supplier Personnel List and shall not without the approval of the Authority (not to be unreasonably withheld or delayed):

(a) replace or re-deploy any Supplier Personnel listed on the Supplier Provisional Supplier Personnel 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;

(b) make, promise, propose, permit or implement any material changes to the terms and conditions of employment of the listed Supplier Personnel (including pensions and any payments connected with the termination of employment);

(c) increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the listed Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;

(d) introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Personnel List;

(e) increase or reduce the total number of individuals so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or

(f) terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process,

and shall promptly notify, and procure that each Sub-contractor shall promptly notify, the Authority or, at the direction of the Authority, any Replacement Supplier and any Replacement Sub-contractor of any notice to terminate employment given by the Supplier or relevant Sub-contractor or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect.

1.6 During the Term, the Supplier shall provide, and shall procure that each Sub-contractor shall provide, to the Authority any information the Authority may reasonably require relating to the manner in which the Services are organised, which shall include:

(a) the numbers of individuals engaged in providing the Services;

(b) the percentage of time spent by each individual engaged in providing the Services;

(c) the extent to which each employee qualifies for membership of any of the Statutory Schemes or any Broadly Comparable scheme set up pursuant to the provisions of any of the Annexes to Part D (*Pensions*) of this Schedule 28 (*Staff Transfer*) (as appropriate); and

(d) a description of the nature of the work undertaken by each individual by location.

1.7 The Supplier shall provide, and shall procure that each Sub-contractor shall provide, all reasonable cooperation and assistance to the Authority, any

Replacement Supplier and/or any Replacement Sub-contractor to support a future procurement process, timely and full provision of Staffing Information and consultation between employers and 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 five (5) Working Days following the Service Transfer Date, the Supplier shall provide, and shall procure that each Sub- contractor shall provide, to the Authority or, at the direction of the Authority, to any Replacement Supplier and/or any Replacement Sub-contractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:

(a) the most recent month's copy pay slip data;

(b) details of cumulative pay for tax and pension purposes;

(c) details of cumulative tax paid;

(d) tax code;

(e) a copy of any personnel file and/or any other records regarding the service of the Transferring Supplier Employee;

(f) a complete copy of the information required to meet the minimum record keeping requirements under the Working Time Regulations 1998 and the National Minimum Wage Regulations 1998;

(g) details of any voluntary or involuntary deductions from pay, with supporting data; and

(h) bank/building society account details for payroll purposes.

2 EMPLOYMENT REGULATIONS EXIT PROVISIONS

2.1 The Authority 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 (or part of the Services) being undertaken by a Replacement Supplier and/or a Replacement Sub-contractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations will apply. The Authority 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 (or any relevant Sub-contractor) 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 Sub-contractor (as the case may be) and each such Transferring Supplier Employee.

2.2 The Supplier shall, and shall procure that each Sub-contractor 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 Sub-contractor shall perform and discharge, all its obligations in respect of all the Transferring Supplier Employees arising in respect of the period prior to 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 Statutory Schemes which in any case are attributable in whole or in part to the period prior to the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Sub- contractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Sub-contractor.

2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Authority, the Replacement Supplier and any Replacement Sub-contractor against any Employee Liabilities arising from or as a result of:

(a) any act or omission of the Supplier or any Sub-contractor 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;

(b) the breach or non-observance by the Supplier or any Sub-contractor occurring on or before the Service Transfer Date of:

(i) any collective agreement applicable to the Transferring Supplier Employees; and/or

(ii) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Sub-contractor is contractually bound to honour;

(c) 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 Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;

(d) 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:

(i) 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

(ii) in relation to any employee who is not identified in the Supplier's Final Supplier Personnel 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 Authority and/or Replacement Supplier and/or any Replacement Sub-contractor, 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;

(e) a failure of the Supplier or any Sub-contractor 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;

(f) any claim made by or in respect of any person employed or formerly employed by the Supplier or any Sub-contractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List for whom it is alleged the Authority and/or the Replacement Supplier and/or any Replacement Sub-contractor may be liable by virtue of this Contract and/or the Employment Regulations; and

(g) 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 Sub- contractor 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 Authority and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.

2.4 The indemnities 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 Sub-contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:

(a) 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 Sub-contractor to occur in the period on or after the Service Transfer Date); or

(b) arising from the Replacement Supplier's failure, and/or Replacement Sub-contractor's failure, to comply with its obligations under the Employment Regulations.

