



Ministry  
of Justice

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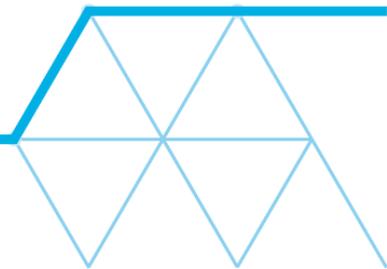
A Contract for the Provision of Secure Accommodation  
Places at Secure Children's Homes

Between

The Secretary of State for Justice

And

Durham County Council





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**This contract is dated:**

**PARTIES:**

- (1) THE SECRETARY OF STATE FOR JUSTICE of 102 Petty France, London, SW1H 9AJ, acting as part of the Crown (the “**Authority**”);

**AND**

- (2) Durham County Council whose registered office is County Hall, Durham, DH1 5UB (the “**Supplier**”)

(each a “**Party**” and together the “**Parties**”).

**WHEREAS**

- A. The Authority requires the provision of certain secure accommodation pursuant to its powers.
- B. The Authority invited parties to provide for the provision of such secure accommodation and the Supplier has agreed to provide the same.
- C. The Supplier is the proprietor of the Secure Children's Home at Aycliffe Secure Centre, Newton, Aycliffe, DL5 6JB, provided by the Supplier pursuant to section 23 of the Children and Young Persons Act 1969 and section 61 of the Criminal Justice Act 1991.
- D. The Authority has selected the Supplier to provide the Services and the Supplier undertakes to supply the same on the terms set out below.
- E. The operational management of this contract will be the responsibility of the Youth Custody Service on behalf of The Secretary of State for Justice.

**NOW IT IS HEREBY AGREED:**

**A GENERAL**

**A1 Definitions and Interpretation**

Unless the context otherwise requires the following terms shall have the meanings given to them below:



“**Affected Party**” means the Party seeking to claim relief in respect of a Force Majeure Event.

“**Affiliate**” means in relation to a body corporate, any other entity which directly or indirectly Controls is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time.

“**Approval**” and “**Approved**” means the prior written consent of the Authority.

“**AssetPlus**” means the comprehensive end-to-end assessment and planning framework for use by those agencies working with children across England and Wales receiving statutory orders or formal out of court disposals. It aims to identify strengths, needs, risks and issues and to facilitate the planning of appropriate interventions, both in custody and the community.

“**Assisted Visits**” means the Youth Custody Service’s scheme to ensure that families and carers of CYP are supported financially in order to visit the child.

“**Authorised Representative**” means the representative of each of the Parties authorised to give approval and specified at clause B4.

“**Authority Break Point Dates**” means the [third] and [fourth] anniversary of the Commencement Date.

“**Authority Data**” means the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:

- (i) supplied to the Supplier by or on behalf of the Authority; or
- (ii) which the Supplier is required to generate, process, store or transmit pursuant to the Contract in relation to a Young Person’s Personal Data;

“**Authority Policies**” means those policies and standards set out in Schedule 9.

“**Authority Premises**” means any premises owned, occupied or controlled by the Authority or any other Crown Body which are accessed for use by the Supplier or its Sub-Contractors in order to facilitate the provision of the Services.

“**Authority Software**” means software which is owned by or licensed to the Authority (other than under or pursuant to the Contract) and which is or will be used by the Supplier for the purposes of providing the Services.

“**Authority System**” means the Authority’s computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Authority or the Supplier in connection with the Contract which is owned by or licensed to the Authority by a third party and which interfaces with the Supplier System or which is necessary for the Authority to receive the Services.

“**BPSS**” means the Government’s Baseline Personnel Security Standard for Government employees.

“**Breach of Security**” means an occurrence of:



- (a) any unauthorised access to or use of the ICT Environment and/or any Information Assets and/or Authority Data (including Confidential Information) in connection with the Contract;
- (b) the loss (physical or otherwise) and/or unauthorised disclosure of any Information Assets and/or Authority Data (including Confidential Information) in connection with the Contract, including copies; and/or
- (c) any part of the Supplier System ceasing to be compliant with the Certification Requirements

“**CCN**” means a change control notice in the form set out in Schedule 3.

“**CDIs**” means the Contract Delivery Indicators as set out at Appendix A Schedule 7

“**CESG**” means of the Government’s Communications Electronics Security Group.

“**Change**” means a change in the Specification, the Price or any of the terms or conditions of the Contract.

“**Change in Law**” means any change in Law which affects the performance of the Services which comes into force after the Commencement Date.

“**Children and Young People**” means all individuals (whether sentenced or unsentenced) who may receive the Service. Children will normally be between 10 and 18 years of age. One such individual shall be referred to as a “**Young Person**”.

“**Commencement Date**” means the date specified in clause A5.1.

“**Commercially Sensitive Information**” means the information listed in Schedule 4 comprising the information of a commercially sensitive nature relating to:

- (a) the Price; and/or
- (b) the Supplier’s business and investment plans

which the Supplier has informed the Authority would cause the Supplier significant commercial disadvantage or material financial loss if it was disclosed.

“**Comparable Supply**” means the supply of services to another customer of the Supplier which are the same or similar to any of the Services.

“**Confidential Information**” means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets or Intellectual Property Rights of either Party and all Personal Data. Confidential Information shall not include information which:

- (a) was public knowledge at the time of disclosure otherwise than by breach of clause E4;



- (b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- (c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- (d) is independently developed without access to the Confidential Information.

“**Contract**” means these terms and conditions, the attached Schedules and any other documents the Parties expressly agree are included.

“**Contract Manager**” means an individual employed by the Authority with delegated responsibility to supervise the delivery of the Services undertaken by the Supplier.

“**Contracting Authority**” means any contracting authority (other than the Authority) as defined in regulation 3 of the Regulations.

“**Control**” means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and “**Controls**” and “**Controlled**” are interpreted accordingly.

“**Controller**” means, where Personal Data is being processed for Law Enforcement Purposes, as it is defined in the LED; and in all other circumstances, as it is defined in GDPR.

“**Copyright**” means as it is defined in s.1 of Part 1 Chapter 1 of the Copyright, Designs and Patents Act 1988.

“**Critical Casework Panel**” means a panel convened of national and local partners to agree that young people are provided with, and have access to, such services (be these persons, bodies or organisations) as appropriate, having regard to the range of needs / risks identified. This may include additional funding for services, where the Panel agrees that existing provision across commissioned services is not sufficient to safeguard the individual child,

“**Crown**” means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, Government ministers, Government departments, Government offices and Government agencies and

“**Crown Body**” is an emanation of the foregoing.

“**Data Loss Event**” means any event which results, or may result, in unauthorised access to Young Person Personal Data held by the Supplier under the Contract, and/or actual or potential loss and/or destruction of Young Person Personal Data in breach of the Contract, including any Young Person Personal Data.

“**Data Protection Impact Assessment**” means an assessment by the Controller of the effect of the envisaged processing on the protection of Young Person Personal Data.

“**Data Protection Legislation**” means:



- (a) the GDPR, the LED and applicable implementing Laws;
- (b) the DPA 2018 to the extent that it relates to the processing of Personal Data and privacy;
- (c) all applicable Laws relating to the processing of Personal Data and privacy;

**“Data Protection Officer”** means as it is defined in the GDPR.

**“Data Subject”** means as it is defined in the GDPR.

**“Data Subject Access Request”** means a request made by or on behalf of a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

**“Database Rights”** means as rights in databases are defined in s.3A of Part 1 Chapter 1 of the Copyright, Designs and Patents Act 1988.

**“Default”** means any breach of the obligations or warranties of the relevant Party (including abandonment of the Contract in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party or the Staff in connection with the subject-matter of the Contract and in respect of which such Party is liable to the other.

**“DOTAS”** means the Disclosure of Tax Avoidance Schemes rules which require a promotor of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act and as extended to NICs by the National Insurance (Application of Part 7 of the Finance Act 2004) regulations 2012, SI 2012/1868 made under section 132A of the Social Security Administration Act 1992.

**“DPA 2018”** means the Data Protection Act 2018.

**“EIR”** means the Environmental Information Regulations 2004 (SI 2004/3391) and any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such regulations.

**“End Date”** means the date specified in clause A5.1.

**“Equipment”** means the Supplier's equipment, consumables, plant, materials and such other items supplied and used by the Supplier in the delivery of the Services.

**“Extension”** means the date specified in clause A5.2.

**“FOIA”** means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation.



**"Force Majeure Event"** means any event outside the reasonable control of either Party affecting its performance of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of Government, local government or regulatory bodies, for flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Supplier or the Staff or any other failure in the Supplier's supply chain.

**"Formulation"** means the SCH's multi-factorial intervention plan for the Young Person during their period of detention.

**"Full Economic Cost"** means the Supplier's costs in providing the Services including both direct costs incurred in delivery of the Service and indirect costs that are intrinsically linked to the delivery of the Service, as set out in the Supplier's financial model at Annex B Schedule 2 (Payment).

**"Further Extension"** means the date specified in clause A5.3.

**"Guaranteed Block Bed Nights"** means the number of places (expressed as bed nights) in the SCH agreed to be made available for the Authority's continuous use for the Term and to deliver the services in this contract.

**"Guaranteed Block Bed Night Price"** means the bed night price agreed for each Guaranteed Block Bed Night under the term of this contract. This price represents the Full Economic Cost to the SCH in providing the Services to this number of places.

**"GDPR"** means the General Data Protection Regulation (Regulation (EU) 2016/679).

**"General Anti-Abuse Rule"** means:

- (a) the legislation in Part 5 of the Finance Act 2013; and
- (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid NICs.

**"General Change in Law"** means a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply.

**"Good Industry Practice"** means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.

**"Government"** means the government of the United Kingdom.

**"Government Buying Standards"** means the standards set out at:

<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>



“**Halifax Abuse Principle**” means the principle explained in the CJEU Case C-255/02 Halifax and others.

“**HMRC**” means HM Revenue & Customs.

“**ICT Environment**” means the Authority System and the Supplier System.

“**Improvement Notice**” means an Authority issued notice to the Supplier identifying areas of under-performance in need of addressing via an Improvement Plan, as outlined in Clause F2.3.

“**Improvement Plan**” means a plan the Supplier is to devise following receipt of an Improvement Notice aimed at rectifying the identified under-performance, as outlined in Clause F2.5(b).

“**Indexation Review Date**” means 1<sup>st</sup> April of every contract year using January indices.

“**Information**” has the meaning given under section 84 of the FOIA.

“**Information Assets**” means definable pieces of information stored in any manner which are determined by the Authority to be valuable and relevant to the Services.

“**Initial Term**” means the period from the Commencement Date to the End Date.

“**Intellectual Property Rights**” means patents, utility models, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, plant variety rights, Know-How, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

“**IT Health Check**” means penetration testing of systems under the Supplier’s control on which Information Assets and/or Authority Data are held which are carried out by third parties in accordance with the CHECK scheme operated by CESG or to an equivalent standard.

“**ITEPA**” means the Income Tax (Earnings and Pensions) Act 2003.

“**Know-How**” means all information not in the public domain held in any form (including without limitation that comprised in or derived from drawings, data formulae, patterns, specifications, notes, samples, chemical compounds, biological materials, computer software, component lists, instructions, manuals, brochures, catalogues and process descriptions and scientific approaches and methods).

“**Law**” means law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier is bound to comply.

“**Law Enforcement Purposes**” means as it is defined in DPA 2018.

“**LED**” means the Law Enforcement Directive (Directive (EU) 2016/680).



**“Local Authority”** means the local civil government arrangements in place for a geographic area within which the Contract is delivered or where the YP is normally resident.

**“Losses”** means losses, liabilities, damages, costs, fines and expenses (including legal fees on a solicitor/client basis) and disbursements and costs of investigation, litigation, settlement, judgment interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty or otherwise.

**“Malicious Software”** means any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence.

**“Management Information (MI)”** means all reports, information and data to be provided to the Authority under this contract, as detailed in Schedule 7 section 3.

**“Material Breach”** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Authority would otherwise derive from:

- (a) a substantial portion of the Contract; or
- (b) any of the obligations set out in clauses D1, E1, E2, E3, E4, E10 or I4.

**“Month”** means calendar month.

**“NICs”** means National Insurance Contributions.

**“Occasion of Tax Non-Compliance”** means:

- (a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:
  - i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
  - ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to the Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or
- (b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Commencement Date or to a civil penalty for fraud or evasion.

**“Personal Data”** means as it is defined in the GDPR.

**“Personal Data Breach”** means as it is defined in the GDPR.



**“Premises”** means the location where the Services are to be supplied as set out in clause B1.4.

**“Price”** means the price (excluding any applicable VAT) payable to the Supplier by the Authority under the Contract, as set out in Schedule 2 for the full and proper performance by the Supplier of its obligations under the Contract.

**“Processor”** means, where Personal Data is being processed for Law Enforcement Purposes, as it is defined in the LED; and in all other circumstances, as it is defined in GDPR.

**“Prohibited Act”** means:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:
  - i) induce that person to perform improperly a relevant function or activity; or
  - ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract;
- (c) an offence:
  - i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);
  - ii) under legislation or common law concerning fraudulent acts; or
  - iii) the defrauding, attempting to defraud or conspiring to defraud the Authority;
- (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct has been carried out in the UK.

**“Protective Measures”** means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the measures adopted.

**“Purchase Order”** the Authority’s order for the supply of the Services.

**“Quality Standards”** means the standards set by OFSTED and relevant quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardization or other reputable or equivalent body (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with, and as may be further detailed in Schedule 1.



**"Receipt"** means the physical or electronic arrival of the invoice at the address specified in clause C2.18 or at any other address given by the Authority to the Supplier for the submission of invoices from time to time.

**"Registered Manager"** means the Registered Manager or registered individual responsible for the management of the SCH in accordance with the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014

**"Regulations"** means the Public Contract Regulations 2015 (SI 2015/102).

**"Regulatory Body"** means a Government department and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the Authority.

**"Regulator Correspondence"** means any correspondence from the Information Commissioner's Office, or any successor body, in relation to the processing of Personal Data under the Contract.

**"Relevant Requirements"** means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010.

**"Relevant Tax Authority"** means HMRC or, if applicable, a tax authority in the jurisdiction in which the Supplier is established.

**"Replacement Supplier"** means any third-party supplier appointed by the Authority to supply any services which are substantially similar to any of the Services in substitution for any of the Services following the expiry, termination or partial termination of the Contract.

**"Request for Information"** means a request for information under the FOIA or the EIR.

**"Returning Employees"** means those persons agreed by the Parties to be employed by the Supplier (and/or any Sub-Contractor) wholly or mainly in the supply of the Services immediately before the end of the Term.

**"Safeguarding"** means the process of protecting children from abuse or neglect, preventing impairment of their health and development and ensuring they are growing up in circumstances consistent with the provision of safe and effective care that enables children to have optimum life changes and enter adulthood successfully

**"Secure Children's Homes (SCH)"** means a children's home provided for the purpose of restricting liberty and approved for that purpose in accordance with regulation 3 of the Children (Secure Accommodation) Regulations 1991.

**"Secure Stairs"** means an integrated framework for care to ensure a multi-disciplinary approach of care for children in the secure estate. One of the core principles of the framework is that the day to day staff are at the centre of delivered interventions and recognise that they have a pivotal role in developing the environmental and relational conditions that can:



- manage risk;
- promote safety (relational security) and change.

“**Security Policy Framework**” means the Government’s Security Policy Framework (available from the Cabinet Office’s Government Security Secretariat) as updated from time to time.

“**Security Test**” means a test carried out by the Supplier, the Authority or a third party to validate the ISMS and the security of all relevant processes and systems on which Information Assets and/or Authority Data are held.

“**Self Harm**” means any act by which someone deliberately harms him or herself irrespective of the method, intent or severity of injury.

“**Services**” means the services set out in clause B1 and Schedule 1 (including any modified or alternative services)

“**Service Specification**” means the description of services to be supplied under the Contract as set out in Schedule 1.

“**SME**” means an enterprise falling within the category of micro, small and medium-sized enterprises defined by the European Commission’s Recommendation of 6 May 2003 available at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:124:0036:0041:en:PDF>

“**Specific Change in Law**” means a Change in Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply.

“**Spot Bed Nights**” means the number of places (expressed in bed nights) in the SCH provided for the Authority to use on an ad hoc basis, over and above the Guaranteed Block Bed Nights in accordance with the provisions of this contract.

“**Spot Bed Night Price**” means the price agreed for use by the Authority of each Spot Bed Night under the term of this contract. This price represents the Full Economic Cost of the SCH in providing Services to these places.

“**SSCBA**” means the Social Security Contributions and Benefits Act 1992.

“**Staff**” means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any of its Sub-Contractors engaged in the performance of the Supplier’s obligations under the Contract.

“**Stakeholders**” means, groups or organisation that has a direct or indirect stake in an organisation because it can affect or be affected by the organisation’s actions, objectives and policies. Key Stakeholders under this Contract include, but are not limited to Courts, the Authority, YOTs, YCS, YJB, multi-agency Safeguarding partners, NHSE etc.

“**Sub-Contract**” means a contract between two or more suppliers, at any stage of remoteness from the Authority in a sub-contracting chain, made wholly or substantially for the purpose of performing (or



contributing to the performance of) the whole or any part of the Contract and “**Sub-Contractor**” shall be construed accordingly.

“**Sub-processor**” means any third party appointed to process Personal Data on behalf of the Supplier related to the Contract.

“**Supplier Software**” means software which is proprietary to the Supplier, including software which is or will be used by the Supplier for the purposes of providing the Services and which is set out in Schedule 5.

“**Supplier System**” means the information and communications technology system used by the Supplier in performing the Services including the Software, the Equipment and related cabling (but excluding the Authority System).

“**Temporary Release**” means the temporary release of a Young Person on a licence or a set of conditions that enables that child to participate in necessary activities outside of the SCH that directly contribute to their resettlement in the community.

“**Term**” means the period from the Commencement Date to:

- (a) the End Date; or
- (b) following an Extension, the end date of the Extension

or such earlier date of termination or partial termination of the Contract in accordance with the Law or the Contract.

“**TFEU**” means the Treaty on the Functioning of the European Union.

“**Third Party IP Claim**” has the meaning given to it in clause E8.5.

“**Third Party Software**” means software which is proprietary to any third party which is or will be used by the Supplier to provide the Services including the software and which is specified as such in Schedule 5.

“**Transition**” means either:

- a) When a young person turns 18 years of age, their transition from youth to adult supervision meaning from YOT to Probation supervision; or
- b) When a young person will remain in custody past their 18<sup>th</sup> birthday and will transfer to a young adult establishment; or
- c) When a young person transfers to another establishment within the young person's secure estate.

“**Treaties**” means the TFEU and the Treaty on European Union.



“**TUPE**” means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

“**TUPE Information**” means the information set out in clause B10.1.

“**Unavailable Guaranteed Block Bed Nights**” means a Guaranteed Block Bed Night place that is deemed unavailable according to the criteria stipulated at Schedule 2 section 2.2

“**Valid Invoice**” means an invoice containing the information set out in clause C2.5.

“**VAT**” means value added tax charged or regulated in accordance with the Value-Added Tax Act 1994.

“**VCSE**” means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.

“**Vulnerability Correction Plan**” means a remedial plan prepared by the Supplier to address vulnerabilities identified in an IT Health Check report.

“**Welfare Ad hoc Bed Night**” means where the Authority authorises the purchasing of any unfilled Guaranteed Block Bed Nights by the welfare market, thereby deeming such a bed an Unavailable Guaranteed Block Bed Night(s) as detailed at Schedule 2 section 2.2.

“**Welsh Language Scheme**” means the Authority’s Welsh language scheme as amended from time to time and available at:

<http://www.justice.gov.uk/publications/corporate-reports/moj/2010/welsh-language-scheme>

“**Working Day**” means a day (other than a Saturday or Sunday) on which banks are open for general business in the City of London.

“**YCS Approved Documentation**” means the documents used for the purposes of case management and sentence planning held or created on YJAF (including AssetPlus documentation, reference to which is found throughout the National Standards for youth justice services).

“**Youth Custody Service (YCS)**” means the new distinct department in HMPPS whose responsibilities include the placement of Young People into custody and the delivery of secure services, both directly and via contractors.

“**Youth Justice Assessment Framework (YJAF)**” means the case management system that the youth secure estate and YOT use to read and create AssetPlus assessments. YJAF is an end to end system covering the Young Person’s time in the youth justice system.

“**Youth Justice Board (YJB)**” means a non-departmental public body established by the Crime and Disorder Act 1998. The YJB’s legal duty is to advise the Secretary of State on matters relating to the youth justice system, to identify and share examples of good practice and to publish information about the system: reporting on how it is operating and how the statutory aim of the system (‘to prevent offending by children and young people’) can best be achieved.

“**Youth Offending Team / Service (YOT/YOS)**” means a multi-agency team in England and Wales that is coordinated by a Local Authority and work with children and their families to prevent of



offending and re-offending. They also work with victims and local communities to enable children who have offered to repair the damage caused. YOTs are overseen by the YJB and include staff from the police, probation and health services.

*In the Contract, unless the context implies otherwise:*

- (a) the singular includes the plural and vice versa unless the context requires otherwise;
- (b) words importing the masculine include the feminine and the neuter;
- (c) reference to a clause is a reference to the whole of that clause unless stated otherwise;
- (d) references to a person include natural persons, a company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or central Government body;
- (e) the words "other", "in particular", "for example", "including" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "without limitation";
- (f) headings are included for ease of reference only and shall not affect the interpretation or construction of the Contract;
- (g) the Schedules form an integral part of the Contract and have effect as if set out in full in the body of the Contract. A reference to the Contract includes the Schedules;
- (h) a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time; and
- (i) references to the Contract are references to the Contract as amended from time to time.

## **A2 Authority Obligations**

Save as otherwise expressly provided, the Authority's obligations under the Contract are the Authority's obligations in its capacity as a contracting counterparty and nothing in the Contract operates as an obligation upon, or in any other way fetters or constrains, the Authority in any other capacity.

## **A3 Supplier's Status**

- A3.1 The Supplier is an independent contractor and nothing in the Contract creates a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and accordingly neither Party is authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the Contract.
- A3.2 The Supplier shall not (and shall ensure that any other person engaged in relation to the Contract shall not) say or do anything that might lead another person to believe that the Supplier is acting as the agent or employee of the Authority.



#### A4 Mistakes in Information

- A4.1 The Supplier is responsible for the accuracy of all, documentation and information supplied to the Authority by the Supplier in connection with the Services and shall reimburse the Authority any extra costs occasioned by any discrepancies, errors or omissions therein which arise from third party claims to the Authority.
- A4.2 This Contract is formed of these terms and conditions, the attached Schedules and any other documents the Parties expressly agree are included. If they conflict, the following order of precedence shall apply:
- (1) the Terms and Conditions
  - (2) the Schedules
  - (3) any other agreed documents

#### A5 Term

- A5.1 The Contract starts on 1 January 2019 (the "**Commencement Date**") and ends on 31 December 2023 (the "**End Date**") unless it is terminated early or extended in accordance with the Contract.
- A5.2 The Authority may extend the term of the Contract until 31 December 2024 ("**Extension**"). The terms of the Contract will apply throughout the period of any Extension.
- A5.3 The Authority may further extend the term of the Contract until 31 December 2025 ("**Further Extension**"). The terms of the Contract will apply throughout the period of any Extension.