2.5 If any person who is not identified in the Supplier's Final Supplier Personnel list claims, or it is determined in relation to any person who is not identified in the Supplier's Final Supplier Personnel list, that his/her contract of employment (or any rights relating to it, or its termination) has been transferred from the Supplier or any

Sub-contractor to the Replacement Supplier and/or Replacement Sub-contractor pursuant to the Employment Regulations, then:

(a) the Authority shall procure that the Replacement Supplier shall, or any Replacement Sub-contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Supplier; and

(b) the Supplier may offer (or may procure that a Sub-contractor may offer) employment to such person within fifteen (15) Working Days of the notification by the Replacement Supplier and/or any and/or Replacement Sub-contractor 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.

2.6 If such offer is accepted, or if the situation has otherwise been resolved by the Supplier or a Sub-contractor, the Authority shall procure that the Replacement Supplier shall, or procure that the Replacement Sub-contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.

2.7 If after the fifteen (15) Working Day period specified in Paragraph 2.5(b) has elapsed:

(a) no such offer of employment has been made; or

(b) such offer has been made but not accepted; and

(c) the situation has not otherwise been resolved

the Authority shall advise the Replacement Supplier and/or Replacement Sub-contractor, as appropriate that it may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

2.8 Subject to the Replacement Supplier and/or Replacement Sub-contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier shall indemnify the Replacement Supplier and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.7 provided that the Replacement Supplier takes, or shall procure that the Replacement Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.9 The indemnity in Paragraph 2.8:

(a) shall not apply to:

(i) any claim for:

(A) 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

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

in any case in relation to any alleged act or omission of the Replacement Supplier and/or Replacement Sub-contractor; or

(ii) any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Sub- contractor neglected to follow a fair dismissal procedure; and

(b) shall apply only where the notification referred to in Paragraph 2.5(a) is made by the Replacement Supplier and/or Replacement Sub-contractor to the Supplier within six (6) months of the Service Transfer Date.

2.10 If any such person as is described in Paragraph 2.5 is neither re-employed by the Supplier or any Sub-contractor nor dismissed by the Replacement Supplier and/or Replacement Sub-contractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Supplier Employee.

2.11 The Supplier shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Personnel list before 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:

(a) the Supplier and/or any Sub-contractor; and

(b) the Replacement Supplier and/or the Replacement Sub-contractor.

2.12 The Supplier shall, and shall procure that each Sub-contractor shall, use all reasonable endeavours to enable a smooth and timely transfer and accordingly shall promptly provide to the Authority and any Replacement Supplier and/or Replacement Sub-contractor, in writing such information as is necessary to enable the Authority, the Replacement Supplier and/or Replacement Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Authority shall procure that the Replacement Supplier and/or Replacement Sub-contractor, shall promptly provide to the Supplier and each Sub-contractor in writing such information as is necessary to enable the Supplier and each Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

2.13 Subject to Paragraph 2.14, the Authority shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any

Replacement Sub-contractor and its sub-contractors against any Employee Liabilities arising from or as a result of:

(a) any act or omission of the Replacement Supplier and/or Replacement Sub-contractor in respect of any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee;

(b) the breach or non-observance by the Replacement Supplier and/or Replacement Sub-contractor on or after the Service Transfer Date of:

    (i) any collective agreement applicable to the Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List; and/or

    (ii) any custom or practice in respect of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List which the Replacement Supplier and/or Replacement Sub-contractor is contractually bound to honour;

(c) any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List arising from or connected with any failure by the Replacement Supplier and/or Replacement Sub- contractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;

(d) any proposal by the Replacement Supplier and/or Replacement Sub-contractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Supplier's Final Supplier Personnel List on or after their transfer to the Replacement Supplier or Replacement Sub- contractor (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 Personnel 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;

(e) any statement communicated to or action undertaken by the Replacement Supplier or Replacement Sub-contractor to, or in respect of, any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;

(f) 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:

(i) in relation to any Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising from (and including) the Service Transfer Date; and

(ii) in relation to any employee who is not a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel 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 Sub- contractor, to the Replacement Supplier or Replacement Sub-contractor 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;

(g) a failure of the Replacement Supplier or Replacement Sub- contractor 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 Personnel List in respect of the period from (and including) the Service Transfer Date; and

(h) any claim made by or in respect of a Transferring Supplier Employee identified in the Supplier's Final Supplier Personnel 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 Sub-contractor in relation to obligations under regulation 13 of the Employment Regulations.