## B. THE SERVICES

#### B1 Basis of the Contract

- B1.1 In consideration of the Supplier's performance of its obligations under the Contract the Authority shall pay the Supplier the Price in accordance with clause C.
- B1.2 The terms and conditions contained in the Contract apply to the exclusion of any other terms and conditions the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- B1.3 The Supplier shall ensure that it complies with and carries out the Services and its other obligations under the Contract in accordance with the Performance Management Framework and other provisions set out in Schedule 7.
- B1.4 The Supplier shall deliver the Service at Aycliffe Secure Centre, Newton Aycliffe, DL5 6JB. The Service shall include, but is not limited, to the provision of:  
(a) 8 Guaranteed Block Bed Nights at the Guaranteed Block Bed Night Price of [redacted];  
and



(b) any Spot Bed Nights which the Supplier is able to provide at the Spot Bed Night Price of [redacted]

B1.5 In performing the Services and carrying out its other obligations under this Contract, the Supplier shall do all things that are provided for in this Contract expressly, or by reasonable implication as being necessary to achieve the Services.

## **B2 Delivery of the Services**

B2.1 The Supplier shall at all times comply with the Quality Standards and, where applicable, shall maintain the relevant licence with the relevant Quality Standards authorisation body. To the extent that the standard of the Service has not been specified in the Contract, the Supplier shall agree the relevant standard of the Services with the Authority prior to the supply of the Services and, in any event, the Supplier shall perform its obligations under the Contract in accordance with the Law and Good Industry Practice.

B2.2 The Supplier acknowledges that the Authority relies on the skill and judgment of the Supplier in the supply of the Services and the performance of the Supplier's obligations under the Contract.

B2.3 The Supplier shall ensure that all Staff supplying the Services do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services. The Supplier shall ensure that those Staff are properly managed and supervised.

B2.4 Not used.

B2.5 Not used.

B2.6 Not used.

B2.7 Not used.

B2.8 The Authority may inspect the manner in which the Supplier supplies the Services at the Premises on reasonable notice. The Supplier shall provide at its own cost all such facilities as the Authority may reasonably require for such inspection. In this clause B2, Services include planning or preliminary work in connection with the supply of the Services.

B2.9 If reasonably requested to do so by the Authority, the Supplier shall co-ordinate its activities in supplying the Services with those of the Authority and other contractors engaged by the Authority.

B2.10 Timely supply of the Services is of the essence of the Contract, including in relation to commencing the supply of the Services within the time agreed or on a specified date. If the Supplier fails to supply the Services within the time promised or specified in the Specification, the Authority is released from any obligation to pay for the Services. The Authority may terminate the Contract in the case of persistent failure of timely supply, or following a site wide issue affecting supply, without prejudice to any other rights and remedies of the Authority.



- B2.11 If the Authority informs the Supplier in writing that the Authority reasonably believes that any part of the Services do not meet the requirements of the Contract or differs in any way from those requirements, and this is not as a result of a default by the Authority, the Supplier shall, at its own expense, re-schedule and carry out the Services in accordance with the requirements of the Contract within such reasonable time as may be specified by the Authority.
- B2.12 The Supplier shall throughout the Term maintain and annually update where required their standard operating procedure for providing the Services (attached to this contract at Schedule 13). The Supplier shall ensure that any change to their policies and procedures within the standard operating procedures are shared with the Authority as soon as possible thereafter.
- B2.13 The Supplier shall, at the request of the Authority, provide the Authority with access to their most recent version of any or all standard operating procedures.

### **B3 Equipment**

- B3.1 The Supplier shall provide all the Equipment and resource necessary for the supply of the Services.
- B3.2 Not Used.
- B3.3 Not used.
- B3.4 Not used.
- B3.5 If the Authority reimburses the cost of any Equipment to the Supplier the Equipment shall become the property of the Authority and shall on request be delivered to the Authority as directed by the Authority. The Supplier shall keep a full and accurate inventory of such Equipment and deliver that inventory to the Authority on request and on completion of the Services.
- B3.6 The Supplier shall maintain all Equipment in a safe, serviceable and clean condition.
- B3.7 The Supplier shall, at the Authority's written request, at its own cost and as soon as reasonably practicable:
- (a) remove immediately from the Premises Equipment which is, in the Authority's opinion, hazardous, noxious or not supplied in accordance with the Contract; and
  - (b) replace such item with a suitable substitute item of Equipment.
- B3.8 Not used.

### **B4 Authorised Representatives**

- B4.1 The Supplier warrants and undertakes that it has appointed and shall keep appointed a suitably competent, qualified and experienced person to act as its Authorised Representative in connection with this Agreement. The Authority has a right of Approval of the Supplier's Authorised Representative, such approval not to be unreasonably withheld or delayed.



- B5.1 The Supplier's Authorised Representative shall have full authority to act on behalf of the Supplier for all purposes of this Agreement. The duties of the Authority's Authorised Representative shall include:
- (a) supervision of, and day to day responsibility for, the performance of the Services and the Supplier's other obligations under this Agreement; and
  - (b) attendance at the meetings he or she is required to attend subject to reasonable notice.
- B5.2 The Authority shall be entitled to treat any act of the Supplier's Authorised Representative in connection with this Agreement as being expressly authorised by the Supplier and the Authority shall not be required to determine whether any express authority has in fact been given.
- B5.3 The Supplier may appoint any appropriate person to act in replacement of the Supplier's Authorised Representative provided that such replacement has similar expertise and experience to the current Supplier's Authorised Representative, sufficient to discharge the functions of the Supplier's Authorised Representative as required by the terms of this Agreement. Such appointment must be notified in writing to the Authority and shall be subject to the prior Approval of the Authority, such Approval shall not be unreasonably withheld or delayed.
- B4.4 The Supplier's Representative may appoint appropriate persons to assist him in carrying out his duties. He shall notify to the Authority the name and scope of authority of such persons.
- B4.5 The Authority shall appoint a Contract Manager and reserves the right to change this individual as necessary and will ensure notice is given to the Supplier. The Contract Manager shall act as the Authority's Authorised Representative

## **B5 Staff**

- B5.1 The Supplier shall ensure that all personnel deployed by it in the performance of the Services and its other obligations under this Contract shall have appropriate experience, qualifications and competence.
- B5.2 Not used.
- B5.3 The Authority may search any persons or vehicles engaged or used by the Supplier at the Authority's Premises.
- B5.4 The Supplier shall not, and shall procure that all Staff shall not, take photographs on the Authority's Premises without Approval.
- B5.5 At the Authority's written request, the Supplier shall, at its own cost, provide a list of the names, addresses, national insurance numbers and immigration status of all people who may require admission to the Authority's Premises, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Authority may reasonably request.
- B5.6 All Staff shall be subject to pre-employment checks that include, as a minimum, their employment history for at least the last 3 years, identity, unspent criminal convictions and right



to work (including nationality and immigration status) and shall be vetted in accordance with the BPSS or BS7858 or equivalent

- B5.7 The Supplier shall co-operate with any investigation relating to security carried out by the Authority or on behalf of the Authority and, at the Authority's request:
- (a) use reasonable endeavours to make available any Staff requested by the Authority to attend an interview for the purpose of an investigation; and
  - (b) provide documents, records or other material in whatever form which the Authority may reasonably request or which may be requested on the Authority's behalf, for the purposes of an investigation.
- B5.8 The Supplier shall comply with the Authority Policies set out in Schedule 9 and ensure that its staff comply with the same.

## **B6 Due Diligence**

Save as the Authority may otherwise direct, the Supplier is deemed to have completed due diligence in relation to all matters connected with the performance of its obligations under the Contract.

## **B7 Welfare Ad hoc Bed Night**

The Authority may from time to time, at its discretion, allow for a Guaranteed Block Bed Night to become a Welfare Ad hoc Bed Night if a Guaranteed Block Bed Nights is vacant and therefore is deemed available. In making such decisions, the Authority will be considering the placement demands across the whole estate as well as the needs of CYP currently placed within the estate. For the avoidance of doubt, the Supplier shall not be entitled to assign a Guaranteed Block Bed Night as a Welfare Ad hoc Bed Night without Approval from the Authority.

## **B8 Not Used**

## **B9 Offers of Employment**

- B9.1 Neither Party shall, directly or indirectly, solicit or procure (otherwise than by general advertising or under TUPE), any employees or contractors (including the Staff) of the other Party who are directly employed or engaged in connection with the provision of the Services while such persons are employed or engaged and for a period of 6 Months thereafter.
- B9.2 If either Party breaches the clause B9.1, it shall pay the other Party a sum equivalent to [redacted] of the annual base salary payable by the Party in breach in respect of the first year of person's employment.



B9.3 The Parties agree that the sum specified in clause B9.2 is a reasonable pre-estimate of the loss and damage which the Party not in breach would suffer if there was a breach of clause B9.1

## **B10 Employment**

B10.1 No later than 12 Months prior to the end of the Term, the Supplier shall fully and accurately disclose to the Authority all information the Authority may reasonably request in relation to the Staff including the following:

- (a) the total number of Staff whose employment/engagement terminates at the end of the Term, save for any operation of Law;
- (b) the age, gender, salary or other remuneration, future pay settlements and redundancy and pensions entitlement of the Staff referred to in clause B10.1 (a);
- (c) the terms and conditions of employment/engagement of the Staff referred to in clause B10.1 (a), their job titles and qualifications;
- (d) their immigration status;
- (e) details of any current disciplinary or grievance proceedings ongoing or circumstances likely to give rise to such proceedings and details of any claims current or threatened; and
- (f) details of all collective agreements with a brief summary of the current state of negotiations with any such bodies and with details of any current industrial disputes and claims for recognition by any trade union.

B10.2 At intervals determined by the Authority (which shall not be more frequent than once every 30 days) the Supplier shall give the Authority updated TUPE Information.

B10.3 Each time the Supplier supplies TUPE Information to the Authority it warrants its completeness and accuracy and the Authority may assign the benefit of this warranty to any Replacement Supplier.

B10.4 The Authority may use TUPE Information it receives from the Supplier for the purposes of TUPE and/or any retendering process in order to ensure an effective handover of all work in progress at the end of the Term. The Supplier shall provide the Replacement Supplier with such assistance as it shall reasonably request.

B10.5 If TUPE applies to the transfer of the Services on termination of the Contract, the Supplier indemnifies and keeps indemnified the Authority, the Crown and any Replacement Supplier against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority or the Crown or any Replacement Supplier may suffer or incur as a result of or in connection with:

- (a) the provision of TUPE Information;



- (b) any claim or demand by any Returning Employee (whether in contract, tort, under statute, pursuant to EU Law or otherwise) in each case arising directly or indirectly from any act, fault or omission of the Supplier or any Sub-Contractor in respect of any Returning Employee on or before the end of the Term;
- (c) any failure by the Supplier or any Sub-Contractor to comply with its obligations under regulations 13 or 14 of TUPE or any award of compensation under regulation 15 of TUPE save where such failure arises from the failure of the Authority or a Replacement Supplier to comply with its duties under regulation 13 of TUPE;
- (d) any claim (including any individual employee entitlement under or consequent on such a claim) by any trade union or other body or person representing any Returning 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; and
- (e) any claim by any person who is transferred by the Supplier to the Authority and/or a Replacement Supplier whose name is not included in the list of Returning Employees.

B10.6 If the Supplier is aware that TUPE Information has become inaccurate or misleading, it shall notify the Authority and provide the Authority with up to date and accurate TUPE Information.

B10.7 This clause B10 applies during the Term and indefinitely thereafter.

B10.8 The Supplier undertakes to the Authority that, during the 12 Months prior to the end of the Term the Supplier shall not (and shall procure that any Sub-Contractor shall not) without Approval (such Approval not to be unreasonably withheld or delayed):

- (a) amend or vary (or purport to amend or vary) the terms and conditions of employment or engagement (including, for the avoidance of doubt, pay) of any Staff (other than where such amendment or variation has previously been agreed between the Supplier and the Staff in the normal course of business and where any such amendment or variation is not in any way related to the transfer of the Services);
- (b) terminate or give notice to terminate the employment or engagement of any Staff (other than in circumstances in which the termination is for reasons of misconduct or lack of capability);
- (c) transfer away, remove, reduce or vary the involvement of any other Staff from or in the provision of the Services (other than where such transfer or removal: (i) was planned as part of the individual's career development; (ii) takes place in the normal course of business; and (iii) will not have any adverse impact upon the delivery of the Services by the Supplier, (provided that any such transfer, removal, reduction or variation is not in any way related to the transfer of the Services); or
- (d) recruit or bring in any new or additional individuals to provide the Services who were not already involved in providing the Services prior to the relevant period.



## C PAYMENT

### C1 Price

In consideration of the Supplier's performance of its obligations under the Contract, the Authority shall pay the Price in accordance with clause C2.

### C2 Payment and VAT

- C2.1 The Supplier shall submit invoices to the Authority in accordance with Schedule 2.
- C2.2 Where applicable, the Authority shall, in addition to the Price and following Receipt of a Valid Invoice, pay the Supplier a sum equal to the VAT chargeable on the value of the Services supplied in accordance with the Contract.
- C2.3 The Supplier shall add VAT to the Price at the prevailing rate as applicable and show the amount of VAT payable separately on all invoices as an extra charge where appropriate. If the Supplier fails to show VAT on an invoice, the Authority is not, at any later date, liable to pay the Supplier any additional VAT.
- C2.4 All Supplier invoices shall be expressed in sterling or any other currency which is Approved.
- C2.5 A Valid Invoice is an invoice that complies with the requirements set out at Schedule 2 section 3 and is submitted using the invoice template found at Schedule 2 Annex 1.
- C2.6 Not used.
- C2.7 Not used.
- C2.8 Not used.
- C2.9 Not used.
- C2.10 The Supplier may claim expenses only if they are clearly identified, supported by original receipts and Approved.
- C2.11 If the Authority pays the Supplier prior to the submission of a Valid Invoice this payment is on account of and deductible from the next payment to be made.
- C2.12 If any overpayment has been made or the payment or any part is not supported by a Valid Invoice the Authority may recover this payment against future invoices raised or directly from the Supplier. All payments made by the Authority to the Supplier are on an interim basis pending final resolution of an account with the Supplier in accordance with the terms of this clause C2.
- C2.13 The Authority shall pay all sums due to the Supplier within 30 days of Receipt of a Valid Invoice. Valid Invoices should be submitted for payment to the following address:



- APinvoices-NMS-U@sscl.gse.gov.uk (the Authority's preferred option); or
- YCS, Shared Services Connected Limited, PO Box 769, Phoenix House, Newport, Gwent, NP20 9BB (or as may change from time to time)

- C2.14 Any late payment of undisputed invoices by the Authority will be subject to interest at the rate of a maximum of [redacted] above the base rate from time to time of Barclays Bank.
- C2.15 The Supplier shall ensure that a provision is included in all Sub-Contracts which requires payment to be made of all sums due to Sub-Contractors within 30 days from the receipt of a valid invoice.
- C2.16 The Supplier indemnifies the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Authority at any time in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under the Contract. Any amounts due under this clause C2.16 shall be paid by the Supplier to the Authority not less than 5 Working Days before the date upon which the tax or other liability is payable by the Authority.
- C2.17 The Supplier shall not suspend the Services unless the Supplier is entitled to terminate the Contract under clause H2.3 for failure to pay undisputed sums of money.
- C2.18 The Authority shall not pay an invoice which is not a Valid Invoice.

### **C3 Recovery of Sums Due**

- C3.1 If under the Contract any sum of money is recoverable from or payable by the Supplier to the Authority (including any sum which the Supplier is liable to pay to the Authority in respect of any breach of the Contract), the Authority may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Supplier from the Authority under the Contract or under any other agreement with the Authority or the Crown.
- C3.2 Any overpayment by either Party, whether of the Price or of VAT or otherwise, is a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.
- C3.3 The Supplier shall make all payments due to the Authority without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Supplier has a valid court order requiring an amount equal to such deduction to be paid by the Authority to the Supplier.
- C3.4 All payments due shall be made within a reasonable time unless otherwise specified in the Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.



#### **C4 Price During Extension**

Subject to Schedule 2 and clause F4 (Change), the Price applies for the Initial Term and until the end of any Extension or Further Extension or such earlier date of termination or partial termination of the Contract in accordance with the Law or the Contract.

### **D. STATUTORY OBLIGATIONS AND CORPORATE SOCIAL RESPONSIBILITY REQUIREMENTS**

The Supplier shall, at all times during the Term, comply with its obligations and the standards and requirements set out in Schedule 8.

### **E PROTECTION OF INFORMATION**

#### **E1 Authority Data**

E1.1 The Supplier shall:

- (a) not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Supplier of its obligations under the Contract or as otherwise Approved;
- (b) preserve the integrity of Authority Data and prevent the corruption or loss of Authority Data;
- (c) not delete or remove any proprietary notices contained within or relating to the Authority Data;
- (d) to the extent that Authority Data is held and/or processed by the Supplier, supply Authority Data to the Authority as requested by the Authority in the format specified in Schedule 1 (Specification) and 7 (Performance Mechanism) and Appendices/ Annexes therein;
- (e) perform secure back-ups of all Authority Data and ensure that up-to-date back-ups are stored securely off-site. The Supplier shall ensure that such back-ups are made available to the Authority immediately upon request;
- (f) ensure that any system on which the Supplier holds any Authority Data, including back-up data, is a secure system that complies with the Security Policy Framework;
- (g) identify, and disclose to the Authority on request those members of Staff with access to or who are involved in handling Authority Data;
- (h) on request, give the Authority details of its policy for reporting, managing and recovering from information risk incidents, including losses of Personal Data, and its procedures for reducing risk;



- (i) notify the Authority immediately and inform the Authority of the remedial action the Supplier proposes to take if it has reason to believe that Authority Data has or may become corrupted, lost or sufficiently degraded in any way for any reason; and
- (j) comply with the relevant HMG standards set out in Schedule 9 (Policies).

E1.3 If Authority Data is corrupted, lost or sufficiently degraded as a result of the Supplier's Default so as to be unusable, the Authority may:

- (a) require the Supplier (at the Supplier's cost) to restore or procure the restoration of Authority Data and the Supplier shall do so promptly; and/or
- (b) itself restore or procure the restoration of Authority Data, and be repaid by the Supplier any reasonable costs incurred in doing so.

## E2 Data Protection and Privacy

E2.1 The Parties acknowledge that for the purposes of Data Protection Legislation, the Authority and the Supplier are joint Controllers of the Authority Data and the Supplier is to process Authority Data in accordance with this clause E.

E2.2 The Supplier shall:

- (a) notify the Authority immediately if it considers any Authority instructions infringe the Data Protection Legislation;
- (b) share with the Authority its Data Protection Impact Assessment which shall include:
  - i) a systematic description of the envisaged processing operations and the purpose of the processing;
  - ii) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - iii) an assessment of the risks to the rights and freedoms of Data Subjects; and
  - iv) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Authority Data
- (c) in relation to Authority Data processed in connection with its obligations under the Contract ensure that it has in place Protective Measures which have been Approved as appropriate to protect against a Data Loss Event having taken account of the nature of the data to be protected, harm that might result from a Data Loss Event, the state of technological development and the cost of implementing any measures
- (d) ensure that:



- i) the Staff do not process Personal Authority Data except as the Supplier deems required in delivery of the Services and detailed in their Data Protection Impact Assessment;
- ii) it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to Authority Data and ensure that they:
  - A) are aware of and comply with the Supplier's duties under this clause E2;
  - B) are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;
  - C) are informed of the confidential nature of the Authority Data and do not publish, disclose or divulge any of the Authority Data to any third Party unless directed in writing to do so by the Authority or as otherwise permitted by the Contract;
  - D) have undergone adequate training in the use, care, protection and handling of the Authority Data
- (e) not transfer Authority Data outside the EU unless Approved and:
  - i) the Authority or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or s.75 of the DPA 2018) as determined by the Authority;
  - ii) the Data Subject has enforceable rights and effective legal remedies;
  - iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Authority in meeting its obligations); and
  - iv) the Supplier complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Authority Data
- (f) at the written direction of the Authority, delete or return Authority Data (and any copies of it) to the Authority on termination of the Contract unless the Supplier is required by Law to retain the Personal Data;
- (g) subject to clause E2.3 and E2.3A, notify the Authority immediately if it:
  - i) receives a Data Subject Access Request (or purported Data Subject Access Request);
  - ii) receives a request to rectify, block or erase any Young Person Personal Data;
  - iii) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;



- iv) receives any communication from the Information Commissioner or any other regulatory authority in connection with Young Person Personal Data processed under the Contract;
- v) receives a request from any third party for disclosure of Young Person Personal Data where compliance with such request is required or purported to be required by Law; or
- vi) becomes aware of a Data Loss Event.

E2.3 The Supplier's obligation to notify under clause E2.2 (g) includes the provision of further information to the Authority in phases as details become available.

E2.3A In respect of Authority Data, the Supplier will be responsible for the term of the contract for:

- (a) providing information to Data Subjects under Article 13 and 14 of GDPR;
- (b) responding to Data Subject access requests under Article 15-22 of GDPR;
- (c) notifying the Information Commissioner (and Data Subjects) where necessary about data breaches; and
- (d) maintain records of data processing under Article 30 of GDPR;

as it would if it were the sole Data Controller of the Authority Data.

E2.4 Taking into account the nature of the processing, the Supplier shall provide the Authority with full assistance in relation to either Party's obligations under the Data Protection Legislation and any complaint, communication or request made under clause E2.2 (g) (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:

- (a) the Authority with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- (c) the Authority, at its request, with any Young Person's Personal Data it holds in relation to a Data Subject;
- (d) assistance as requested by the Authority following any Data Loss Event;
- (e) assistance as requested by the Authority with respect to any request from the Information Commissioner's Office or any consultation by the Authority with the Information Commissioner's Office.

E2.5 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause E2.



- E2.6 The Supplier shall allow for audits of its Data Processing activity by the Authority or the Authority's designated auditor.
- E2.7 The Supplier shall designate a data protection officer if required by the Data Protection Legislation.
- E2.8 Before allowing any Sub-processor to process any Young Person's Personal Data in connection with the Contract, the Supplier shall:
- (a) notify the Authority in writing of the intended Sub-processor and processing:
  - (b) enter into a written agreement with the Sub-processor which gives effect to the terms set out in this clause E2 such that they apply to the Sub-processor; and
  - (c) provide the Authority with such information regarding the Sub-processor as the Authority reasonably requires.
- E2.9 The Supplier remains fully liable for the acts and omissions of any Sub-processor.
- E2.10 Notwithstanding the provisions of clause F4, the Authority may, at any time on not less than 30 Working Days' notice, revise this clause E2 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).
- E2.11 The Parties shall take account of any guidance published by the Information Commissioner's Office and, notwithstanding the provisions of clause F4, the Authority may on not less than 30 Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance published by the Information Commissioner's Office.
- E2.12 In relation to any Young Person's Personal Data processed for Law Enforcement Purposes, the Supplier shall:
- (a) maintain logs for its processing operations in respect of:
    - i) collection;
    - ii) alteration;
    - iii) consultation;
    - iv) disclosure (including transfers);
    - v) combination; and
    - vi) erasure.(together the "Logs").
  - (b) ensure that:



- i) the Logs of consultation make it possible to establish the justification for, and date and time of, the consultation; and as far as possible, the identity of the person who consulted the data;
  - ii) the Logs of disclosure make it possible to establish the justification for, and date and time of, the disclosure; and the identity of the recipients of the data; and
  - iii) the Logs are made available to the Information Commissioner's Office on request
- (c) use the Logs only to:
- i) verify the lawfulness of processing;
  - ii) assist with self-monitoring by the Authority or (as the case may be) the Supplier, including the conduct of internal disciplinary proceedings;
  - iii) ensure the integrity of Young Person's Personal Data; and
  - iv) assist with criminal proceedings
- (d) as far as possible, distinguish between Young Person's Personal Data based on fact and Young Person's Personal Data based on personal assessments; and
- (e) where relevant and as far as possible, maintain a clear distinction between Young Person's Personal Data relating to different categories of Data Subject, for example:
- i) persons suspected of having committed or being about to commit a criminal offence;
  - ii) persons convicted of a criminal offence;
  - iii) persons who are or maybe victims of a criminal offence; and
  - iv) witnesses or other persons with information about offences.

E2.13 This clause E2 applies during the Term and indefinitely after its expiry.

### **E3 Official Secrets Acts and Finance Act**

E3.1 The Supplier shall comply with:

- (a) the Official Secrets Acts 1911 to 1989; and
- (b) section 182 of the Finance Act 1989.



## E4 Confidential Information

- E4.1 Except to the extent set out in this clause E4 or if disclosure or publication is expressly allowed elsewhere in the Contract each Party shall treat all Confidential Information belonging to the other Party as confidential and shall not disclose any Confidential Information belonging to the other Party to any other person without the other Party's consent, except to such persons and to such extent as may be necessary for the performance of the Party's obligations under the Contract.
- E4.2 The Supplier hereby gives its consent for the Authority to publish the whole Contract (but with any information which is Confidential Information belonging to the Authority redacted) including from time to time agreed changes to the Contract, to the general public.
- E4.3 If required by the Authority, the Supplier shall ensure that Staff, professional advisors and consultants sign a non-disclosure agreement prior to commencing any work in connection with the Contract in a form approved by the Authority. The Supplier shall maintain a list of the non-disclosure agreements completed in accordance with this clause E4.3.
- E4.4 If requested by the Authority, the Supplier shall give the Authority a copy of the list and, subsequently upon request by the Authority, copies of such of the listed non-disclosure agreements as required by the Authority. The Supplier shall ensure that Staff, professional advisors and consultants are aware of the Supplier's confidentiality obligations under the Contract.
- E4.5 The Supplier may disclose the Authority's Confidential Information only to Staff who are directly involved in providing the Services and who need to know the information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality.
- E4.6 The Supplier shall not, and shall procure that the Staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes of the Contract.
- E4.7 Clause E4.1 shall not apply to the extent that:
- (a) such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the EIR;
  - (b) such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
  - (c) such information was obtained from a third party without obligation of confidentiality;
  - (d) such information was already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or
  - (e) it is independently developed without access to the other Party's Confidential Information.



E4.8 Nothing in clause E4.1 prevents the Authority disclosing any Confidential Information obtained from the Supplier:

- (a) for the purpose of the examination and certification of the Authority's accounts;
- (b) for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
- (a) to Parliament and Parliamentary committees;
- (d) to any Crown Body or any Contracting Authority and the Supplier hereby acknowledges that all Government departments or Contracting Authorities receiving such Confidential Information may further disclose the Confidential Information to other Government departments or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Government department or any Contracting Authority; or
- (e) to any consultant, contractor or other person engaged by the Authority

provided that in disclosing information under clauses E4.8 (d) and (e) the Authority discloses only the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.

E4.9 Nothing in clauses E4.1 to E4.6 prevents either Party from using any techniques, ideas or Know-How gained during the performance of its obligations under the Contract in the course of its normal business, to the extent that this does not result in a disclosure of the other Party's Confidential Information or an infringement of the other Party's Intellectual Property Rights.

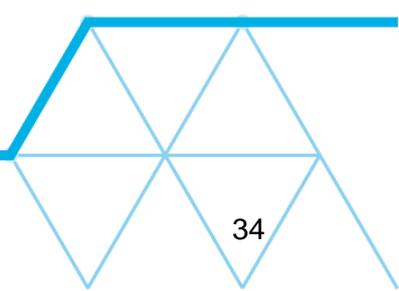
E4.10 The Authority shall use reasonable endeavours to ensure that any Government department, Contracting Authority, employee, third party or Sub-Contractor to whom the Supplier's Confidential Information is disclosed pursuant to clause E4.6 is made aware of the Authority's obligations of confidentiality.

E4.11 If the Supplier does not comply with clauses E4.1 to E4.8 the Authority may terminate the Contract immediately on notice.

E4.12 To ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the supply of the Services, the Supplier shall maintain adequate security arrangements that meet the requirements of professional standards and best practice.

E4.13 The Supplier shall:

- (a) immediately notify the Authority of any breach of security in relation to Confidential Information and all data obtained in the supply of the Services and will keep a record of such breaches;
- (b) use best endeavours to recover such Confidential Information or data however it may be recorded;





- (c) co-operate with the Authority in any investigation as a result of any breach of security in relation to Confidential Information or data; and
- (d) at its own expense, alter any security systems under its control at any time during the Term at the Authority's request if the Authority reasonably believes the Supplier has failed to comply with clause E4.12.

E4.14 The Authority reserves the right to publish information about the performance of this Agreement and/or any other information as it may deem appropriate from time to time which it may only publish in response to enquiries from Parliament, its members and officers and to enquiries legitimately made by persons acting in the public interest.

E4.15 The Authority shall be informed of any facilities to photograph or film. If any such facilities are provided the Supplier shall not allow the identity of any Children or Young Person in its care to become known either by reference to the Young Person's name or his image or both.

E4.16 The Supplier shall not disclose this Contract or any provision thereof to any person other than a person engaged in the carrying out of this Contract or an adviser to such person whether (in either case) employed by the Supplier except with the written consent of the Authority. Such disclosure shall be made in confidence and shall be limited to disclosure necessary for the purposes of this Contract, or advice sought in relation thereto.

E4.17 The Supplier shall not make use of this Contract or any information issued or furnished by or on behalf of the Authority otherwise than for the purpose of this Contract, except with the written Approval of the Authority.

## **E5 Freedom of Information**

E5.1 The Supplier acknowledges that the Authority is subject to the requirements of the FOIA and the EIR.

E5.2 The Supplier shall transfer to the Authority all requests for information that it receives as soon as practicable and in any event within 2 Working Days of receipt and shall:

- (a) give the Authority a copy of all Information in its possession or control in the form that the Authority requires within 5 Working Days of receipt (or such other period as the Authority may specify);
- (b) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and EIR; and
- (c) not respond to directly to a Request for Information unless authorised to do so in writing by the Authority.

E5.3 The Authority shall determine in its absolute discretion and notwithstanding any other provision in the Contract or any other agreement whether the Commercially Sensitive Information and any other Information is exempt from disclosure in accordance with the FOIA



and/or the EIR.

- E5.4 Should the Supplier receive either a FOI or EIR request for which it is responsible but which reasonably relates to the Services or to the Contract then it shall inform the Authority of the same within 2 Working Days of receipt.

## **E6 Publicity, Media and Official Enquiries**

E6.1 The Supplier shall not:

- (a) make any press announcements regarding or publicise the Contract or its contents in any way;
- (b) use the Authority's name, brand or logo in any publicity, promotion, marketing or announcement of order; or
- (c) use the name, brand or logo of any of the Authority's agencies or arms-length bodies in any publicity, promotion, marketing or announcement of orders

without Approval.

E6.2 Each Party acknowledges that nothing in the Contract either expressly or impliedly constitutes an endorsement of any products or services of the other Party (including the Services and the ICT Environment) and each Party shall not conduct itself in such a way as to imply or express any such approval or endorsement.

E6.3 The Supplier shall use reasonable endeavours to ensure that its Staff and professional advisors comply with clause E6.1.

E6.4 The Supplier shall not by itself, its servants, agents and sub-providers communicate with any part of the media, either written or broadcast on any matter concerning youth justice without the prior written consent of the Authority.

E6.5 The Authority shall not use the Supplier's name, brand or logo in any publicity, promotion, marketing or announcements without the express and prior written permission of the Supplier.

## **E7 Security**

E7.1 The Authority may give the Supplier upon request copies of its written security procedures.

E7.2 The Supplier shall, as an enduring obligation during the Term, use the latest versions of anti-virus programs available from an industry accepted anti-virus software vendor to check for and delete Malicious Software from the ICT Environment.

E7.3 Notwithstanding clause E7.2, if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of the Authority Data, assist each other to



mitigate any losses and to restore the provision of Services to their desired operating efficiency.

E7.4 Any cost arising out of the actions of the Parties taken in compliance with clause E7.3 shall be borne by the Parties as follows:

- (a) by the Supplier where the Malicious Software originates from the Supplier Software, the Third-Party Software or the Authority Data (whilst the Authority Data was under the control of the Supplier); and
- (b) by the Authority if the Malicious Software originates from the Authority Software or Authority Data (whilst the Authority Data was under the control of the Authority).

## **E8 Intellectual Property Rights**

E8.1A All Intellectual Property Rights:

- (a) which existed and were vested in the Supplier prior to the Commencement Date; or
- (b) which may be created during the Term of the Contract by the Supplier in carrying out delivery of the Services

shall vest, and remain vested, in the Supplier.

E8.1B All Intellectual Property Rights which existed and were vested in the Authority prior to the Commencement Date shall vest, and remain vested, in the Authority.

E8.2 The Supplier hereby grants:

- (a) a royalty-free, irrevocable, worldwide, non-exclusive licence (with a right to sub-license) to the Authority for all Intellectual Property Rights detailed at E8.1A(b), for use by the Authority to use at its discretion without limitation.
- (b) to the Authority, a royalty-free, irrevocable, worldwide, non-exclusive licence (with a right to sub-license) to use any Intellectual Property Rights that the Supplier owned or developed prior to the Commencement Date and which the Authority (or the Replacement Supplier) reasonably requires in order for the Authority to exercise its rights under, and receive the benefit of, the Contract (including, without limitation, the Services).

and shall execute all documents and do all acts as are necessary to execute these grants.

E8.3 The Supplier shall:

- (a) waive or procure a waiver of any moral rights held by it or any third party in copyright material arising as a result of the Contract or the performance of its obligations under the Contract;



- (b) ensure that the third-party owner of any Intellectual Property Rights that are or which may be used to perform the Services grants to the Authority a non-exclusive licence or, if itself a licensee of those rights, shall grant to the Authority an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty-free, worldwide and irrevocable and include the right for the Authority to sub-license, transfer, novate or assign to other Contracting Authorities, the Crown, the Replacement Supplier or to any other third party supplying goods and/or services to the Authority ("**Indemnified Persons**");
- (c) not infringe any Intellectual Property Rights of any third party in supplying the Services; and
- (d) during and after the Term, indemnify and keep indemnified the Authority and Indemnified Persons from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority and Indemnified Persons may suffer or incur as a result of or in connection with any breach of this clause E8.3, except to the extent that any such claim results directly from:
  - i) items or materials based upon designs supplied by the Authority; or
  - ii) the use of data supplied by the Authority which is not required to be verified by the Supplier under any provision of the Contract.

E8.4 The Authority shall notify the Supplier in writing of any claim or demand brought against the Authority or Indemnified Person for infringement or alleged infringement of any Intellectual Property Right in materials supplied and/or licensed by the Supplier to the Authority.

E8.5 The Supplier shall at its own expense conduct all negotiations and any litigation arising in connection with any claim, demand or action by any third party for infringement or alleged infringement of any third party Intellectual Property Rights (whether by the Authority, the Supplier or Indemnified Person) arising from the performance of the Supplier's obligations under the Contract ("**Third Party IP Claim**"), provided that the Supplier shall at all times:

- (a) consult the Authority on all material issues which arise during the conduct of such litigation and negotiations;
- (b) take due and proper account of the interests of the Authority; and
- (c) not settle or compromise any claim without Approval (not to be unreasonably withheld or delayed).

E8.6 The Authority shall, at the request of the Supplier, afford to the Supplier all reasonable assistance for the purpose of contesting any Third-Party IP Claim and the Supplier shall indemnify the Authority for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Supplier is not required to indemnify the Authority under this clause E8.6 in relation to any costs and expenses to the extent that such arise directly from the matters referred to in clauses E8.3 (d) i) and ii).



- E8.7 The Authority shall not, without the Supplier's consent, make any admissions which may be prejudicial to the defence or settlement of any Third-Party IP Claim.
- E8.8 If any Third-Party IP Claim is made or in the reasonable opinion of the Supplier is likely to be made, the Supplier shall notify the Authority and any relevant Indemnified Person, at its own expense and subject to Approval (not to be unreasonably withheld or delayed), shall (without prejudice to the rights of the Authority under clauses E8.3 (b) and G2.1 (g)) use its best endeavours to:
- (a) modify any or all of the Services without reducing the performance or functionality of the same, or substitute alternative services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement; or
  - (b) procure a licence to use the Intellectual Property Rights and supply the Services which are the subject of the alleged infringement, on terms which are acceptable to the Authority

and if the Supplier is unable to comply with clauses E8.8 (a) or (b) within 20 Working Days of receipt by the Authority of the Supplier's notification the Authority may terminate the Contract immediately by notice to the Supplier.

## E9 Audit

- E9.1 The Supplier shall:
- (a) keep and maintain until 6 years after the end of the Term, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Services supplied under it, all expenditure reimbursed by the Authority, and all payments made by the Authority;
  - (b) on request afford the Authority or the Authority's representatives such access to those records and processes as may be requested by the Authority in connection with the Contract;
  - (c) make available to the Authority, free of charge, whenever requested, copies of audit reports obtained by the Supplier in relation to the Services;
  - (d) allow authorised representatives of the Authority and/or the National Audit Office to examine the Supplier's records and documents relating to the Contract and provide such copies and oral or written explanations as may reasonably be required; and
  - (e) allow the Comptroller and Auditor General (and his appointed representatives) access free of charge during normal business hours on reasonable notice to all such documents (including computerised documents and data) and other information as the Comptroller and Auditor General may reasonably require for the purposes of his financial audit of the Authority and for carrying out examinations into the economy, efficiency and effectiveness with which the Authority has used its resources. The Supplier shall provide such explanations as are reasonably required for these purposes.



## E10 Tax Compliance

- E10.1 If, during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:
- (a) notify the Authority in writing of such fact within 5 Working Days of its occurrence; and
  - (b) promptly give the Authority:
    - i) details of the steps it is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors it considers relevant; and
    - ii) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.
- E10.2 If the Supplier or any Staff are liable to be taxed in the UK or to pay NICs in respect of consideration received under the Contract, the Supplier shall:
- (a) at all times comply with ITEPA and all other statutes and regulations relating to income tax, and SSCBA and all other statutes and regulations relating to NICs, in respect of that consideration; and
  - (b) indemnify the Authority against any income tax, NICs and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Services by the Supplier or any Staff.

## F. CONTROL OF THE CONTRACT

### F1 Contract Performance

- F1.1 The Supplier shall immediately inform the Authority if any of the Services are not being or are unable to be performed, the reasons for non-performance, any corrective action and the date by which that action will be completed.
- F1.2 At or around 6 Months from the Commencement Date and each anniversary of the Commencement Date thereafter, the Authority may carry out a review of the performance of the Supplier (a "**Review**"). Without prejudice to the generality of the foregoing, the Authority may in respect of the period under review consider such items as (but not limited to):
- a) the Supplier's delivery of the Services;
  - b) the Supplier's contribution to innovation in the Authority; whether the Services provide the Authority with best value for money; consideration of any changes which may need to be made to the Services;
  - c) a review of future requirements in relation to the Services; and



d) progress against key milestones.

F1.3 The Supplier shall provide at its own cost any assistance reasonably required by the Authority to perform Reviews including the provision of data and information.

F1.4 The Authority may produce a report (a "**Review Report**") of the results of each Review stating any areas of exceptional performance and areas for improvement in the provision of the Services and where there is any shortfall in any aspect of performance reviewed as against the Authority's expectations and the Supplier's obligations under the Contract.

F1.5 The Authority shall give the Supplier a copy of the Review Report (if applicable). The Authority shall consider any Supplier comments and may produce a revised Review Report.

F1.6 The Supplier shall, within 10 Working Days of receipt of the Review Report (revised as appropriate) provide the Authority with a plan to address resolution of any shortcomings and implementation of improvements identified by the Review Report.

F1.7 Actions required to resolve shortcomings and implement improvements (either as a consequence of the Supplier's failure to meet its obligations under the Contract identified by the Review Report, or those which result from the Supplier's failure to meet the Authority's expectations notified to the Supplier or of which the Supplier ought reasonably to have been aware) shall be implemented at no extra cost to the Authority.

F1.8 The Supplier shall provide the Services in accordance with, and at all times ensure that the Services comply with and meet all the requirements of:

(a) this Contract and accompanying Schedules;

(b) Good Industry Practice; and

(c) all applicable Legislation.

F1.9 The Supplier shall, at all times, ensure that the Services are performed by appropriately trained Staff.

## F2 Remedies

F2.1 If the Authority reasonably believes the Supplier has committed a Material Breach it may, without prejudice to its rights under clause H2 (Termination on Default), do any of the following:

(a) without terminating the Contract, procure the supply of all or part of the Services from an alternative supplier until such time as the Supplier has demonstrated to the Authority's reasonable satisfaction that the Supplier will be able to supply the Services in accordance with the Specification;

(b) withhold or reduce payments to the Supplier in such amount as the Authority reasonably deems appropriate in each particular case; and/or



(c) terminate the Contract in accordance with clause H2.

F2.2 Without prejudice to its right under clause C3 (Recovery of Sums Due), the Authority may charge the Supplier for any costs reasonably incurred and any reasonable administration costs in respect of the supply of any part of the Services by the Authority or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Supplier for such part of the Services.

F2.3 If the Authority reasonably believes the Supplier has failed to supply all or any part of the Services in accordance with the Contract, professional or Good Industry Practice which could reasonably be expected of a competent and suitably qualified person, or any legislative or regulatory requirement, the Authority may give the Supplier notice specifying the way in which its performance falls short of the requirements of the Contract or is otherwise unsatisfactory. For the avoidance of doubt, an Improvement Notice may be issued for failure by the Supplier to comply with the CDIs outlined at Appendix A Schedule 7.

F2.4 If the Supplier has been notified of a failure in accordance with clause F2.3 the Authority may:

- (a) direct the Supplier to identify and remedy the failure within such time as may be specified by the Authority and to apply all such additional resources as are necessary to remedy that failure at no additional charge to the Authority within the specified timescale; and/or
- (b) withhold or reduce payments to the Supplier in such amount as the Authority deems appropriate in each particular case until such failure has been remedied to the satisfaction of the Authority.

F2.5 If the Supplier has been notified of a failure in accordance with clause F2.3, it shall:

- (a) use all reasonable endeavours to immediately minimise the impact of such failure to the Authority and to prevent such failure from recurring; and
- (b) immediately give the Authority such information as the Authority may request regarding what measures are being taken to comply with the obligations in this clause F2.5 and the progress of those measures until resolved to the satisfaction of the Authority..

F2.6 If, having been notified of any failure, the Supplier does not remedy it in accordance with clause F2.5 in the time specified by the Authority, the Authority may issue an Outstanding Issues Notice. Failure to remedy the continuing failure will constitute a Material Breach and the Authority may terminate the Contract immediately on notice to the Supplier.

### F3 Transfer and Sub-Contracting

F3.1 Except where both clauses F3.6 and F3.7 apply, the Supplier shall not transfer, charge, assign, sub-contract or in any other way dispose of the Contract or any part of it without Approval. All such actions shall be evidenced in writing and shown to the Authority on request. Sub-contracting any part of the Contract does not relieve the Supplier of any of its obligations or duties under the Contract.



- F3.2 The Supplier is responsible for the acts and/or omissions of its Sub-Contractors as though they are its own. If it is appropriate, the Supplier shall provide each Sub-Contractor with a copy of the Contract and obtain written confirmation from them that they will provide the Services fully in accordance with the Contract.
- F3.3 The Supplier shall ensure that Sub-Contractors retain all records relating to the Services for at least 6 years from the date of their creation and make them available to the Authority on request in accordance with clause E9 (Audit). If any Sub-Contractor does not allow the Authority access to the records then the Authority shall have no obligation to pay any claim or invoice made by the Supplier on the basis of such documents or work carried out by the Sub-Contractor.
- F3.4 If the Authority has consented to the award of a Sub-Contract, the Supplier shall ensure that:
- (a) the Sub-Contract contains:
    - i) a right for the Supplier to terminate the Sub-Contract if the Sub-Contractor does not comply with its legal obligations in connection with Data Protection Legislation, environmental, social or labour law; and
    - ii) obligations no less onerous on the Sub-Contractor than those on the Supplier under the Contract in respect of data protection in clauses E1 and E2
  - (b) the Sub-Contractor includes a provision having the same effect as set out in clause F3.4 (a) in any Sub-Contract which it awards; and
  - (c) copies of each Sub-Contract are sent to the Authority immediately after their execution.
- F3.5 If the Authority believes there are:
- (a) compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the Supplier shall replace or not appoint the Sub-Contractor; or
  - (b) non-compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the Authority may require the Supplier to replace or not appoint the Sub-Contractor and the Supplier shall comply with such requirement.
- F3.6 Notwithstanding clause F3.1, the Supplier may assign to a third party (the “**Assignee**”) the right to receive payment of the Price or any part thereof due to the Supplier (including any interest which the Authority incurs under clause C2 (Payment and VAT)). Any assignment under this clause F3.6 is subject to:
- (a) reduction of any sums in respect of which the Authority exercises its right of recovery under clause C3 (Recovery of Sums Due);
  - (b) all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and
  - (c) the Authority receiving notification under both clauses F3.7 and F3.8.