2.14 The indemnities in Paragraph 2.13 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 Sub-contractor (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 Sub- contractor (as applicable) to comply with its obligations under the Employment Regulations.

2.15 In the event of disagreement between the Supplier and either the Authority or any Replacement Supplier about whether the Employment Regulations will apply in any given situation which is the same or similar to any of those specified in Paragraph 2.1 (and/or about which individuals will be the subject of the consequent transfer, or when), the Authority may elect, entirely at its discretion, to determine that issue (acting reasonably) ("**a TUPE Exit Determination**"). In the event that the Authority elects to make a TUPE Exit Determination:

(a) the Supplier and the Authority will then proceed on the basis of and in line with the TUPE Exit Determination, and will apply this Part E on the basis of and implementing the TUPE Exit Determination;

(b) the Supplier will procure that its Sub-contractors will proceed on the basis of the TUPE Exit Determination; and

(c) the Authority will procure that any Replacement Supplier which it appoints will also proceed on that basis, and that any Replacement Sub-contractor of such Replacement Supplier will proceed on that basis.

2.16 The Supplier shall, and shall procure that each Sub-contractor shall, provide all reasonable assistance and documentation required by the Authority, any Replacement Supplier and any Replacement Sub-contractor in connection with any query, claim, dispute or proceedings arising after a Service Transfer Date but relating to a Transferring Supplier Employee.

ANNEX E1: LIST OF NOTIFIED SUB-CONTRACTORS

ANNEX E2: STAFFING INFORMATION

EMPLOYEE INFORMATION (ANONYMISED)

Name of Transferor:

Number of Individuals in-scope to transfer:

Completion notes

1. *If you have any Key Sub-contractors, please work with them to complete a separate copy of this Annex E2 for each Key Subcontractor.*

2. *This spreadsheet is used to collect information from each current employer (potential transferor) about employees performing the relevant services to help plan for any 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.*

3. *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.*

EMPLOYEE DETAILS & KEY TERMS							
Details	**Job Title**	**Grade / band**	**Work Location**	**Age at the date when this Staffing Information is provided to the Authority**	**Employment status (for example, employee, fixed-term employee, self-employed, agency worker)?**	**Continuous service date (dd/mm/yy)**	**Date employment started with existing employer**
Emp No 1							
Emp No 2							
Emp No							
Emp No							
Emp No							
Emp No							
Emp No							
Emp No							

	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 or flexibility clause in contract?**	**Previously TUPE transferred to organisation? If so, please specify (i) date of transfer, (ii) name of transferor, and (iii) whether you know or believe the person to be ex-public sector**	**Any collective agreements?**
Emp No 1							
Emp No 2							
Emp No							
Emp No							
Emp No							
Emp No							
Emp No							

	ASSIGNMENT	PAY AND BENEFITS *(stating in each case whether the benefit is contractual or non-contractual)*						
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								
Emp No								
Emp No								

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

	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?)**	**Leave and pay entitlements in the event of maternity or paternity or shared parental leave; with details of any active cases**	**Leave and pay entitlements in the event of sickness; with details of any active long term sickness absence cases**	**Redundancy pay entitlement (statutory / enhanced / contractual / discretionary)**
Emp No 1						
Emp No 2						
Emp No						
Emp No						
Emp No						
Emp No						
Emp No						

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

	PENSIONS					
Details	**If the Employee is in the Local Government Pension Scheme, please supply details of Fund and Administering Authority.**	**If the Employee is in the Civil Service Pension Scheme, please provide details of the Admission Agreement.**	**If the Employee is in the NHSPS, please provide details of the Direction Letter.**	**If the Employee is in a broadly comparable pension scheme, please supply a copy of the GAD certificate of Broad Comparability.**	**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)?**	**If Fair Deal, Best Value or other pension protection applied, which public sector employer did they originally transfer out of and when?**
Emp No 1						
Emp No 2						
Emp No						
Emp No						
Emp No						
Emp No						
Emp No						

	OTHER			
Details	**Security Check Level**	**Security Clearance Expiry date**	**Supplementary Security Checks held, such as BPSS, NPSS, CTC, SC, with expiry dates**	**Additional info or comments**
Emp No 1				
Emp No 2				
Emp No				
Emp No				
Emp No				
Emp No				
Emp No				