- F3.7 If the Supplier assigns the right to receive the Price under clause F3.6, the Supplier or the Assignee shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.
- F3.8 The Supplier shall ensure that the Assignee notifies the Authority of the Assignee's contact information and bank account details to which the Authority can make payment.
- F3.9 Clause C2 continues to apply in all other respects after the assignment and shall not be amended without Approval.
- F3.10 Subject to clause F3.11, the Authority may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:
- (a) any Contracting Authority;
  - (b) any other body established or authorised by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or
  - (c) any private sector body which substantially performs the functions of the Authority
- provided that any such assignment, novation or other disposal shall not increase the burden of the Supplier's obligations under the Contract.
- F3.11 Any change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not, subject to clause F3.12, affect the validity of the Contract and the Contract shall bind and inure to the benefit of any successor body to the Authority.
- F3.12 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to clause F3.10 to a body which is not a Contracting Authority or if there is a change in the legal status of the Authority such that it ceases to be a Contracting Authority (in the remainder of this clause both such bodies being referred to as the "**Transferee**"):
- (a) the rights of termination of the Authority in clauses H1 and H2 are available to the Supplier in respect of the Transferee; and
  - (b) the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the prior consent in writing of the Supplier.
- F3.13 The Authority may disclose to any Transferee any Confidential Information of the Supplier which relates to the performance of the Supplier's obligations under the Contract. In such circumstances the Authority shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Supplier's obligations under the Contract and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.
- F3.14 Each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure the carrying out of, whatever further actions (including the execution of further



documents) the other Party reasonably requires from time to time for the purpose of giving that other Party the full benefit of the Contract.

- F3.15 Unless Approved otherwise, if the total value of the Contract over the Term is, or is likely to be, in excess of [redacted], the Supplier shall, in respect of Sub-Contract opportunities arising during the Term from or in connection with the provision of the Services:
- (a) advertise on Contracts Finder those that have a value in excess of [redacted];
  - (b) within 90 days of awarding a Sub-Contract, update the notice on Contracts Finder with details of the Sub-Contractor;
  - (c) monitor the number, type and value of the Sub-Contract opportunities placed on Contracts Finder and awarded during the Term;
  - (d) provide reports on the information in clause F3.15 (c) to the Authority in the format and frequency reasonably specified by the Authority;
  - (e) promote Contracts Finder to its suppliers and encourage them to register on Contracts Finder; and
  - (f) ensure that each advertisement placed pursuant to F3.15 (a) includes a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder.
- F3.16 The Supplier shall, at its own cost, supply to the Authority on each anniversary of the Commencement Date, for the previous 12 Months:
- (a) the total revenue received from the Authority pursuant to the Contract;
  - (b) the total value of all its Sub-Contracts;
  - (c) the total value of its Sub-Contracts with SMEs; and
  - (d) the total value of its Sub-Contracts with VCSEs.
- F3.17 The Authority may from time to time change the format and the content of the information required pursuant to clause F3.16.

#### **F4 Change**

- F4.1 After the Commencement Date, either Party may request a Change subject to the terms of this clause F4.
- F4.2 Either Party may request a Change by notifying the other Party in writing of the Change by completing the Change Request Form set out in Schedule 3. The Party requesting the Change shall give the other Party sufficient information and time to assess the extent and effect of the requested Change. If the receiving Party accepts the Change it shall confirm it in writing to the other Party.



- F4.3 If the Supplier is unable to accept a Change requested by the Authority or if the Parties are unable to agree a change to the Price, the Authority may:
- (a) allow the Supplier to fulfil its obligations under the Contract without the Change; or
  - (b) terminate the Contract immediately except where the Supplier has already delivered all or part of the Services or where the Supplier can show evidence of substantial work being carried out to fulfil the requirements of the Specification; and in such case the Parties shall attempt to agree upon a resolution to the matter. If a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution procedure detailed in clause I2 (Dispute Resolution).
- F4.4 A Change takes effect only when it is recorded in a CCN validly executed by both Parties.
- F4.5 The Supplier is deemed to warrant and represent that the CNN has been executed by a duly authorised representative of the Supplier in addition to the warranties and representations set out in clause G2.
- F4.6 Clauses F4.4 and F4.5 may be varied in an emergency if it is not practicable to obtain the Authorised Representative's approval within the time necessary to make the Change in order to address the emergency. In an emergency, Changes may be approved by a different representative of the Authority. However, the Authorised Representative may review such a Change and require a CCN to be entered into on a retrospective basis which may itself vary the emergency Change.
- F4.7 No amendment to this Contract shall be binding unless in writing and signed by the Authorised Representatives of the Authority and the Supplier.

## **F5 Continuous Improvement**

- F5.1 The Authority anticipates that over the Contract Period it may be possible to simplify and improve the operation of this Contract as the experience of the Parties grows and the Parties undertake to cooperate to achieve the same.
- F5.2 The Parties shall cooperate to improve their operation of performance management, ordering, invoicing, payment and recording systems (as the case may be) so as to further facilitate the operation of this Agreement. The Parties shall work together to bring about whatever efficiency savings they can.
- F5.3 Nothing in this clause F5 shall be construed as a commitment by the Supplier to incur additional costs or burdens other than those specifically imposed by this Contract. It is the Authority's intention that the results of such cooperation shall be of mutual benefit and will reduce or at least not increase the expenses of either Party.



## G LIABILITIES

### G1 Liability, Indemnity and Insurance

G1.1 Neither Party limits its liability for:

- (a) death or personal injury caused by its negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) any breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;
- (d) any breach of clauses D1, E1, E2 or E4; or
- (e) any liability to the extent it cannot be limited or excluded by Law.

G1.2 The Supplier indemnifies the Authority fully against all claims, proceedings, demands, charges, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which may arise out of the supply, or the late or purported supply, of the Services or the performance or non-performance by the Supplier of its obligations under the Contract or the presence of the Supplier or any Staff on the Premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Supplier, or any other loss which is caused directly by any act or omission of the Supplier.

G1.3 Both Parties shall take reasonable steps to mitigate any loss.

G1.4 Not Used.

G1.5 The Supplier is not responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Authority or by breach by the Authority of its obligations under the Contract.

G1.6 The Authority may recover from the Supplier the following losses incurred by the Authority to the extent they arise as a result of a Default by the Supplier:

- (a) any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
- (b) any wasted expenditure or charges;
- (c) the additional costs of procuring a Replacement Supplier for the remainder of the Term and or replacement deliverables which shall include any incremental costs associated with the Replacement Supplier and/or replacement deliverables above those which would have been payable under the Contract;
- (d) any compensation or interest paid to a third party by the Authority; and



- (e) any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty.

G1.7 Subject to clauses G1.1 and G1.6, neither Party is liable to the other for any:

- (a) loss of profits, turnover, business opportunities or damage to goodwill (in each case whether direct or indirect); or
- (b) indirect, special or consequential loss.

G1.8 Unless otherwise specified by the Authority, the Supplier shall, with effect from the Commencement Date for such period as necessary to enable the Supplier to comply with its obligations herein, take out and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Supplier, arising out of the Supplier's performance of its obligations under the Contract including:

- (a) public liability insurance to cover for death or personal injury, loss of or damage to property or any other loss; and
- (b) employer's liability insurance in respect of Staff; and
- (c) any other insurance required by law.

Such insurance policies shall be maintained for the duration of the Term and for a minimum of 6 years following the end of the Term.

G1.9 The Supplier shall give the Authority, within 7 days of the Commencement Date and annually thereafter, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

G1.10 If the Supplier does not have and maintain the insurances required by the Contract, the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Supplier.

G1.11 The provisions of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under the Contract.

G1.12 The Supplier shall not take any action or fail to take any reasonable action, or (to the extent that it is reasonably within its power) permit anything to occur in relation to the Supplier, which would entitle any insurer to refuse to pay any claim under any insurance policy in which the Supplier is an insured, a co-insured or additional insured person.

## G2 Warranties and Representations

G2.1 The Supplier warrants and represents on the Commencement Date and for the Term that:



- (a) it has full capacity and authority and all necessary consents to enter into and perform the Contract and that the Contract is executed by a duly authorised representative of the Supplier;
- (b) in entering the Contract, it has not committed any fraud;
- (c) as at the Commencement Date, all information contained in the offer made by the Supplier to the Authority remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract and in addition, that it will advise the Authority of any fact, matter or circumstance of which it may become aware which would render such information to be false or misleading;
- (d) no claim is being asserted and no litigation, arbitration or administrative proceeding is in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have an adverse effect on its ability to perform its obligations under the Contract;
- (e) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Contract;
- (f) no proceedings or other steps have been taken and not discharged (or, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue;
- (g) it owns, or has obtained or is able to obtain valid licences for, all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract;
- (h) any person engaged by the Supplier shall be engaged on terms which do not entitle them to any Intellectual Property Right in any IP Materials;
- (i) in the 3 years (or period of existence if the Supplier has not been in existence for 3 years) prior to the date of the Contract:
  - i) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
  - ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
  - iii) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract;
- (j) it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform its obligations under the Contract; and



- (k) it has notified the Authority in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance.

G2.2 The Supplier confirms that in entering into the Contract it is not relying on any statements, warranties or representations given or made (whether negligently or innocently or whether express or implied), or any acts or omissions by or on behalf of the Authority in connection with the subject matter of the Contract except those expressly set out in the Contract and the Supplier hereby waives and releases the Authority in respect thereof absolutely.

## H DEFAULT, DISRUPTION AND TERMINATION

### H1 Insolvency and Change of Control

H1.1 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Supplier if the Supplier:

- (a) has a receiver, administrative receiver or similar officer appointed over the whole or any part of its business or assets;
- (b) is declared bankrupt by a Court or a body with suitable authority;
- (c) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;
- (d) is subject to powers under s. 114 Local Government Finance Act; or
- (e) any event similar to these listed in H1.1 occurs under the law of any other jurisdiction.

H1.2 Not Used

H1.3 The Supplier shall notify the Authority immediately following a merger, take-over, change of control, change of name or status including, but not limited to, where the Supplier undergoes a change of control within the meaning of section 1124 of the Corporation Taxes Act 2010 ("**Change of Control**"). The Authority may terminate the Contract with immediate effect by notice and without compensation to the Supplier within 6 Months of:

- (a) being notified that a Change of Control has occurred; or
- (b) where no notification has been made, the date that the Authority becomes aware of the Change of Control

but is not permitted to terminate where Approval was granted prior to the Change of Control.

H1.4 Not Used.

H1.5 Not Used.

H1.6 Not Used.



## H2 Default

- H2.1 The Authority may terminate the Contract with immediate effect by notice if the Supplier commits a Default and:
- (a) the Supplier has not remedied the Default to the satisfaction of the Authority within 20 Working Days or such other period as may be specified by the Authority, after issue of a notice specifying the Default and requesting it to be remedied;
  - (b) the Default is not, in the opinion of the Authority, capable of remedy; or
  - (c) the Default is a Material Breach.
- H2.2 If, through any Default of the Supplier, data transmitted or processed in connection with the Contract is either lost or sufficiently degraded as to be unusable, the Supplier is liable for the cost of reconstitution of that data and shall reimburse the Authority in respect of any charge levied for its transmission and any other costs charged in connection with such Default.
- H2.3 If the Authority fails to pay the Supplier undisputed sums of money when due, the Supplier shall give notice to the Authority of its failure to pay. If the Authority fails to pay such undisputed sums within 90 Working Days of the date of such notice, the Supplier may terminate the Contract with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the Authority exercising its rights under clause C3.1 or to a Force Majeure Event.

## H3 Other Termination Grounds

- H3.1 The Authority may terminate the Contract:
- (a) on no more than four months' notice if the Contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;
  - (b) immediately if the Supplier was, at the time the Contract was awarded, in one of the situations specified in regulation 57(1) of the Regulations, including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure which resulted in its award of the Contract;
  - (c) immediately if the Contract should not have been awarded to the Supplier in view of a serious infringement of the obligations under the Treaties and the Regulations that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU; or
  - (d) on no more than four months' notice if the Supplier has not, in performing the Services, complied with its legal obligations in respect of environmental, social or labour law.
  - (e) immediately if the Authority has assessed that the children are at risk or the placement is unsafe. This will be in the following circumstances:



- (i) where continuing registration as a Secure Children's Home is in doubt or a decision to suspend registration is pending;
  - (ii) licensing as a secure unit is in doubt or a decision to suspend the licence is pending;
  - (iii) there is the consideration of the imposition of conditions on licensing; and
  - (iv) if registration or licence are cancelled or conditions are imposed that limit the Authority 's ability to place a Young Person (for example issues identified during an Inspection give Authority sufficient cause for concern
- (f) immediately if the Authority has reasonably deemed Young People to be at risk and has suspended placements and/or removed Young People from the establishment as stipulated at section 2.2.1 of Schedule 2.
- (g) on no more than four months' notice if a policy change in the Authority results in a reduction in its ability to continue to purchase beds.
- (h) on no more than four months' notice if any change in Regulatory Requirements results in the Authority no longer being able to purchase beds or such purchase is restricted.
- (i) on no more than four months' notice if the Authority becomes aware the Supplier has been charging the Authority above the Full Economic Cost in providing the service.
- (j) on no more than four months' notice if there has been an accumulation of performance points in accordance with section 4.3 of Schedule 7.
- (k) on no more than four months' notice if the Supplier fails to remedy under-performance identified in an Improvement Notice as at clause F2.6.
- (l) on no more than four months' notice if any person employed at the Secure Children's Home is charged with an offence mentioned in the First Schedule to the Children and Young Persons Act 1933, and the Supplier does not upon becoming aware of the charge suspend the person immediately.

H3.2 The contract termination notice will:

- (a) state the date by which the contract with the Supplier will be terminated;
- (b) the number of places and bed-nights the notice applies to; and
- (c) the date the young people are expected to be removed and the date payment will cease.

### H3B Termination on an Authority Break Point Date



- H3B.1 Without prejudice to its rights under H3 (Voluntary Termination by the Authority), the Authority may terminate the Contract on any of the Authority Break Point Dates by completing the following steps:
- (a) The Authority must give notice to the Supplier stating:
    - (i) that the Authority is terminating the Contract under this Clause H4B (Termination on an Authority Break Point Date);
    - (ii) that the Contract will terminate on the specified Authority Break Point Date; which must be a minimum of 4 months days after the date of receipt of the notice.
- H3B.2 Provided the notice has been provided in accordance with paragraph (a) above, the Contract will terminate on the specified Authority Break Point Date.

#### H4 Voluntary Termination

The Authority may terminate the Contract at any time by giving at least 4 months' notice to the Supplier.

#### H5 Consequences of Expiry or Termination

- H5.1 If the Authority terminates the Contract under clause H2 and makes other arrangements for the supply of the Services the Authority may recover from the Supplier the cost reasonably incurred of making those other arrangements and any additional expenditure reasonably incurred by the Authority throughout the remainder of the Term.
- H5.2 If the Contract is terminated under clause H2 the Authority shall make no further payments to the Supplier (for Services supplied by the Supplier prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority), until the Authority has established the final cost of making the other arrangements envisaged under this clause H5.
- H5.3 If the Authority terminates the Contract under clauses H3, H4 or H4B the Authority shall make no further payments to the Supplier except for Services supplied by the Supplier prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority.
- H5.4 Save as otherwise expressly provided in the Contract:
- (a) termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract prejudices the right of either Party to recover any amount outstanding at such termination or expiry; and
  - (b) termination of the Contract does not affect the continuing rights, remedies or obligations of the Authority or the Supplier under clauses C2 (Payment and VAT), C3 (Recovery of Sums Due), D1 (Prevention of Fraud and Bribery), E2 (Data Protection and Privacy), E3 (Official Secrets Acts and Finance Act), E4 (Confidential Information), E5 (Freedom of Information), E8 (Intellectual Property Rights), E9 (Audit), G1 (Liability, Indemnity and Insurance), H5 (Consequences of Expiry or Termination), H7 (Recovery), H8



(Retendering and Handover), H9 (Exit Management), H10 (Knowledge Retention), I6 (Remedies Cumulative), and I12 (Governing Law and Jurisdiction).

## H6 Disruption

- H6.1 The Supplier shall take reasonable care to ensure that in the performance of its obligations under the Contract it does not disrupt the operations of the Authority, its employees or any other contractor employed by the Authority.
- H6.2 The Supplier shall immediately inform the Authority of any actual or potential industrial action, whether such action be by its own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- H6.3 If there is industrial action by Staff, the Supplier shall seek Approval for its proposals to continue to perform its obligations under the Contract.
- H6.4 If the Supplier's proposals referred to in clause H6.3 are considered insufficient or unacceptable by the Authority acting reasonably, the Contract may be terminated with immediate effect by the Authority.
- H6.5 If the Supplier is unable to deliver the Services owing to disruption of the Authority's normal business, the Supplier may request a reasonable allowance of time, and, in addition, the Authority will reimburse any additional expense reasonably incurred by the Supplier as a direct result of such disruption.

## H7 Recovery

- H7.1 On termination of the Contract for any reason, the Supplier shall at its cost:
- (a) immediately return to the Authority all Confidential Information, Young Person's Personal Data and IP Materials in its possession or in the possession or under the control of any permitted suppliers or Sub-Contractors, which was obtained or produced in the course of providing the Services;
  - (b) immediately deliver to the Authority all property (including materials, documents, information and access keys) provided to the Supplier in good working order;
  - (c) Not Used
  - (d) assist and co-operate with the Authority to ensure an orderly transition of the provision of the Services to the Replacement Supplier and/or the completion of any work in progress; and
  - (e) promptly provide all information concerning the provision of the Services which may reasonably be requested by the Authority for the purposes of adequately understanding the manner in which the Services have been provided and/or for the purpose of allowing the Authority and/or the Replacement Supplier to conduct due diligence.
- H7.2 If the Supplier does not comply with clauses H7.1 (a) and (b), the Authority may recover possession thereof and the Supplier grants a licence to the Authority or its appointed agents



to enter (for the purposes of such recovery) any premises of the Supplier or its suppliers or Sub-Contractors where any such items may be held.

## H8 Retendering and Handover

- H8.1 Within 21 days of being requested by the Authority, the Supplier shall provide, and thereafter keep updated, in a fully indexed and catalogued format, all the information necessary to enable the Authority to issue tender documents for the future provision of the Services.
- H8.2 The Authority shall take all necessary precautions to ensure that the information referred to in clause H8.1 is given only to potential providers who have qualified to tender for the future provision of the Services.
- H8.3 The Authority shall require that all potential providers treat the information in confidence; that they do not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to tender issued by the Authority; and that they shall not use it for any other purpose.
- H8.4 The Supplier indemnifies the Authority against any claim made against the Authority at any time by any person in respect of any liability incurred by the Authority arising from any deficiency or inaccuracy in information which the Supplier is required to provide under clause H8.1.
- H8.5 The Supplier shall allow access to the Premises in the presence of an authorised representative, to any person representing any potential provider whom the Authority has selected to tender for the future provision of the Services.
- H8.6 If access is required to the Supplier's Premises for the purposes of clause H8.5, the Authority shall give the Supplier 7 days' notice of a proposed visit together with a list showing the names of all persons who will be visiting. Their attendance shall be subject to compliance with the Supplier's security procedures, subject to such compliance not being in conflict with the objectives of the visit.
- H8.7 The Supplier shall co-operate fully with the Authority during any handover at the end of the Contract. This co-operation includes allowing full access to, and providing copies of, all documents, reports, summaries and any other information necessary in order to achieve an effective transition without disruption to routine operational requirements.
- H8.8 Within 10 Working Days of being requested by the Authority, the Supplier shall transfer to the Authority, or any person designated by the Authority, free of charge, all computerised filing, recording, documentation, planning and drawing held on software and utilised in the provision of the Services. The transfer shall be made in a fully indexed and catalogued disk format, to operate on a proprietary software package identical to that used by the Authority.

## H9 Exit Management

- H9.1 On termination of the Contract the Supplier shall render reasonable assistance to the Authority to the extent necessary to effect an orderly assumption by a Replacement Supplier in accordance with the procedure set out in clauses H9.2 to H9.5.



- H9.2 If the Authority requires a continuation of all or any of the Services on expiry or termination of the Contract, either by performing them itself or by engaging a third party to perform them, the Supplier shall co-operate fully with the Authority and any such third party and shall take all reasonable steps to ensure the timely and effective transfer of the Services without disruption to routine operational requirements.
- H9.3 The following commercial approach shall apply to the transfer of the Services if the Supplier:
- (a) does not have to use resources in addition to those normally used to deliver the Services prior to termination or expiry, there shall be no change to the Price; or
  - (b) reasonably incurs additional costs, the Parties shall agree a Change to the Price based on the Supplier's rates either set out in Schedule 2 or forming the basis for the Price.
- H9.4 When requested to do so by the Authority, the Supplier shall deliver to the Authority details of all licences for software used in the provision of the Services including the software licence agreements.
- H9.5 Within one Month of receiving the software licence information described in clause H9.4, the Authority shall notify the Supplier of the licences it wishes to be transferred and the Supplier shall provide for the approval of the Authority a plan for licence transfer.
- H9.6 The Supplier shall provide a draft Exit Plan for Approval in accordance with Schedule 12 (Exit Plan) upon request by the Authority, giving not less than three months' notice.
- H9.7 During the eighteen (18) months immediately preceding the End Date or during the period following any Termination, and in either case for a reasonable period subsequently, the Supplier shall co-operate fully with the transfer of responsibility for the Services (or any part of the Services) to the Authority or any Replacement Supplier. This shall include (but not be limited to):
- (a) liaising with the Authority and/or any Replacement Supplier, and providing reasonable assistance and advice concerning the Services and their transfer to the Authority or to such Replacement Supplier;
  - (b) allowing any Replacement Supplier the opportunity to attend the Premises to understand the Services process (at reasonable times and on reasonable notice) but not so as to interfere with or impede the provision of the Services; and
  - (c) providing to the Authority and/or to any Replacement Supplier all and any information concerning the Services which is reasonably required for the efficient transfer of responsibility for their performance, save for any information which is Commercially Sensitive.
- H9.8 The Supplier shall use all reasonable endeavours so as to facilitate the smooth transfer of responsibility for the Services to any Replacement Supplier or to the Authority, as the case



may be, and the Supplier shall take no action at any time during the term of this Contract or afterwards which may prejudice, frustrate or make more difficult such transfer.

## H10 Knowledge Retention

The Supplier shall co-operate fully with the Authority in order to enable an efficient and detailed knowledge transfer from the Supplier to the Authority on the completion or earlier termination of the Contract and in addition, to minimise any disruption to routine operational requirements. To facilitate this transfer, the Supplier shall provide the Authority free of charge with full access to its Staff, and in addition, copies of all documents, reports, summaries and any other information requested by the Authority. The Supplier shall comply with the Authority's request for information no later than 15 Working Days from the date that that request was made.

## I GENERAL

### I1 Dispute Resolution

- 11.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the Authorised Representatives of both parties.
- 11.2 Should the Parties not be able to reach a negotiated settlement to any dispute in accordance with Clause 11.1 then the dispute shall be escalated to the Authority's Deputy Director for Contracted Services (or such a person as the Authority shall nominate) and the Supplier's Director of Social Services (or such equivalent titles as may be in place from time to time).
- 11.3 Nothing in this dispute resolution procedure prevents the Parties seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act. If the dispute cannot be resolved by the Parties pursuant to clause 11.1 or 11.2 either Party may refer it to mediation pursuant to the procedure set out in clause 11.5.
- 11.4 The obligations of the Parties under the Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation (or arbitration) and the Supplier and the Staff shall comply fully with the requirements of the Contract at all times.
- 11.5 The procedure for mediation and consequential provisions relating to mediation are as follows:
- (a) a neutral adviser or mediator (the "**Mediator**") shall be chosen by agreement of the Parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution to appoint a Mediator;



- (b) the Parties shall within 10 Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations. If appropriate, the Parties may at any stage seek assistance from the Centre for Effective Dispute Resolution to provide guidance on a suitable procedure;
- (c) unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
- (d) if the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives;
- (e) failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative written opinion. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties; and
- (f) if the Parties fail to reach agreement within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts unless the dispute is referred to arbitration pursuant to the procedures set out in clause I1.6.

I1.6 Subject to clause I1.2, the Parties shall not institute court proceedings until the procedures set out in clauses I1.1 and I1.3 have been completed save that:

- (a) the Authority may at any time before court proceedings are commenced, serve a notice on the Supplier requiring the dispute to be referred to and resolved by arbitration in accordance with clause I1.7;
- (b) if the Supplier intends to commence court proceedings, it shall serve notice on the Authority of its intentions and the Authority has 21 days following receipt of such notice to serve a reply on the Supplier requiring the dispute to be referred to and resolved by arbitration in accordance with clause I1.7; and
- (c) the Supplier may request by notice to the Authority that any dispute be referred and resolved by arbitration in accordance with clause I1.7, to which the Authority may consent as it sees fit.

I1.7 If any arbitration proceedings are commenced pursuant to clause I1.6:

- (a) the arbitration is governed by the Arbitration Act 1996 and the Authority shall give a notice of arbitration to the Supplier (the "**Arbitration Notice**") stating:
  - (i) that the dispute is referred to arbitration; and
  - (ii) providing details of the issues to be resolved;



- (b) the London Court of International Arbitration (“**LCIA**”) procedural rules in force at the date that the dispute was referred to arbitration in accordance with 11.7 (b) shall be applied and are deemed to be incorporated by reference to the Contract and the decision of the arbitrator is binding on the Parties in the absence of any material failure to comply with such rules;
- (c) the tribunal shall consist of a sole arbitrator to be agreed by the Parties;
- (d) if the Parties fail to agree the appointment of the arbitrator within 10 days of the Arbitration Notice being issued by the Authority under clause 11.7 (a) or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
- (e) the arbitration proceedings shall take place in London and in the English language; and
- (f) the arbitration proceedings shall be governed by, and interpreted in accordance with, English Law.

## 12 Force Majeure

- 12.1 Subject to this clause 12, a Party may claim relief under this clause 12 from liability for failure to meet its obligations under the Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Supplier in performing its obligations under the Contract which results from a failure or delay by an agent, Sub-Contractor or supplier is regarded as due to a Force Majeure Event only if that agent, Sub-Contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Supplier.
- 12.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- 12.3 If the Supplier is the Affected Party, it is not entitled to claim relief under this clause 12 to the extent that consequences of the relevant Force Majeure Event:
- (a) are capable of being mitigated by any of the Services, but the Supplier has failed to do so; and/or
  - (b) should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services, operating to the standards required by the Contract.
- 12.4 Subject to clause 12.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.
- 12.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Supplier is the Affected Party, it shall take all steps in



accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.

- 12.6 If, as a result of a Force Majeure Event:
- (a) an Affected Party fails to perform its obligations in accordance with the Contract, then during the continuance of the Force Majeure Event:
    - i) the other Party is not entitled to exercise its rights to terminate the Contract in whole or in part as a result of such failure pursuant to clause H2.1 or H2.3; and
    - ii) neither Party is liable for any Default arising as a result of such failure;
  - (b) the Supplier fails to perform its obligations in accordance with the Contract it is entitled to receive payment of the Price (or a proportional payment of it) only to the extent that the Services (or part of the Services) continue to be performed in accordance with the Contract during the occurrence of the Force Majeure Event.
- 12.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under the Contract.
- 12.8 Relief from liability for the Affected Party under this clause 12 ends as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under the Contract and is not dependent on the serving of a notice under clause 12.7.

### 13 Notices and Communications

- 13.1 Subject to clause 13.3, where the Contract states that a notice or communication between the Parties must be "written" or "in writing" it is not valid unless it is made by letter (sent by hand, first class post, recorded delivery or special delivery) or by email or by communication via Bravo.
- 13.2 If it is not returned as undelivered a notice served in:
- (a) a letter is deemed to have been received 2 Working Days after the day it was sent; and
  - (b) an email or other electronic means is deemed to have been received 4 hours after the time it was sent provided it was sent on a Working Day
- or when the other Party acknowledges receipt, whichever is the earlier.
- 13.3 Notices pursuant to clauses 11, 12 or to terminate the Contract or any part of the Services are valid only if served in a letter by hand, recorded delivery or special delivery.
- 13.4 Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under the Contract:
- (a) For the Authority:



Contact Name: Victoria Ladizhinskaya

Address: 102 Petty France, London, SW1H 9AJ

Email: Victoria.ladizhinskaya@justice.gov.uk

(b) For the Supplier:

Contact Name: [insert name];

Address: [insert address]; and

Email: [insert email address].

## 14 Conflicts of Interest

- 14.1 The Supplier shall take appropriate steps to ensure that neither the Supplier nor any Staff is placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the Contract. The Supplier will notify the Authority immediately giving full particulars of any such conflict of interest which may arise.
- 14.2 The Authority may terminate the Contract immediately by notice and/or take or require the Supplier to take such other steps it deems necessary if, in the Authority's reasonable opinion, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the Contract. The actions of the Authority pursuant to this clause 14 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

## 15 Rights of Third Parties

- 15.1 Clauses B10.5 and E8.3 confer benefits on persons named in them (together "**Third Party Provisions**") and each person a "**Third Party Beneficiary**") other than the Parties and are intended to be enforceable by Third Party Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act 1999 ("**CRTPA**").
- 15.2 Subject to clause 15.1, a person who is not a Party has no right under the CRTPA to enforce the Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to the CRTPA and does not apply to the Crown.
- 15.3 No Third-Party Beneficiary may enforce or take steps to enforce any Third-Party Provision without Approval.
- 15.4 Any amendments to the Contract may be made by the Parties without the consent of any Third-Party Beneficiary.

## 16 Remedies Cumulative



Except as expressly provided in the Contract all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy is not an election of such remedy to the exclusion of other remedies.

## **I7 Waiver**

- 17.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy do not constitute a waiver of that right or remedy and do not cause a diminution of the obligations established by the Contract.
- 17.2 No waiver is effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause 13 (Notices and Communications).
- 17.3 A waiver of any right or remedy arising from a breach of the Contract does not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

## **I8 Severability**

If any part of the Contract which is not of a fundamental nature is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such part shall be severed and the remainder of the Contract shall continue in full effect as if the Contract had been executed with the invalid, illegal or unenforceable part eliminated.

## **I9 Entire Agreement**

The Contract constitutes the entire agreement between the Parties in respect of the matters dealt with therein. The Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause shall not exclude liability in respect of any fraudulent misrepresentation.

## **I10 Change in Law**

- 110.1 The Supplier is neither relieved of its obligations to supply the Services in accordance with the terms and conditions of the Contract nor entitled to an increase in the Price as the result of:
- (a) a General Change in Law; or
  - (b) a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Commencement Date.
- 110.2 If a Specific Change in Law occurs or will occur during the Term (other than as referred to in clause 110.1(b)), the Supplier shall:
- (a) notify the Authority as soon as reasonably practicable of the likely effects of that change, including whether any:
    - (i) Change is required to the Services, the Price or the Contract; and
    - (ii) relief from compliance with the Supplier's obligations is required; and



- (b) provide the Authority with evidence:
- (i) that the Supplier has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-Contractors; and
  - (ii) as to how the Specific Change in Law has affected the cost of providing the Services.

I10.3 Any variation in the Price or relief from the Supplier's obligations resulting from a Specific Change in Law (other than as referred to in clause I10.1(b)) shall be implemented in accordance with clause F4.

## **I11 Counterparts**

The Contract may be executed in counterparts, each of which when executed and delivered constitute an original but all counterparts together constitute one and the same instrument.

## **I12 Governing Law and Jurisdiction**

Subject to clause I1 (Dispute Resolution) the Contract, including any matters arising out of or in connection with it, are governed by and interpreted in accordance with English Law.



**IN WITNESS** of which the Contract is duly executed by the Parties on the date which appears at the head of page 1.

**SIGNED** for and on behalf of the Secretary of State for Justice

Signature:

Name (block capitals):

Position:

Date:

**SIGNED** for and on behalf of the [insert name of Supplier]

Signature:

Name (block capitals):

Position:

Date:

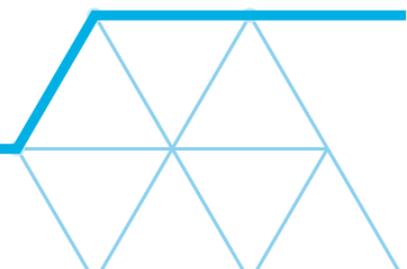


## SCHEDULE 1 – SPECIFICATION

# Service Specification for children and young people in custody at Aycliffe Secure Children's Home

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V1.0





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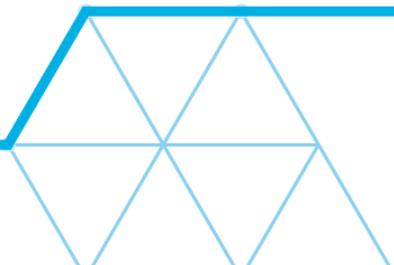
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## 1. Definitions

Please refer to the Terms & Conditions definitions found at Section A.





## 2. Introduction

### ***Statement and Purpose of the Requirements***

1. 2.1 This specification sets out the requirements of the Ministry of Justice (MoJ) for the additional services to be provided to CYP held in Secure Children's Homes (SCHs) on justice matters. The Supplier shall deliver and be able to demonstrate the purpose, outcomes and service requirements given in each section.

### ***The Overall Operation of the Home***

2.2 This specification is not a stand-alone description of the range of work that SCHs are expected to undertake for CYP. Instead, it sits as one document in a suite of legislation, statutory documents, guidance and regulation that describe the range of services and outcomes that SCHs are required to provide for CYP in their care.

### ***Legislation***

2.3 In the performance of the contract, the MoJ acknowledges that the Supplier is subject to a comprehensive range of statutory and other legal and policy requirements.

2.4 The Services under this contract are designed to add the minimum justice requirements alongside these and this specification uses existing standards wherever possible to demonstrate that the delivery of these meets the Authority purpose, outcomes and requirements.

### ***Quality Standards***

2.5 The MoJ and YCS expects full compliance with any applicable standards, including, but not limited to:

- *Children's Homes (England) Regulations 2015*
- *Guide to the Children's Regulations including the quality standards, DfE, 2015*
- *Children's Homes: National Minimum Standards, 2011*
- *National Standards for Youth Justice Services, YJB, 2013 (New standards published - April 2019)*
- *Healthcare Standards for Young People in Secure Settings (RCPCH) 2013*

### ***Service Exclusions***

2.6 The following are excluded from the Services:

- The movement of CYP between SCHs, Courts, other secure establishments, and hospital bed-watches is provided for by the Secure Escort Services for Children contract (a separate contract held by the Authority).
- The Supplier is not required to provide its own health or substance misuse services as this is the statutory duty of our Co-Commissioner, NHS England. (see Para 2.7)

### ***Healthcare Commissioning and Provision***





2.7 NHS England is responsible for the commissioning of health services *or facilities for 'persons who are detained in a prison or in other accommodation of a prescribed description'*. This includes the Children and Young Peoples' Secure Estate. The Supplier shall enable the healthcare provider to meet the Healthcare Standards for Healthcare for Children and Young People in Secure Settings (RCPCH 2013).

2.8 The NHS England core health specifications contain an enabling section which describes how the Home Manager and health service commissioner and provider can work effectively together to ensure the best possible outcomes for the CYP in the setting.

**2.9 The Supplier retains a duty of care to the children and young people, and should consider that they share in how health outcomes impact on the overall performance of the secure setting (Children Act 2004). *Enabling the Healthcare Provision: The Registered Manager of the SCH:***

- Is aware of the setting's needs to meet Healthcare Standards for Children in Secure Settings 9.2,9.22 and 9.23
- Service planners/Suppliers/commissioners and the Manager are aware of their responsibilities and duty of care for the health and wellbeing of the young people under current legislative, regulatory and quality frameworks.
- Service planners/Suppliers/commissioners and the secure setting have a joint, short and long-term approach to health service delivery, development and resource management

Understands the need for information exchange between staff working in healthcare and those working outside healthcare to support the needs of the child/young person





**3. Working with the MoJ, YCS and Healthcare**

**Overview**

3.1 The MoJ, YCS, Healthcare and the Supplier will work in an integrated way to deliver service excellence to the CYP in our collective care in accordance with Children’s Homes Regulations 2015, specifically 5(d).

Standard	5. Engaging with the wider system to ensure children’s needs are met
5(d)	In meeting the quality standard, the registered person must, and must ensure that staff –  (d) seek to develop and maintain effective professional relationships with such persons, bodies or organisations as the registered person considers appropriate having regard to the range of needs of children for whom it is intended that the children’s homes is to provide care and accommodation

3.2 The MoJ and YCS shall work across Government, in particular with NHS(England), DfE Welsh Government and the Supplier.

3.3 The Supplier shall provide a statement of purpose and where appropriate agree with the Authority any changes to this specification.

**Contract Management and Monitoring**

3.4 The Authority seeks assurance from the Supplier that the services are being delivered in accordance with the Service Specification. The Supplier shall prepare all management information as specified in Schedule 7 Section 3, in such format reasonably required by the Authority.

3.6 The Supplier’s Registered Manager or an appropriate representative will be expected to attend contractual meetings in relation to their service, as specified in Schedule 7 Section 1.

3.8 The YCS Contract Managers, as part of their normal contract management approach, will work in partnership with and seek assurance where required from responsible authorities and relevant Stakeholders - for example, with Directors of Children's Services, Ofsted, CQC, DfE and any other necessary stakeholder.

3.9 Assurance Reviews test and assess the different systems the Supplier has in place to deliver against the standards in the contract, irrespective of whether they relate to data or areas of practice. Assurance Reviews are part of the Authority’s regular contract management and monitoring function.

**YCS Placement Team**

3.10 The YCS Placement Team and the Supplier shall work together for the best interests of the child The Supplier shall comply with the YCS Placement Team Overview of Operational Procedures 2017.

**Quality Management**





3.11 The Supplier shall have an approach to quality management in accordance with Children’s Homes Regulations 2015 Leaderships and Management Standard 13.2.g and 13.2.h.

Standard	Leadership and Management
13.2(g)	<p>13. The leadership and management standard is that the registered person enables, inspires and leads a culture in relation to children’s homes that:</p> <p>(2) In particular the standard in paragraph (1) requires the registered person to:</p> <p>(g) demonstrate that practice in the home is informed and improved by taking into account and acting on-</p> <p>(i) research and developments in relation to the ways in which the needs of children are best met; and</p> <p>(ii) feedback on the experiences of children, including complaints received; and</p>
13.2(h)	(h) use monitoring and review systems to make continuous improvements in the quality of the care provided in the home.

**Improvement Plans**

3.12 The Supplier shall work with the YCS and other relevant Stakeholders (if appropriate) to implement any improvement plans triggered under clause F2 of the contract. These may be in relation to specific areas of practice or across wider aspects of the service.

**Information Technology**

3.13 The Supplier shall ensure the timely and appropriate use / completion of the Authority’s electronic case management system, *Youth Justice Application Framework (YJAF) and Secure Estate AssetPlus assessment tool* for all for CYP in their care, in accordance with the AssetPlus Joint Working Protocol (or any future iterations) and all other relevant policies at Schedule 9.

**Data**

3.14 Not Used

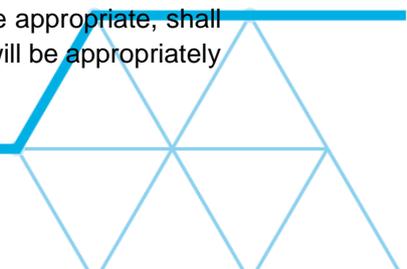
3.15 In accordance with clauses E2 and E5, the Supplier shall be expected to complete data requests on an ad hoc basis, potentially at short notice on behalf of the Authority which may include information for Parliamentary Questions or Freedom of Information responses.

**Emergency and Contingency Arrangements**

3.16 The Supplier shall comply with the YJB Serious and Significant Incident Reporting Protocol (see Schedule 9) or similar such protocol as updated from time to time and provided to the Supplier.

3.17 The supplier shall have in place comprehensive contingency plans to activate in case of incident and emergency, including disease outbreaks, as outlined in Schedule 10. These plans will be regularly tested and updated and provided to the Authority when reasonably requested

3.18 The Supplier shall ensure that there are robust procedures and comprehensive contingency plans in place for the management of all serious incidents or emergencies (e.g. an evacuation, including a full site evacuation, fire, disease outbreak, etc). Members of staff and CYP where appropriate, shall be adequately prepared to deal with them efficiently and safely. Any such incident will be appropriately



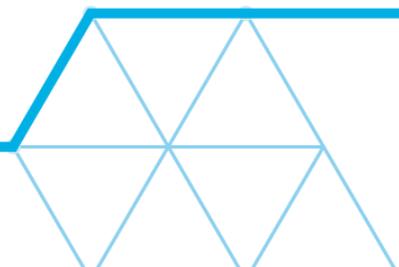


recorded and information passed on through shift handovers. These plans shall be regularly tested and updated and provided to the Authority when reasonably requested.

***Equality and Diversity for all children and young people***

3.19 Equality and diversity is highly valued. The Services are to be delivered in an anti-discriminatory way, regardless of a CYP's protected characteristics.

3.20 There is an expectation that an inclusive ethos is be carried throughout this specification and that the Supplier complies with the Equality Act 2010, as outlined at Section 2 Schedule 8.





## 4. Admission

### *Purpose*

4.1 On arrival, the Young Person will be greeted at the SCH by the appropriate staff who shall ensure the young person is detained legally and managed safely and effectively during this critical admission phase.

### Outcome One

**4.2 The Supplier shall ensure that Young People are detained legally with the correct documentation. Swift and appropriate action will be taken where this is not the case.**

### *Service Requirements*

4.3 The Supplier shall have admission policies and processes that include the management of multiple and late-night admission of Young People.

4.4 The Supplier shall have in place processes to ensure the legality of the young person's detention and, where there are doubts, act to resolve them promptly.

4.5 Young People shall be informed of their legal rights, with particular focus on ensuring they understand their rights, and are offered access to services which support them in the exercise of such rights.

4.6 If a young person challenges the legality of their detention during their admission, they will be given access to facilities which will allow them to immediately contact a legal adviser and/or relative or friend, where appropriate.

### Outcome two

**4.7 The safety, security and welfare of Young People shall be managed effectively.**

### *Service Requirements*

4.8 Following notification by the YCS, the Supplier will begin to plan for a young person's arrival in all aspects.

4.9 All available background information about the young person, specifically YCS-Approved Documentation on YJAF or received via other secure means, shall be accessed and read prior to the arrival of the young person.

4.10 The Supplier shall ensure that admitting members of staff are appropriately experienced and trained in their admission procedures, risk assessment and planning and completion of Asset Plus.

4.11 The Supplier shall undertake a comprehensive assessment of each young person's immediate needs and risk factors, including any risk to the young person's safety and wellbeing and their potential risk to others. Individualised risk management plans will be established to ensure the safety and security of each young person and those around them.

4.12 The Supplier shall have policies and procedures in place for the risk-led searching of young people.





4.13 If a young person arrives without YCS Approved Documentation, the Supplier will put in place an immediate interim plan to manage the risk until either this information has been received or a comprehensive assessment conducted.

4.14 The Authority expects compliance with the Children’s Homes (England) Regulations, 2015 with regard to Standard 7: the children’s views, wishes and feelings, specifically 7.1.d

Standard	7. The Children’s view
7.2(d)	<p>The children’s views, wishes and feelings standard in that children receive care from staff who:</p> <ul style="list-style-type: none"> <li>(a) develop positive relationships with them,</li> <li>(b) engage with them; and</li> </ul> <p>take their views, wishes and feelings into account in relation to matters affecting the children’s care and welfare and their lives 2. In particular, the standard in paragraph (1) requires the registered person to-</p> <ul style="list-style-type: none"> <li>(d) ensure that an explanation is given to each child as soon as reasonably practicable after the child’s arrival about- <ul style="list-style-type: none"> <li>(i) the children’s guide;</li> <li>(ii) how to make a complaint or representations in relation to the home or the care the child received and how any such complaint or representations will be dealt with; and</li> <li>(iii) what advocacy support or services are available to the child how the child may access that support or those services and any entitlement the child may have to independent advocacy provision</li> </ul> </li> </ul>

4.15 The Supplier shall ensure that all young people are informed of their next court appearance and date of release as applicable.

4.16 The Supplier shall keep informed of outstanding matters, making the necessary notifications to the YCS Placements Team and Escort Supplier.

4.17 The Supplier shall work alongside healthcare to ensure that all young people are assessed comprehensively in line with the Comprehensive Healthcare Assessment (CHAT) and to CHAT timeframes and ensure when healthcare is not available that a joint protocol is agreed and in place.

**Outcome Three**

**4.18 Young People are supported and safeguarded by effective processes for information gathering and sharing.**

**Service Requirements**





4.19 The Supplier shall take a proactive approach to obtaining absent and/or additional information from YOTs and any other professionals involved with the young person's case at the earliest opportunity to support the young person's Formulation plan.

4.20 The Supplier shall take a proactive approach to communicating with all relevant parties, internal and external, prior to, during and after admission to ensure the maximum level of support for the young person, the protection of other young people, members of staff and the public

**Enabling Healthcare Provision: The Registered Manager;**

- Has an awareness of the timescales required for assessment and aids Healthcare staff's access to children and young people to allow them to meet these timescales
- Should allow healthcare staff access to the whole secure setting and to case management systems outside those specifically used specifically for healthcare
- Should allow access to children and young people by healthcare of associate staff at any time in case of an urgent medical need or to ensure medication can be dispensed appropriately
- Understands the impact of the setting regime on the young people's ability to access healthcare appointments and in particular the potential for improvement to their mental health and behaviour gained from accessing CAMHs appointments
- Should be approached to find workable solutions where the regime is impacting on access and waiting times for healthcare appointments
- Encourages the development of a 'whole setting' approach to health promotion, including mental health





### 5. Education and Activities

#### Purpose

5.1 The Supplier shall create an empowering learning environment in which young people’s strengths and abilities are identified and improved, any specific barriers to learning are addressed and which enables young people to value education as a means to moving into a positive path within mainstream of society. Use of the Formulation to ensure all elements of the child’s needs are addressed in a holistic way. Delivery of an outstanding education service that enables a young person to learn as an individual in an engaging, inspiring and well-resourced environment is the aim. Young people shall value their academic achievements and positive learning outcomes.

#### Outcome Four

**5.2 Young People shall receive quality education tailored to their specific learning needs and abilities, which prepares them for transition into mainstream education, training and employment (ETE).**

#### Service Requirements

5.3 The Authority expects compliance with the Children’s Homes (England) Regulations, 2015 in regard to Standard 8: the provision of education and purposeful activity, specifically regulation 8.1

Standard	8. The provision of education and purposeful activity
8.1	The education standard is that children make measurable progress towards achieving their educational potential and are helped to do so.

5.4 The Supplier measures the progress of each young person and reports on the achieved outcome as part of their MI reporting obligations set out in this Schedule 1 section 3.4.

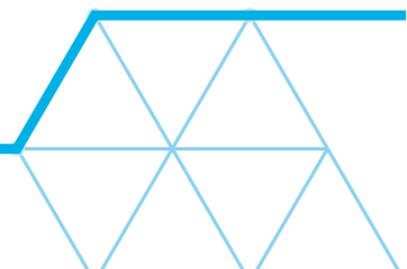
#### Outcome Five

**5.4 Young people will be provided with meaningful and enjoyable purposeful activities, that encourage pro-social modelling and in which they can develop further educationally and develop socially and emotionally development**

#### Service Requirements

5.6 The Authority expects compliance with the Children’s Homes (England) Regulations, 2015 in regard to Standard 9: the enjoyment and achievement standard, specifically 9.1, 9.2(b)

Standard	9. The enjoyment and achievement standard
9.1	1. The enjoyment and achievement standard is that children take part in and benefit from a variety of activities that meet their needs and develop and reflect their creative, cultural, intellectual, physical and social interests and skills.
9.2(b)	2. In particular, the standard in paragraph (1) requires the registered person to ensure—  (b) that each child has access to a range of activities that enable the child to pursue the child’s interests and hobbies.





## 6. Management of Children & Young People

### ***Purpose***

6.1 CYP and all members of staff shall work together to successfully and effectively manage the behaviour of CYP in a safe, positive and dignified environment, and in a way that best prepares the child for life outside custody and increases the likelihood that they desist from offending. The Supplier shall use its best endeavours to ensure that, where appropriate, ties with family or carers are re-established, maintained and strengthened to enable CYP to develop and maintain appropriate relationships.

### **Outcome Six**

**6.2 CYP whose first language is not English, or who have speech, language and/or communication difficulties will be able to participate fully in the services.**

### ***Service Requirements***

6.3 The Supplier shall give all necessary support to CYP to ensure that they are able to understand and participate fully in Interventions, education, health and access all services they require.

6.4 The Supplier shall ensure that whose first language is not English will receive all necessary written material in the most appropriate language.

6.5 The Supplier shall ensure that the CYP is able to attend, understand and engage with their sentence plan meetings or review and/or any other key meetings.

### **Outcome Seven**

**6.7 CYP shall develop positive relationships with adults and their peers based on mutual respect and pro-social modelling.**

6.8 The Authority expects compliance with the Children’s Homes (England) Regulations, 2015 in regard to Standard 11: positive relationships, specifically 11.1.b, 11.2.a,v,viii and X

Standard	11. Positive relationships
11.1(b)	The positive relationships standard is that children are helped to develop, and to benefit from, relationships based on (b) an understanding about acceptable behaviour;
11.2 (a), (v), (viii) (x)	In particular, the standard in paragraph (1) requires the registered person to ensure— (a) that staff— (v) communicate to each child expectations about the child’s behaviour and ensure that the child understands those expectations in accordance with the child’s age and understanding; (viii) strive to gain each child’s respect and trust; (x) are provided with supervision and support to enable them to understand and manage their own feelings and responses to the behaviour and emotions of children, and to



help children to do the same;

**Outcome Eight**

**6.9 CYP shall strengthen contact with family and carers but not where this is considered to be inappropriate or would place the young person or another person at risk.**

6.10 The Authority expects compliance with the Children’s Homes (England) Regulations, 2015 in regard to Standard 14: care planning, specifically 14.2.d

Standard	14. Care Planning
14.2(d)	2. In particular, the standard in paragraph (1) requires the registered person to ensure—  (d) that, subject to regulation 22 (contact and access to communications), contact between each child and the child’s parents, relatives and friends, is promoted in accordance with the child’s relevant plans;

**Service Requirements**

6.11 The Supplier shall offer a range of different methods which shall allow CYP to strengthen their relationships with their parents or carers and wider family members. The Supplier should work to encourage engagement from families/carers.

6.12 Visits shall be permitted as freely as possible without unduly impinging upon the child’s education or Intervention programme.

6.13 Family visits shall not be vetoed or limited as part of an internal system of sanctions. CYP shall not be deprived of contact with families as a consequence of poor behaviour nor will they be offered more frequent visits as an inducement towards compliance.

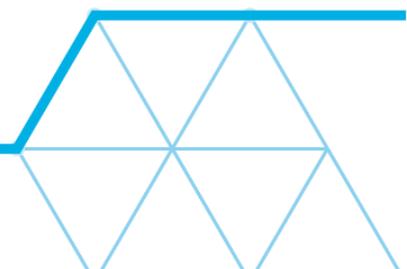
6.14 The Supplier shall keep parents and carers updated regularly on the child’s progress throughout their period of detention.

6.15 The Supplier shall be responsible for administering the Assisted Visits Scheme which ensures that approved Family, Carers and Others are supported financially in order to maintain links with the Child.

6.16 The Supplier shall give the parents and carers of CYP all necessary advice, guidance and information about the home, within 48 hours of the young person’s admission, which will then allow them to make contact with and make arrangements to visit the young person.

**Outcome Nine**

**6.17 CYP shall develop positive relationships with adults and their peers based on mutual respect and pro-social modelling.**





6.18 The Supplier shall set and reinforce safe and consistent boundaries for CYP in relation to their acceptable behaviour.

6.19 Members of staff shall consistently and actively model social and problem-solving skills, core values and behaviours consistent with a pro-social lifestyle.

6.20 Members of staff shall respond positively to socially desirable behaviour and values when demonstrated by the CYP.

**Outcome Ten**

**6.21 CYP shall understand the consequences of inappropriate behaviour and are encouraged to take responsibility for their actions. Restraint shall only be used as a last resort and, if applied, is used legitimately and safely by trained members of staff.**

Standard	20. Restraint and Deprivation of liberty
1.	Restraint in relation to a child is only permitted for the purpose of preventing; <ul style="list-style-type: none"> <li>(a) injury to any person (including the child);</li> <li>(b) serious damage to the property of any person (including the child)</li> <li>(c) a child who is accommodated in a secure children’s home from absconding from the home.</li> </ul>
2.	Restraint in relation to a child must be necessary and proportionate.

***Service Requirements***

6.22 Where necessary, the Supplier will implement a behaviour management plan that takes into account areas identified in the Formulation to address a young person’s individual needs/risks.

6.23 Families and Carers should be encouraged to contribute to the young person’s overall sentence and behaviour management plan.

6.24 The Supplier shall comply with all relevant legislation relating to the use of physical interventions in a Secure Children’s Home. They shall have in place a restraint minimisation strategy and conduct an annual review of restraint that is independently reviewed and provided to the Authority in accordance with Chapter 3 Para 3.4.

6.25 The Supplier shall work with Healthcare to ensure any risk is considered in the circumstances that a child is restrained.

6.26 The Supplier shall comply with the *Use of restraint policy framework for the under-18 secure estate, Ministry of Justice, 2012.*

6.27 The Supplier shall have in place a restraint minimisation strategy, and conduct an annual review of restraint that is independently reviewed.

**Outcome Eleven**

**6.28 Young people whose behaviour results in them being temporarily separated from others are located in a suitable environment where their individual needs can be met, so far as is practicable alongside managing the risk(s) caused by their behaviour.**

***Service Requirements***





6.29 Periods of separation or removal from normal location are only justified in the interests of preventing a young person from causing significant harm to themselves or to another person or to prevent significant damage to property.

6.30 Healthcare undertake an assessment to ensure that this is fed into any decision on separation.

6.31 The decision to separate a young person is taken by a senior member of staff and this should be recorded in a log that is kept to evidence the reasons, authorisation and defensibility of such use.

6.32 Periods of separation are reviewed frequently to ensure that they are still justified.

6.32 A health assessment is undertaken at the earliest opportunity following an incident of separation/removal to support decision making and review of child’s Formulation and plan.

6.33 Every effort is made to assist the young person in addressing the behaviour that led to separation from their peers so that he or she may be re-integrated to the normal timetable as soon as possible.

6.34 Records and evidence shall support the work that the Supplier has undertaken to address behaviours which led to separation or removal from normal location.

6.35 Those young people who are separated from their peers, but are not left unaccompanied and managed in an alternative location are fully and meaningfully engaged with staff.

**Outcome Twelve**

**6.36 CYP shall be accommodated in a safe and secure environment.**

Standard	The Statement of Purpose
	The registered person must compile with the Statement of Purpose for the Children’s homes which covers (but is not limited to the following) : The Welcoming environment, The safe and supportive environment, Placement plans for looked after and not looked after children, Behaviour Management and Discipline Restraint and Liberty .....

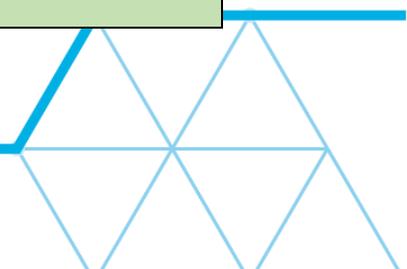
***Service Requirements***

6.37 The Authority expects compliance with the Children’s Homes (England) Regulations, 2015 in regard to

Standard 6: the quality and purpose of care standard, specifically **6.2.b.vii** and;

Standard 12: the protection of children, specifically **12.2.b, c and d**

Standard	6. The quality and purpose of care standard
2. (b) (vii)	...The registered person will ensure staff provide to children living in the home the physical necessities they need in order to live there comfortably
Guide to Regs	“Physical Necessities” [i]ncludes but is not limited to, a clean environment, continuous access to drinking water, varied and nutritious food, clothing, hot water, bedding and so on.





Section 3.3	
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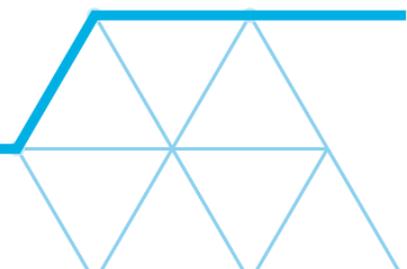
Standard	12. The protection of children standard
12.2 (b) (c) (d)	<p>2. In particular, the standard in paragraph (1) requires the registered person to ensure —</p> <p>(b) that the home’s day-to-day care is arranged and delivered so as to keep each child safe and to protect each child effectively from harm;</p> <p>(c) that the premises used for the purposes of the home are located so that children are effectively safeguarded;</p> <p>(d) that the premises used for the purposes of the home are designed, furnished and maintained so as to protect each child from avoidable hazards to the child’s health;</p>

6.38 If a bedroom becomes unavailable through damage, for example, this will be reported to the YCS as soon as is practicable and repairs will be completed within two working days of occurrence. If repairs are scheduled to take longer, then this will be discussed with the YCS. Should a room be deemed unavailable in light of the above standards, the mechanisms under Schedule 2 section 2.2 may be triggered.

6.39 The Authority and YCS will work with Suppliers, DfE and the Welsh Government to maintain and develop the facilities across the SCH sector.

***Enabling the Healthcare Provision; The Registered Manager:***

- Ensures that systems are in place so that care staff are aware of the physical and mental problems any young person may have that impact on their ability to be restrained
- Where young people are subject to restraint procedures the Manager must ensure the requirements of Healthcare Standards for Children and Young People in Secure Settings, Standard 3.7 are fully met by both care staff and health care professionals





## 7. Case Management and Resettlement

### Purpose

7.1 Case management and resettlement processes shall enable CYP to desist from offending, improve life chances and reduce risk of serious harm to self and others.

### Outcome Twelve A

**7.2 CYP are supported by end-to-end case management that ensures they have a Formulation-based, individualised plan, that promotes protective factors, addresses all their assessed needs and reduces risks, and focuses on ensuring safety and resettling them back into their community.**

7.3 The Authority expects compliance with the Children’s Homes (England) Regulations, 2015 in regard to Standard 14: the care planning, specifically 14.1(b) and 14.2 (b) (i-iii)

Standard	14. The care planning
14.1(b)	1. The care planning standard is that children- (a) receive effectively planned care in or through the children's home (b) have a positive experience of arriving at or moving on from the home.
14.2(b) (i-iii)	2. In particular, the standard in paragraph (1) requires the registered person to ensure – (a) that all children are admitted to the home only if their needs are within the range of needs of children for whom it is intended that the home is to provide care and accommodation, as set out in the home’s statement of purpose: - this is an authority obligation. (b) that arrangements are in place to— (i) ensure the effective induction of each child into the home; (ii) manage and review the placement of each child in the home; and (iii) plan for, and help, each child to prepare to leave the home or to move into adult care in a way that is consistent with arrangements agreed with the child’s placing authority; (c)that each child ‘s relevant plans are followed

### Service Requirements

7.4 YJAF, the YJB’s electronic case management system, shall be used during the young person’s detention for all case management, sentence planning, assessment and risk recording, and for all other relevant and key information in line with the YJB AssetPlus: Joint Working Protocol.

7.5 There shall be regular meetings, information sharing and communication with YOTs, agencies and organisations involved with the young person to provide a coordinated case and risk management process, including resettlement planning.

7.6 The Supplier shall deliver an framework for integrated care (SECURE STAIRS) as stipulated by NHSE from time to time (see section 8.1 of this Schedule). Such compliance includes, but is not limited to, creating a Formulation based individualised plan established to (but not limited to) strengthening positive/protective factors, setting needs and risk-led objectives and providing the young person with effective Interventions that will facilitate the achievement of effective resettlement.





7.7 Monitoring of risk assessment and management should take place throughout the young person’s time in custody. The Formulation based individualised plan shall support when action needs to be taken regarding a young person’s risk or need, plans for addressing this must be put in place, recorded and carried out according to the agreed timescales.

7.8 CYP should be engaged with, encouraged to take part in, and actively contribute to, the Formulation and case management process at all stages and shall understand their individualised plan objectives and how these will contribute to effective resettlement.

7.9 The Authority expects compliance with the Children’s Homes (England) Regulations, 2015 with regard to the CYP’s views, wishes and feelings Standard, specifically **7.2 (a) (iv)**.

Standard	7. The Children’s views, wishes and feeling
7.2(a) (iv)	2. The children’s views, wishes and feelings standard is that children receive care from staff who— (a) Develop positive relationships with them; (b) engage with them; and (c) take their views, wishes and feelings into account in relation to matters affecting the children’s care and welfare and their lives. In particular, the standard requires the registered person to ensure that staff (iv) regularly consult children, and seek their feedback, about the quality of the home’s care;

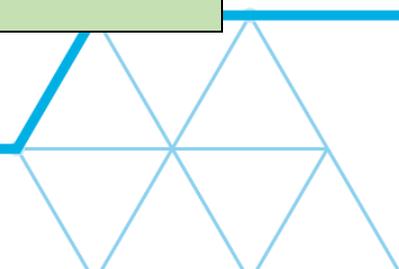
7.10 Families and Carers should be encouraged to contribute to the young person’s overall plan. The Supplier should seek to engage with families and Carers in regard to the young person’s individual plan and if necessary look to improve the relationship between the child and their families and/or Carers.

**Outcome Thirteen**

**7.11 The Supplier shall ensure that CYP are suitably prepared for release or Transition supported through effective partnerships and communications with relevant Stakeholders.**

7.12 The Authority expects compliance with the Children’s Homes (England) Regulations, 2015 in regard to Standard 5: Engaging with wider system to ensure children’s needs, specifically 5 (b)(c).

Standard	5. Engaging with wider systems to ensure children’s needs
5.(b) (c)	In meeting the quality standards, the registered person must, and must ensure that staff— (b) seek to secure the input and services required to meet each child’s needs; (c) if the registered person considers, or staff consider, a placing authority’s or a relevant person’s performance or response to be inadequate in relation to their role, challenge the placing authority or the relevant person to seek to ensure that each child’s needs are met in accordance with the child’s relevant plans;





### **Service Requirements**

7.13 The Supplier shall engage with any local consortia or fora to promote and improve resettlement outcomes and opportunities for CYP.

7.14 CYP's rehabilitation and resettlement goals are enhanced and supported through a Temporary Release programme.

7.15 Where accountability for aspects of delivery of the plan falls to other agencies the Supplier shall use their best endeavours to ensure that those agencies fulfil their obligations.

7.16 The Supplier should seek opportunities with local training contractors, employers and the voluntary sector to provide services to CYP while in custody which will prepare them for their resettlement into the community.

7.17 Possible Transitions to another secure establishment within the YSE or the young adult estate should be identified early so that plans can be made in consultation with the young person and relevant Stakeholders and actions taken in an appropriate timescale

7.18 When transfer to hospital under the Mental Health Act 1983 is deemed appropriate, plans for transfer can be made supported by Healthcare.

7.19 The Supplier shall work with the YCS Placement service to plan for those CYP that due to age and length of sentence will be required to Transition into the young person or adult estate. in order to ensure the child is suitably prepared for an adult establishment.

7.20 Transfers will be managed in accordance with the *YCS Placement Review Guidance 2017*

7.21 The Supplier shall have effective strategic relationships with senior leaders in local authorities who are involved in CYP's resettlement to improve their outcomes after release.

7.22 Plans for CYP shall take account of, and actively promote and encourage, opportunities for Temporary Release to support their resettlement goals.

7.23 The Supplier shall have strategies and policies in place to promote the use of mobility/Temporary Release, building links with the local community and the young person's family and carers. Temporary Release activities shall support resettlement goals.





### 8. Interventions

#### Purpose

8.1 Suppliers shall adopt a framework for integrated care (SECURE STAIRS) to meet the CYP’s assessed needs as identified though their Formulation plan. Interventions and services will address offending behaviour, promote resilience and desistance, and address behaviours that cause young people or others distress or harm. They should be sequenced to allow for the situation.

8.2 The Authority expects compliance with the Children’s Homes (England) Regulations, 2015 in regard to Standard 7: The children’s views, wishes and feelings, specifically **7.2 (e)**.

Standard	7. The children’s views, wishes and feelings
7.2(e)	2. The children’s views, wishes and feelings standard is that children receive care from staff who— (e) ensure that the views of each relevant person are taken into account, so far as reasonably practicable, before making a decision about the care or welfare of a child.

#### Outcome Fourteen

**8.3 The Supplier shall have access to a suite of Interventions supported by Healthcare to deliver to young people, irrespective of custodial status, which promotes positive desistance factors and are specific to their individual assessed risks and needs to address their offending behaviour, risk of re-offending and behaviours that cause them or others distress or harm.**

#### *Service Requirements*

8.4 The Supplier shall ensure that the Interventions they offer are evidenced based and capable of addressing, the identified needs of this cohort. The child’s Formulation/Intervention plan will be used to identify and plan for a child’s needs and situation and sequenced appropriately.

8.5 It is a priority for the Youth Justice system that the risk of offending and reoffending by CYP be reduced. The Authority recognises, however, that this system aim cannot be delivered unless CYP are safe and their wellbeing cared for; the young person’s most pressing and relevant needs must be met to be able to meet the system aim.

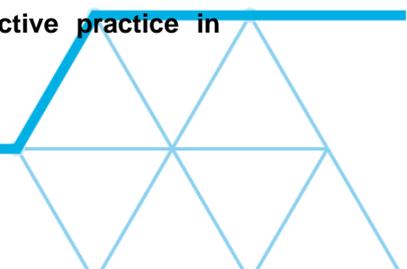
8.6 The Supplier shall engage young people in Interventions that are child-focused and are delivered with fidelity by people with appropriate skills and experience. Evaluation of effectiveness should be part of the Intervention being delivered.

8.7 Interventions shall be delivered flexibly where possible but need to ensure that Interventions to meet healthcare needs are enabled to better support on an individual basis in order for CYP to participate more fully in the home and education programme. (Note the evidence base shows that mental health interventions should not be completed just prior to a child going to bed).

8.8 The Supplier should be able to evidence the progress being made by individual CYP within any given Intervention.

#### Outcome Fifteen

**8.9 Interventions shall be based on the principles of best and effective practice in addressing offending behaviour in young people.**





**Service Requirements**

8.10 The Supplier shall regularly analyse the offending behaviour needs of the cohort and shall demonstrate a robust rationale for the selection and sequence of Interventions to meet them.

8.11 Suppliers shall have in place a framework for monitoring and evaluating the effectiveness of Interventions and the impact on CYP post-release. This should inform future Intervention planning and delivery.

8.12 The programme of Interventions available at the SCH will be shared with the YCS Placements Service and the needs analysis will be kept up to date and developed in line with any emerging and effective practice and research.

8.13 The Supplier is encouraged to share Interventions where there is evidence of effectiveness in achieving their intended outcomes via the Youth Justice Resource Hub.





### 9. Safeguarding

#### Purpose

9.1 To ensure that all CYP are kept safe and are protected from harm, both from themselves and others, and their safety and that welfare is central to the development of policies and the delivery of all services and Interventions.

#### Outcome Sixteen

9.2 CYP are protected from harm caused by themselves, by peers or by adults, including protection from: physical, emotional or sexual abuse/assault; Self Harm; neglect; accidental Harm/injury.

#### Service Requirements

9.3 The Authority expects compliance with the Children’s Homes (England) Regulations, 2015 in regard to Standard 12: The protection of children, specifically **12.2(a) (i), 12.2 (b) and 12.2 (e)**.

Standard	12. The protection of children
12.2.(a)(i)	The protection of children standard is that children are protected from harm and enabled to keep themselves safe. (2) In particular, the standard in paragraph (1) requires the registered person to ensure— (a) that staff— (i) assess whether each child is at risk of harm, taking into account information in the child’s relevant plans, and, if necessary, make arrangements to reduce the risk of any harm to the child; (ii) help each child to understand how to keep themselves safe
12.2(b)	that the home’s day-to-day care is arranged and delivered so as to keep each child safe and to protect each child effectively from harm;
12.2(e)	that the effectiveness of the home’s child protection policies is monitored regularly.

#### Outcome Seventeen

9.4 Safeguarding policies and practices are quality assured and subject to regular review and independent scrutiny.

#### Service Requirements

9.5 The Supplier shall put in place an annually reviewed Safeguarding and child protection policy, which details a multi-agency and multi-disciplinary approach to Safeguarding and child protection. This should be shared with the Authority after each annual review. The Supplier shall obtain the approval of the Local Safeguarding Children Board ("LSCB") (or equivalent) in respect of the policy.





9.6 The Supplier’s Safeguarding policies and practices shall include clear governance arrangements and include independent oversight from the local multiagency Safeguarding arrangements in place (previously the LSCB).

9.7 The Supplier shall develop a strong relationship with the local multiagency Safeguarding arrangements in place (previously the LSCB) and involve it fully in scrutinising practice and offering support to provide improvements. Any concerns about the support received from local multiagency Safeguarding arrangements in place must be escalated to the local authority and the YCS.

9.8 The Supplier shall develop and implement a clear process for reporting Safeguarding incidents or allegations to the local authority’s child protection team and/or to the Local Authority’s Designated Officer whenever a child protection concern is raised.

9.9 The Supplier’s approach to Safeguarding and child protection shall include a clear process for learning lessons and continuous improvements which shall feed into any reviews and updates of Safeguarding and child protection practice.

**Outcome Eighteen**

**9.10 All Contractor’s Staff understand their responsibilities to protect and promote the welfare of CYP in their care and their duty to report concerns appropriately.**

**Service Requirements**

9.11 The Supplier shall ensure staff receive appropriate and effective training in Safeguarding and Child Protection with regular refresher training delivered.

9.12 The Authority expects compliance with the Children’s Homes (England) Regulations, 2015 in regard to Standard 12: The protection of children, specifically 12.2 (a) (v-viii)

Standard	12. The protection of children
12.2.(a)(v-viii)	The protection of children standard is that children are protected from harm and enabled to keep themselves safe. (2) In particular, the standard in paragraph (1) requires the registered person to ensure— (a) that staff— (v) understand the roles and responsibilities in relation to protecting children that are assigned to them by the registered person; (vi) take effective action whenever there is a serious concern about a child’s welfare; and (vii) are familiar with, and act in accordance with, the home’s child protection policies;

9.13 The Supplier shall put in place a clear process that enables staff to raise concerns about a child’s safety and wellbeing, report Safeguarding incidents and/or child protection allegations to the relevant local authority’s child protection team/and or the designated officer. The Supplier will offer assurances that the outcome of these are considered satisfactory.

9.14 The Supplier shall report any whistle blowing allegations to the YCS within 24 hours of the Registered Manager becoming aware and that the YCS is kept informed of the investigation process and outcomes.





**Outcome Nineteen**

**9.15 The Supplier shall ensure that CYP assessed as being ‘critical cases’ by the YCS Placement Service are appropriately managed**

9.16 The Authority expects compliance with the Children’s Homes (England) Regulations 2015 in regard to Standard 5: Engaging with the wider system to ensure children’s needs are met.

Standard	5. Engaging with the wider system to ensure children’s needs are met
5	<p>In meeting the quality standards, the registered person must, and must ensure that staff—</p> <p>(a) seek to involve each child’s placing authority effectively in the child’s care, in accordance with the child’s relevant plans;</p> <p>(b) seek to secure the input and services required to meet each child’s needs;</p> <p>(c) if the registered person considers, or staff consider, a placing authority’s or a relevant person’s performance or response to be inadequate in relation to their role, challenge the placing authority or the relevant person to seek to ensure that each child’s needs are met in accordance with the child’s relevant plans; and</p> <p>(d) seek to develop and maintain effective professional relationships with such persons, bodies or organisations as the registered person considers appropriate having regard to the range of needs of children for whom it is intended that the children’s home is to provide care and accommodation.</p>

***Service Requirements***

9.17 The Supplier will be proactive in recommending CYP to the Critical Casework Panel.

9.18 Where a Critical Casework Panel Meeting is held and SCH representatives invited, the Supplier is expected to be fully engaged and appropriate representative(s) should be in attendance at meetings.

9.19 The Supplier may be required to provide information to the Critical Casework Panel at short notice or on ad hoc occasions. In such cases, the Supplier will ensure that any information is provided within the timeframe agreed with YCS Placements.





## 10. List of Key Documents, Policies and Standards

10.1 The Authority has set out below all the key documents referred to in this Operational Specification that the Supplier is expected to comply with. Copies of Protocol, Procedures, Guidance and Standards are included in Schedule 9. Legislative documents are available at [www.legislation.gov.uk](http://www.legislation.gov.uk).

- **2. Introduction**

*National Standards for Youth Justice Services, 2013*

*Children's Homes (England), 2015*

*Guide to the Children's Regulations including the quality standards, DfE, 2015*

*Healthcare Standards for Young People in Secure Settings, 2013*

*Crime and Disorder Act, 1998*

*Powers of Criminal Courts (Sentencing) Act, 2000*

- **3. Working with the MOJ**

*YJB Serious and Significant Incident Reporting Protocol*

*YCS Placement Team Overview of Operational Procedures, 2017*

### ***Enabling the Healthcare Provision: The Registered Manager;***

-has an understanding of the benefits of a comprehensive health transition plan, including the potential this has to impact on reducing re-offending and is committed to a system of working with healthcare staff to affect a health transition plan that is combined with educational, sentencing and other needs.

**-committed to the concept of multi-disciplinary working which incorporates substance misuse, safeguarding and healthcare staff although they may be managed through different systems in the setting and enables this to work effectively ensuring good information sharing**

Aware of the setting's needed to meet Healthcare Standards for Children and Young People in Secure Settings standard 10.4.3 'All healthcare practitioners are aware of and act in accordance with current safeguarding statutory guidance and the secure setting's safeguarding policy and feel competent, confident and safe to raise concerns in confidence without prejudicing their position (following LSCB/Child Protection Committee policies and procedures through the secure setting's named safeguarding lead or the designated nurse/doctor for safeguarding children in the locality)

*AssetPlus Assessment and Planning Interventions, 2014*

- **6. Management of Children**

*Independent Review of Restraint in Juvenile Secure Settings, 2008*





*Developing a Restraint Minimisation Strategy, Guidance for secure establishments on the development of restraint minimisation strategies, 2009*

*Managing the Behaviour of Children and Young People in the Secure Estate: Code of Practice, 2009*

*Use of restraint policy framework for the under-18 secure estate, 2012*

- **7. Case Management and Resettlement**

*AssetPlus Joint Working Protocol v1.2, 2018*

*Mental Health Act, 1983*

*YCS Placement Review Guidance, 2017*

*YCS Transition Protocol, 2018*

- **8. Interventions**

*Secure Stairs Key Principles and Outcomes, 2018*

- **9. Safeguarding**

*Critical Casework Panel, 2018*





## SCHEDULE 2 – PAYMENT SCHEDULE

This section outlines the financial framework for the provision of remand and sentenced places to the Authority in Secure Children's Homes (SCH) for the term of the contract. The section describes:

1. Pricing mechanism
2. Payment mechanism
3. Information to support payment
4. Information to support annual service review
5. Financial audit.

The overriding principles of the pricing and payment mechanisms are that both parties should use their best endeavours to fulfil their financial obligations and ensure that the financial arrangements:

- achieve full cost transparency;
- are auditable
- support the achievement for Value for Money;
- are simple to understand and to operate;
- ensure that SCHs can recover the Full Economic Cost of delivering the Service Specification

The Authority, reserves the right to reduce the amount of Guaranteed Block Bed Nights in the event:

- demand decreases;
- pressures on budget; or
- costs increase over and above those allowed for in this Schedule 2

### **1. Pricing mechanism**

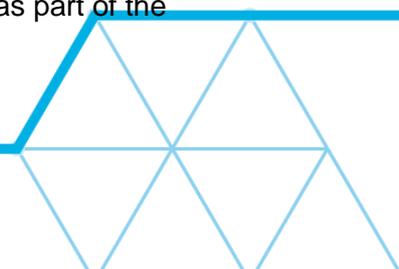
#### 1.1 Basic price

The price that the Authority will pay for each place will reflect the cost to deliver the services specified in the Service Specification in Schedule 1. The price for the first year of the contract will be firm. Year two price may where indicated be subject to indexation on the Indexation Review Date.

The price per bed night that the SCHs charge will be linked to:

The Authority's share of the Full Economic Cost of the SCH based on the number of beds that are being offered to the YCS

The additional costs of any Authority specific services that will be delivered as part of the Service Specification





Based on the Price Template (as at Annex B to this Schedule), the SCH and the Authority will agree two prices:

a Guaranteed Block Bed Night Price: The Authority Guaranteed Block Bed Night Price will be based on the Full Economic Cost for the number of places the SCH will make available to the Authority for the contract period and which the Authority will guarantee to pay for 100% of places irrespective of occupancy, subject to clause 2.2.

a Spot Bed Night Price: This will be based on the Full Economic Cost for the number of places the SCH can make available to the Authority for the contract period, for use on an ad-hoc basis. The Authority will only pay for these places on a bed night basis if they are actually used. There is no guarantee that the Authority will fill these places.

## 1.2 Price variations

The Price may vary with a change to service levels (as outlined below) or bed numbers. Any changes to the agreed Price for Guaranteed Block Bed Nights or Spot Bed Nights will need to be transparent. Any changes made would be managed through Clause F4 Contract Change processes.

### *1.2.1 Price varying with service levels:*

The Price agreed at the start of the contract will be the Price needed to deliver the Service Specification and any specialist and enhanced services agreed between the Authority and the Supplier as part of the Contract. Over the course of the Contract, there may be a need for the Authority to vary the level of service. Reasons for this may include:

- Changes to legislation that impact on SCH services and require increased costs
- The Authority wishing to purchase new levels of enhanced or specialist services
- The Authority developing new requirements that impact on SCHs providing care to children and young people given custody.

If the Authority wishes to alter the Service Specification or Price the SCH will submit a new Guaranteed Block Bed Night Price to the Authority with a breakdown of how the cost has been determined. The SCH must be able to demonstrate how the new price links to the Full Economic Cost. Once a new Price has been agreed, the Guaranteed Block Bed Night Price will come into effect.

### *1.2.2 Price varying with volume:*

The Guaranteed Block Bed Nights agreed at the start of the contract may need to be changed, for example, based on expansions to the numbers of beds available or demand. This mechanism would only be used where the Authority intends to make a permanent decision about the contracted number of beds and therefore the Authority will give 3 months' notice as a minimum and limit the number of adjustments to once per rolling year.





1.2.3 Additional Price varying with needs:

The Authority recognises there are a very small number of young people in custody whose needs are so complex that the standard provision of services may be insufficient to meet their needs.

The YCS has set up a Critical Casework Panel with responsibility for identifying young people who have acute, complex needs and for determining how best to care for them while they are in the Youth Secure Estate.

1.3 Indexation

1.3 Annual Financial Review

The pricing elements set out in this Schedule 2 (Payment Mechanism) may, where indicated, be subject to indexation on the Indexation Review Date in accordance with this paragraph 1.3. The first Indexation Review Date will be on 01 April 2019 and annually thereafter.

Annual indexation is not automatic. The Contractor shall provide clear documentary evidence of any price increases that it incurs.

Total staff costs (salary and non-salary) and total non-staffing costs (as per the price template at Annex B of this Schedule) shall be indexed in accordance with the following indices:

Staff Costs	:	AWE-K5DL	:	Average Weekly Earnings Index,
Non-Staff Costs	:	CPI-D7BT	:	Consumer Price Index.

**2. Payment mechanism**

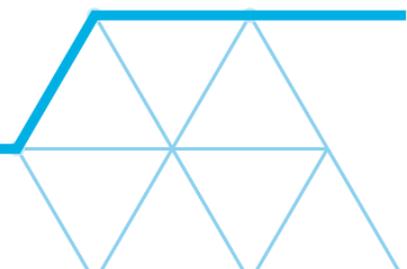
The payment mechanism specifies how the Authority will pay for the Services that are provided at the Price agreed in the pricing mechanism.

The payment mechanism will be split into 3 modules and are described in the sections below:

- i. Basic payment mechanism
- ii. Payment based on availability of places
- iii. Payment based on performance

The timeframes for invoicing and payment and when each module is applied is described in Section 3 below.

2.1 Basic Payment Mechanism





The first part of the payment mechanism is the calculation of the monthly payment. The amount is calculated as:

- “Guaranteed Block Bed Night Price” x “Guaranteed Block Bed Nights” x the number of days in the month
- Plus “Spot Bed Night Prices” x the “number of Spot Bed Nights used”

Spot Bed Nights can only be charged if the number of beds used on a particular night exceeds the number of Guaranteed Block Bed Nights purchased.

i.e. if a Young Person is admitted to the SCH under a Spot Bed Night, they will move to a Guaranteed Block Bed Night place by default as soon as one becomes free later in their placement.

The payment may then be adjusted based on 2 further criteria:

- Adjustment for Unavailable Guaranteed Block Bed Nights – the invoice would also need to include reductions in payments for Unavailable Guaranteed Block Bed Night places within that period. Payment is linked to the number of Guaranteed Block Bed Nights that are actually available to the Authority for use, based on the definitions of when a place is deemed to be unavailable as per clause 2.2 below.
- Adjustment for performance - the level of performance achieved by the SCH in each quarter may lead to a reduction in payment, as outlined at clause 2.3 below.

Such deductions would be captured and recorded on the deductions template found at Annex C to this Schedule 2.

## 2.2 Payment based on availability of places

The SCH will declare to the Authority, as soon as reasonably practical, any Guaranteed Block Bed Nights where bedrooms are deemed to be Unavailable Guaranteed Block Bed Nights according to the availability criteria at 2.2.1.

### *2.2.1 Availability criteria*

The Authority will not pay the Guaranteed Block Bed Night Price where a place, or a number of places, are deemed to be Unavailable Guaranteed Block Bed Nights, based on the below criteria. This will be when a Young Person cannot be placed in the bed within the SCH (and no alternative place is found at the SCHs own cost) or has to be removed from the SCH and placed elsewhere in the following circumstances:

- 1) Children at risk or placement unsafe: The Authority reserve the right to remove an individual or all the young people placed by the Authority in the SCH, in circumstances where the Authority has assessed that the children are at risk or the placement is unsafe. Where:
  - i) continuing registration as a Children's Home is in doubt or a decision to suspend registration is pending
  - ii) licensing as a secure unit is in doubt or a decision to suspend the licence is pending





- iii) there is the consideration of the imposition of conditions on licensing that would impact on the SCH's ability to deliver the Service Specification
- iv) if registration or licence are cancelled or conditions are imposed that limit the Authority's ability to place a Young Person (for example issues identified during an Inspection give the Authority sufficient cause for concern to remove young people from the unit).
- v) where the Authority has reasonably deemed Young People to be at risk and has suspended placements and/or removed Young People from the establishment
- 2) The room is physically unavailable due to damage: If the room is unavailable because of a need for repairs or damage or does not comply with Schedule 1 section 6.37 and 6.38, the SCH should endeavour to find alternative secure accommodation for the Young Person within the Home at its own cost.
- 3) There is refusal of a placement by the Supplier. Should the Supplier refuse placement under a Guaranteed Block Bed Night for any reason *and* where the occupancy of Guaranteed Block Bed Nights at the SCH is below [redacted] for the full month preceding the month in which refusal takes place, the Guaranteed Block Bed Night shall be deemed unavailable, for the purposes of payment under this clause 2.2, until the next placement is accepted into the SCH. Occupancy rates are worked out according to the below calculation:
  - "The number of Guaranteed Block Bed Nights *used* in the month" / ("The number of Guaranteed Block Bed Nights at the SCH" x "The number of days in the month")%
  - 4) The room is not declared available to the YCS under the daily unlock report: SCHs will be responsible for informing the Authority on a daily basis the number of Guaranteed Block Bed Night places that are available and the number of places which are not available. If a guaranteed place is vacant but not declared available to the YCS (and the error is not picked up, resulting in non-placement by the Authority that day), it will be considered unavailable and not paid for. The onus is on the SCHs to declare available beds.
  - 5) The Room is deemed an Unavailable Guaranteed Block Bed Night by virtue of it being utilised as a Welfare Ad hoc Bed Night in accordance with clause B7.
  -

#### 2.2.2 *Adjustment to payment for places that were not available*

- The adjustment to payment will depend on the number of places that were unavailable. For example it could range from one Young Person being unreasonably refused or all places being unavailable if the SCH lost their licence and all children were removed. The payment adjustment for the first case is described below:
  - Monthly basic payment
  - Less "Guaranteed Block Bed Night Price" x "The number of Unavailable Guaranteed Block Bed Nights"

### 2.3 Payment based on performance

The Authority will not pay the full Guaranteed Block Bed Night Price where the Service Specification is not being provided to the basic standard defined in Schedule 1 and in accordance with the performance framework.

#### 2.3.1 *Performance against Contract Delivery Indicators*





A performance management framework has been designed for this contract and is fully detailed in Schedule 7 (Performance Management Framework). An SCH's performance will be measured and scored against a number of Contract Delivery Indicators for the contract on a monthly basis. Thresholds have been set for underperformance and should an SCH's monthly performance score breach the relevant threshold then a performance deduction (financial) will be applicable.

The deduction will be limited to [redacted] of the monthly payment for Guaranteed Block Bed Night places applicable to the relevant month. Any financial deduction would be made from payment due to the SCH for the invoice submitted for the following month.

The calculation for payment for underperformance is:

- “Invoice value for the month x [redacted]”

### **3. Information to support monthly payment**

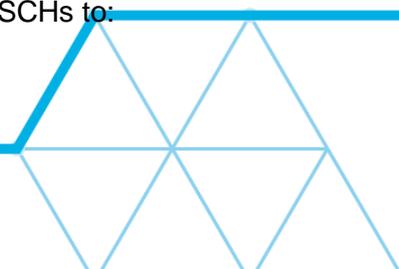
As at Clause C2 of the Contract, the Supplier must submit invoices in accordance with the procedure described below:

- (a) The SCH will submit the monthly invoice template, found at Annex A, to the Authority within 10 working days of the end of the relevant month. The monthly invoice will detail:
  - (i) Guaranteed block bed nights
  - (ii) Spot bed nights
  - (iii) Any other adjustments (include description)
  - (iv) Availability deductions
  - (v) Performance deductions
- (b) Any clarifications to the invoice required by the Authority will be provided by the SCH within 5 working days of the request
- (c) The Authority will certify and pay the amount stated on the invoice within 30 days of the receipt of the monthly invoice by the Authority.
- (d) Any payments to the SCH due to adjustments to the invoice will be made within 30 days of the adjustment. Any change to the payments due to the Authority will be made by a subtraction to the subsequent invoice.
- (e) Late payment of the invoice will be result in an additional interest payment by the Authority's at the prescribed rate set out in Clause C2.14. Similarly, any adjustment to subsequent invoices for overpayment by the Authority will also reflect an interest payment by the SCH. The interest will be charged at the rate prescribed in the contract.
- 

### **4. Financial audit**

#### **4.1 Financial Assurance**

As a user of public money, the Authority has a duty to account for the money it spends and to ensure that value for money is being achieved. The Authority has asked SCHs to:





- (a) project costs and price for the contract period (or as long as budgets can be determined) in the financial submission for the ITT
- (b) run an open-booking accounting and allow an audit of costs and price at key points during the contract by the Authority.
- (c) ensure that the Price reflects the Full Economic Cost of Guaranteed Block Bed Nights.

#### 4.2 Full Economic Cost

Where, in the Authority's reasonable opinion, it determines that the Supplier is recovering more than the Full Economic Cost of providing the Services it reserves the right to:

1. make such adjustment to the Price as it reasonably considers are necessary to reduce the amount paid to the Supplier so as to reduce the Supplier's level of recovery to its Full Economic Cost (including reducing future payments to account of part recovery of costs above the Full Economic Cost);
2. terminate this Agreement in which case termination shall be treated as if this Agreement had been terminated pursuant to Clause H4.





**Annex A Invoice Template**

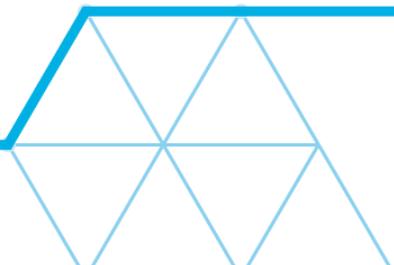
[redacted]

**Annex B Price Template**

[redacted]

**Annex C Deductions Template**

[redacted]

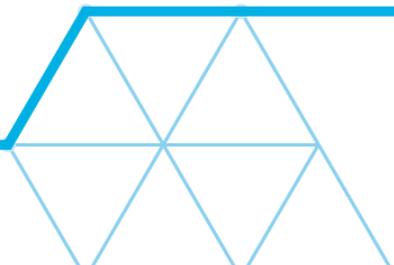




## SCHEDULE 3 - CHANGE CONTROL

In accordance with Clause F4 of the Contract, annexed to this Schedule are the templates to be used by either Party to request and execute changes to the contract:

- Change Request Form
- Contract Change Notice





**Change Request Form**

(For completion by the Party requesting the Change)

<b>Contract Title:</b>	<b>Party requesting Change:</b>
<b>Name of Supplier:</b>	
<b>Change Request Number:</b>	<b>Proposed Change implementation date:</b>
<b>Full description of requested Change (including proposed changes to wording of the Contract where possible):</b>	
<b>Reasons for requested Change:</b>	
<b>Effect of requested Change</b>	
<b>Assumptions, dependencies, risks and mitigation (if any):</b>	
<b>Change Request Form prepared by (name):</b>	
<b>Signature:</b>	
<b>Date of Change Request:</b>	

**Contract Change Notice (“CCN”)**





(For completion by the Authority once the Change has been agreed in principle by both Parties. Changes do not become effective until this form has been signed by both Parties.)

<b>Contract Title:</b>		<b>Change requested by:</b>	
<b>Name of Supplier:</b>			
<b>Change Number:</b>			
<b>Date on which Change takes effect:</b>			
<b>Contract between:</b>			
The Secretary of State for Justice			
and			
[insert name of Supplier]			
<b>It is agreed that the Contract is amended, in accordance with Regulation 72 of the Public Contracts Regulations 2015, as follows:</b>			
[Insert details of the variation (including any change to the Price and deliverables/obligations) based on the information provided in the Change Request Form and any subsequent discussions/negotiations, cross referencing the wording of the original Contract, as previously changed (if applicable), where possible]			
<b>Where significant changes have been made to the Contract, information previously published on Contracts Finder will be updated.</b>			
Words and expressions in this CCN shall have the meanings given to them in the Contract. The Contract, including any previous CCNs, shall remain effective and unaltered except as amended by this CCN			
<b>Signed for and on behalf of the Secretary of State for Justice</b>		<b>Signed for and on behalf of [insert name of Supplier]</b>	
<b>Signature</b>		<b>Signature</b>	
<b>Name</b>		<b>Name</b>	
<b>Title</b>		<b>Title</b>	
<b>Date</b>		<b>Date</b>	





### SCHEDULE 4 - COMMERCIALLY SENSITIVE INFORMATION

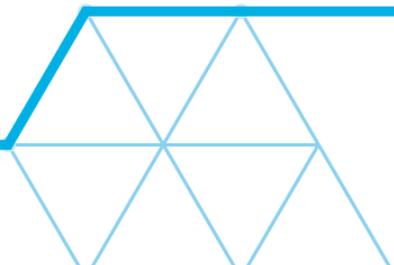
- 1 Without prejudice to the Authority's general obligation of confidentiality, the Parties acknowledge that the Authority may have to disclose Information in or relating to the Contract following a Request for Information pursuant to clause E5 (Freedom of Information).
- 2 In this Schedule 4 the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be contrary to the public interest.
- 3 Where possible the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule 4 applies.
- 4 Without prejudice to the Authority’s obligation to disclose Information in accordance with the FOIA and the EIR, the Authority will, acting reasonably but in its sole discretion, seek to apply the commercial interests exemption set out in s.43 of the FOIA to the Information listed below.

SUPPLIER'S COMMERCIALLY SENSITIVE INFORMATION	DATE	DURATION OF CONFIDENTIALITY
Contract Price	From the date of contract execution	Until the Termination or Expiry of this Contract
Any information to staff and staffing numbers	From the date of contract execution	Until the Termination or Expiry of this Contract





**SCHEDULE 5 – NOT USED**





**SCHEDULE 6 – NOT USED**





## SCHEDULE 7 – PERFORMANCE MANAGEMENT FRAMEWORK

### 1. Overview of the performance management framework

1.1 This schedule describes the method by which the Authority will measure and manage the delivery of the services provided by SCH.

The performance measurement framework will operate continuously throughout the year through a combination of assurance monitoring reviews, self-reporting, quarterly performance reviews and contract review meetings.

1.2 The Supplier will be expected to engage in the below performance related meetings as a minimum and comply with Schedule 1 section 3.6 (SCH Manager or suitable representative to attend):

Assurance Meeting	Responsible to attend	Frequency
Joint SCH Managers Meeting/SCH Working Group	All Registered Managers	Every six months
YCS Joint Review Meetings	Individual SCH Registered Manager	Ad hoc basis (on reasonable notice from the Authority)
MoJ/YCS Contract/Joint Review Meetings	Individual SCH Registered Manager	Every six months in alternation with the above 6 monthly Joint SCH Managers Meeting, or risk based and scheduled as and when required.
YCS Assurance Reviews	Individual SCH Registered Manager	Risk based and scheduled as and when required
Healthcare Partnership Board	Individual SCH Registered Manager	Every six months or risk based and scheduled as and when required
NHS England Contract Review Meetings	Individual SCH Registered Manager	Every three months

1.3 The Terms of Reference (as may be varied from time to time) for the YCS lead Contract Review Meetings, SCH Managers Meetings and Joint Review Meetings are to be complied with (see Appendix B).

### 2. Approach

2.1 The Authority requires that SCHs deliver the full range of services described in the Schedule 1 specification and the Authority will collect a range of data over the life of the contract to assist in measuring performance against the specification. SCHs are required to





report regular performance data such as the Authority consider necessary and this performance data will be used to look for areas of concern to help shape and improve performance.

2.2 Not all of the data that the Authority will choose to collect will provide a straightforward measure of non-compliance with contractual requirements. Instead it may be used to prompt further discussion and investigation.

2.3 However, there are a number of areas of the service specified which can be clearly expressed as performance targets. These targets and measures (Contract Delivery Indicators) have been identified and are detailed at Appendix A. The Authority requires SCHs to measure themselves against these targets in a robust and auditable fashion and report their performance against these targets on a monthly basis.

2.4 These are not the most important areas of the service being provided nor are they the only areas to be measured. However, they do form a set of clearly measurable targets which can give an indication of basic performance. In addition, poor performance against these targets will result in performance remedies being applied to ensure contract compliance.

2.5 Throughout the contract period the Authority, through its contract managers and service assurance monitors, will be evaluating the performance of the SCH through visits, meetings and analysis of performance data collected both as part of the CDIs and other generic data.

2.6 Because the evaluation of performance will be on a continual basis, poor performance should come to light at an early stage and not be an issue that is discovered at the end of each performance quarter. Where poor performance is discovered the Authority will work closely with the SCH to improve performance on an urgent basis.

### **3. Contract Compliance Performance Mechanism**

#### **3.1 Contract compliance measures**

There are CDI measures of compliance against the contract as detailed at Appendix A. Each measure is linked to an output from the service specification and has a target against which performance will be measured. Failure to reach the target will attract performance deduction points, the level of which will vary depending on the degree (percentage) of failure against the relevant target.

The Authority will review performance against these CDIs on a quarterly basis and depending on the overall total of performance deduction points awarded, remedial action may be required. The range of remedies available to the Authority is further described in section 4 of this document and shortfalls in performance will result in a financial deduction being applied.

#### **3.2 Data collection and performance periods**

SCHs will collect data and send it to Authority on a monthly basis in any format reasonably requested by the Authority, by the 10th working day of the following month. This will include data for the CDIs detailed at Appendix A, together with any and other Management Information as detailed below.



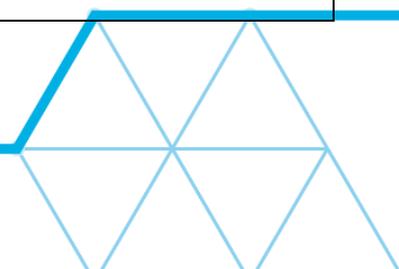


The performance period against which performance will be reviewed will be monthly, beginning with the first performance month following Commencement of this Contract. Any performance deduction points will be applied to the relevant month and will be awarded against the CDIs at Appendix A.

**3.3 Management Information**

The Supplier will ensure all management information outlined below is provided to the Authority in line with the timescales:

Management Information	Responsibility	Frequency	Timescale
Ofsted Notifications	Ofsted	As required	Within 1 hour of the Ofsted notification being made to Ofsted.
Regulation 44 Reports	Independent Person	Monthly	Within 5 working days of the report being shared with the SCH.
Regulation 45 Reports (CHR:2015 section 45)	Registered Manager	Every six months	At the same time such Reports are provided to Ofsted/CIW in accordance with the timelines required under CHR 2015 section 45 subsection 4a.
Section 11 Reports	Local Multiagency Safeguarding Board (previously LSCB)	Every three years	Within 5 working days of the report being shared with the SCH.
Other Agency Reports	Various Stakeholders	Scheduled as and when required	Within 5 working days of the report being shared with the SCH.
Restraint Minimisation Report: <ul style="list-style-type: none"> <li>Restraint practices over the preceding twelve months;</li> <li>How the SCH will minimise the use of restraint over the next twelve months (contract year);</li> <li>The protected characteristics of CYPs, with regard to the use of restraint.</li> <li>this report is reviewed by a professional person/ organisation that is</li> </ul>	Registered Manager	Annually	Within 20 days of the end of the Contract year





<p>independent of the SCH Supplier.</p> <ul style="list-style-type: none"> <li>In order that the independent person’s review adds value to the SCH report, they should have some knowledge of the services provided by the SCH and of restraint principles and practices.</li> </ul>			
<p>Management Information Reports to include:</p> <ul style="list-style-type: none"> <li>- CMM and Behaviour Management Toolkits/Data Requests*</li> <li>- Monthly Payment Report</li> <li>- Monthly KPI Report</li> <li>- Monthly Performance Report (including CDI reports)</li> </ul>	Registered Manager	Monthly	Within 10 working days following completion of the month prior.
<p>All other management information reasonably required by the authority</p>	Registered Manager		As stipulated on request

**\* The YCS is conducting a review of the collection of data and will advise on any changes or new data requirements on its completion (Date to be confirmed)**

This list is not exhaustive and the Authority reserves the right to make further reasonable requests for data and information regarding Contract performance.

**4. Performance Deduction Points and Remedies**

**4.1 Performance Deduction Points**

For each performance period the monthly data sent in by the SCH will be assessed against the relevant CDIs and its target. Shortfalls in performance against the target will attract the award of deduction points for each measure and outlined in Schedule 2 section 2.1.

**4.2 Performance Deduction Points Multiplier**

Where a CDI has been breached for three consecutive performance periods, the performance deduction points awarded for that shortfall in the third period shall be multiplied by 1.5.





### 4.3 Remedies

Failure to meet the CDIs at Annex A will result in a tiered Authority response, as per the following triggers and contractual mechanisms:

Trigger	Authority/ Response Level	YCS Points Thresholds (monthly)	Performance Mechanism Trigger	Contract Reference
I.	Performance Points award only (no action)	Up to 24 points		
II.	Authority’s <i>right</i> to issue an Improvement Notice triggered	25 – 34 points		Clause F2.3 – F2.5
III.	Authority’s <i>right</i> to escalate to Directors of Children’s Services and Department for Education is triggered and/or issuing of Outstanding Issues Notice triggered.	35 – 49 points	n/a	
		n/a	Failure to deliver on Improvement Notice Action Plan	Clause F2.6
IV.	Authority’s <i>right</i> to reduce payment is triggered	50 points or above	n/a	
		n/a	Failure to deliver on the Outstanding Issues Notice	Clause F2.6
V.	Authority’s <i>right</i> to terminate the Contract is triggered	275 points per rolling year		Clause H4.1(j)

## **5. Performance Mechanism Annual Review**

### 5.1 Annual Review

At the end of each contract year Authority may review the performance mechanism to ensure that the measures, targets, and threshold levels for performance deduction points and remedies are still valid and effective. This review will seek the views of the SCH and any resulting change will be administered via the contract change mechanisms as detailed at clause F4 of the contract.





### Appendix A: Contract Delivery Indicators

ID	Spec Area	CDI Description	Measure of CDI	Performance Target	Reporting Frequency
01	<p><i>Working with the MoJ</i> (Sch 1 section 3)</p>	<p><b>The SCH shall provide information required by the Authority in a timely manner</b></p>	<p>a) Management Information requirements specified in Schedule 7 section 3.3 are complied with and delivered to the Authority according to the specified timelines</p> <p>b) Any reasonable request for information made by the Authority Representative in writing to the SCH will be fulfilled by the SCH within 10 working days of said notice, unless explicitly specified otherwise.</p> <p>The authority will make clear where such requests for information are being made under this CDI.</p>	<p>a) 5 points awarded for each MI report stipulated in section 3.3 that is not provided to the Authority in accordance with the specified timelines (apart from the Annual Restraint Minimisation Report). 26 points will be awarded if the Annual Restraint Minimisation Report is not received in accordance with the specified timelines.</p> <p>b) 10 points awarded for each incident where requested information is not provided within 10 working days of a written Authority request. 1 point for every additional working day will apply until the information is provided to the Authority Representative. These points will apply <i>in addition</i> to any incident accruing points under section 1A.</p>	<p>Monthly</p> <p>Monthly</p>



02	<i>Education and Activities</i> (Sch 1 section 5)	<b>The SCH shall ensure that each young person makes measurable educational progress whilst resident at the SCH.</b>	<p>The measure of education progress will be as per the current arrangements of the SCHs themselves.</p> <p>Measures of educational progress are also being developed under the YJ Reforms / Secure Schools programme. When these are sufficiently well developed, they will be finalised in consultation with SCHs taking account of their own educational progress measures. These new measures will then replace the measures of education progress currently used by SCHs.</p>	10 points awarded for each CYP where demonstrable progress has not been made.	Quarterly / Monthly (TBC)
03A	<i>Management of Children</i> (Sch 1 section 6)	<b>The SCH shall work to deliver a quality service.</b>	<p>Ofsted overall inspection judgement for the SCH is "Good" or "Outstanding" following a full or follow-up ("short") inspection.</p> <p>Care Inspectorate Wales (CIW) overall rating for Hillside SCH, following a full or follow-up ("short") inspection.</p>	<p>30 points awarded for any Ofsted inspection judgement of "Requires Improvement" or 50 points for any Ofsted inspection judgement of "Inadequate", applicable to the month immediately following the Ofsted / CIW rating.</p> <p>Should the SCH be re-inspected by Ofsted within 12 months of being rated "Inadequate" or "Requires Improvement" (or any future equivalent), and is rated "Good" or "Outstanding" by such follow up inspection, the points accumulated from the prior inspection will be waived for the purpose of the remedies available to the Authority in the rolling year calculations) as per paragraph 4.3)</p>	Monthly



				The Authority reserves the right to, at its sole discretion, waive the accumulation of CDI points following re-inspection should, in the Authority's opinion, tangible progress have been made by the SCH.	
<b>03B</b>	<i>Management of Children</i> (Sch 1 section 6)	<b>The SCH shall work to deliver a quality service.</b>	The SCH will comply with all applicable Children's Home Regulations in its delivery of the Service.  CAVEAT: should any failures be triggered by action or inaction of the Authority it will not trigger this CDI.	10 points will be awarded should any inspecting body identify the SCH's failure to comply with any such Regulations.  Points will apply <i>per</i> identified failure.  Points will not accrue under this measure if the same triggering inspection / breach of CHR resulted in CDI points being awarded under measure 3A.	Monthly
<b>04</b>	<i>Management of Children</i> (Sch 1 section 6)	<b>The SCH shall minimise the use of restraint on children and young people.</b>	Use of Restraint in the SCH will be in accordance with their Behaviour Management Policy – Children's Home (England) Regulation 35.	10 points for any incident of restraint resulting in injury on the restrained YP which, following investigation, the SCH was deemed not to have followed its operating procedures and policies - Applied to the month of such incident occurring.	Monthly
<b>05</b>	<i>Management of Children</i>	<b>The SCH will ensure their care of CYP minimises the potential</b>	The SCH will work to actively minimise the opportunity of self harm incidents amongst CYP in accordance with the SCHs Operating Policy and Procedures.	10 points for any incident of self-harm, regardless of injury incurred, where, following investigation, the	Monthly



	(Sch 1 section 6)	<b>for self-harm incidents to occur</b>		SCH is found to have not followed its operating procedures and policies	
06	Case Management and Resettlement (Sch 1 section 7)	<b>The SCH will comply with and utilise YJAF to provide comprehensive electronic records of the CYP placed in their care.</b>  <i>Children's Regulation 36 (Children's case records)</i>	Measure regarding YJAF Framework usage and compliance to be inserted once requirements and specifications defined.  CAVEAT: Failures or periods where the system is brought offline by the Authority (for example, to deliver upgrades or system-fixes) will not impact performance against this measure. Days where AssetPlus is unavailable for use due to system failure or at the Authority's direction should be removed from the calculation of usage targets	Points and target yet to be clarified – likely to be baselined from SCD	Monthly



## Appendix B: Performance Management Meeting Documents



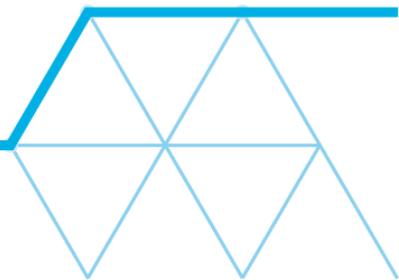
YCS - SCH Joint  
Manager Meetings



YCS SCH CRM  
Meetings ToR v2.0.d



YCS - SCH JRM  
Meetings\_ToR v2.0.c





## SCHEDULE 8 – STATUTORY OBLIGATIONS AND CORPORATE SOCIAL RESPONSIBILITY REQUIREMENTS

### 1 What the Authority expects from the Supplier

- 1.1 In September 2017, Her Majesty's Government published a Supplier Code of Conduct (the "**Code**") setting out the standards and behaviours expected of suppliers who work with government. The Code can be found online at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/646497/2017-09-3\\_Official\\_Sensitive\\_Supplier\\_Code\\_of\\_Conduct\\_September\\_2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/646497/2017-09-3_Official_Sensitive_Supplier_Code_of_Conduct_September_2017.pdf)

- 1.2 The Authority expects the Supplier and its Sub-Contractors to comply with their legal obligations, in particular those set out in Part 1 of this Schedule 8, and to meet the standards set out in the Code as a minimum. The Authority also expects the Supplier and its Sub-Contractors to use reasonable endeavours to comply with the standards set out in Part 2 of this Schedule 8.

### PART 1 Statutory Obligations

#### 2 Equality and Accessibility

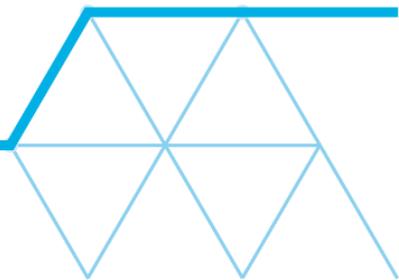
- 2.1 The Supplier shall:

- (a) perform its obligations under the Contract in accordance with:
- i) all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy maternity or otherwise);
  - ii) the Authority's equality, diversity and inclusion policy as given to the Supplier from time to time;
  - iii) any other requirements and instructions which the Authority reasonably imposes regarding any equality obligations imposed on the Authority at any time under applicable equality law; and
- (b) take all necessary steps and inform the Authority of the steps taken to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation).

#### 3 Modern Slavery

- 3.1 The Supplier shall, and procure that each of its Sub-Contractors shall, comply with:

- (a) the Modern Slavery Act 2015 ("**Slavery Act**"); and





- (b) the Authority's anti-slavery policy as provided to the Supplier from time to time ("**Anti-slavery Policy**").

3.2 The Supplier shall:

- (a) implement due diligence procedures for its Sub-Contractors and other participants in its supply chains, to ensure that there is no slavery or trafficking in its supply chains;
- (b) respond promptly to all slavery and trafficking due diligence questionnaires issued to it by the Authority from time to time and shall ensure that its responses to all such questionnaires are complete and accurate;
- (c) prepare and deliver to the Authority each year, an annual slavery and trafficking report setting out the steps it has taken to ensure that slavery and trafficking is not taking place in any of its supply chains or in any part of its business;
- (d) maintain a complete set of records to trace the supply chain of all Services provided to the Authority regarding the Contract; and
- (e) implement a system of training for its employees to ensure compliance with the Slavery Act.

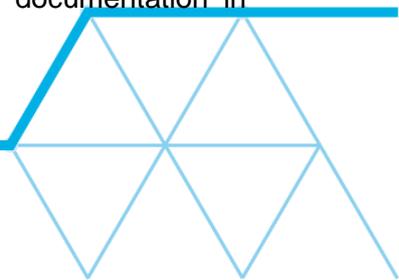
3.3 The Supplier represents, warrants and undertakes throughout the Term that:

- (a) it conducts its business in a manner consistent with all applicable laws, regulations and codes including the Slavery Act and all analogous legislation in place in any part of the world;
- (b) its responses to all slavery and trafficking due diligence questionnaires issued to it by the Authority from time to time are complete and accurate; and
- (c) neither the Supplier nor any of its Sub-Contractors, nor any other persons associated with it:
  - i) has been convicted of any offence involving slavery and trafficking; or
  - ii) has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence regarding slavery and trafficking.

3.4 The Supplier shall notify the Authority as soon as it becomes aware of:

- (a) any breach, or potential breach, of the Anti-Slavery Policy; or
- (b) any actual or suspected slavery or trafficking in a supply chain which relates to the Contract.

3.5 If the Supplier notifies the Authority pursuant to paragraph 3.4 of this Schedule 8, it shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with the Contract.





- 3.6 If the Supplier is in Default under paragraphs 3.2 or 3.3 of this Schedule 8 the Authority may by notice:
- (a) require the Supplier to remove from performance of the Contract any Sub-Contractor, Staff or other persons associated with it whose acts or omissions have caused the Default; or
  - (b) immediately terminate the Contract.

#### 4 Income Security

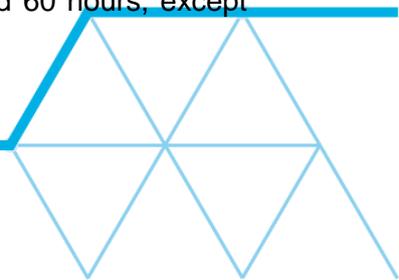
4.1 The Supplier shall:

- (a) ensure that all pay and benefits paid for a standard working week meet, at least, national legal standards in the country of employment;
- (b) provide all Staff with written and readily understandable information about their employment conditions in respect of pay before they enter employment and about their pay for the pay period concerned each time that they are paid;
- (c) not make deductions from pay:
  - (i) as a disciplinary measure;
  - (ii) except where permitted by Law and the terms of the employment contract; and
  - (iii) without express permission of the person concerned
- (d) record all disciplinary measures taken against Staff.

#### 5 Working Hours

5.1 The Supplier shall ensure that:

- (a) the working hours of Staff comply with the Law, and any collective agreements;
- (b) the working hours of Staff, excluding overtime, is defined by contract, do not exceed 48 hours per week unless the individual has agreed in writing, and that any such agreement is in accordance with the Law;
- (c) overtime is used responsibly, considering:
  - (i) the extent;
  - (ii) frequency; and
  - (iii) hours worked;
- (d) the total hours worked in any seven-day period shall not exceed 60 hours, except where covered by paragraph 5.3 of this Schedule 8;





- (e) working hours do not exceed 60 hours in any seven-day period unless:
  - (i) it is allowed by Law;
  - (ii) it is allowed by a collective agreement freely negotiated with a worker's organisation representing a significant portion of the workforce;
  - (iii) appropriate safeguards are taken to protect the workers' health and safety; and
  - (iv) the Supplier can demonstrate that exceptional circumstances apply such as during unexpected production peaks, accidents or emergencies;
- (f) all Supplier Staff are provided with at least:
  - (i) 1 day off in every 7-day period; or
  - (ii) where allowed by Law, 2 days off in every 14-day period.

## 6 Right to Work

6.1 The Supplier shall:

- (a) ensure that all Staff, are employed on the condition that they are permitted to work in the UK, and;
- (b) notify the authority immediately if an employee is not permitted to work in the UK.

## 7 Health and Safety

7.1 The Supplier shall perform its obligations under the Contract in accordance with:

- (a) all applicable Law regarding health and safety; and
- (b) the Authority's Health and Safety Policy while at the Authority's Premises.

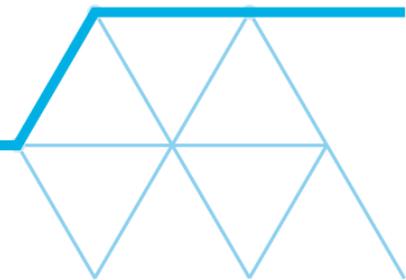
7.2 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Authority's Premises of which it becomes aware and which relate to or arise in connection with the performance of the Contract. The Supplier shall instruct Staff to adopt any necessary safety measures in order to manage the risk.

## 8. Welsh Language Requirements

8.1 The Supplier shall comply with the Welsh Language Act 1993 and the Welsh Language Scheme as if it were the Authority to the extent that the same relate to the provision of the Services.

## 9 Fraud and Bribery

9.1 The Supplier represents and warrants that neither it, nor to the best of its knowledge any Staff, have at any time prior to the Commencement Date:





- (a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
- (b) been listed by any Government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in Government procurement programmes or contracts on the grounds of a Prohibited Act.

9.2 The Supplier shall not during the Term:

- (a) commit a Prohibited Act; and/or
- (b) do or suffer anything to be done which would cause the Authority or any of its employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

9.3 The Supplier shall, during the Term:

- (a) establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act; and
- (b) keep appropriate records of its compliance with its obligations under paragraph 9.3(a) and make such records available to the Authority on request.

9.4 The Supplier shall immediately notify the Authority in writing if it becomes aware of any breach of paragraphs 9.1 and/or 9.2, or has reason to believe that it has or any of the Staff have:

- (a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
- (b) been listed by any Government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in Government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
- (c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of the Contract or otherwise suspects that any person directly or indirectly connected with the Contract has committed or attempted to commit a Prohibited Act.

9.5 If the Supplier notifies the Authority pursuant to paragraph 9.4, the Supplier shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to Audit any books, records and/or any other relevant documentation.

9.6 If the Supplier is in Default under paragraphs 9.1 and/or 9.2, the Authority may by notice:

- (a) require the Supplier to remove from performance of the Contract any Staff whose acts or omissions have caused the Default; or





- (b) immediately terminate the Contract.

9.7 Any notice served by the Authority under paragraph 9.6 shall specify the nature of the Prohibited Act, the identity of the party who the Authority believes has committed the Prohibited Act and the action that the Authority has taken (including, where relevant, the date on which the Contract terminates).

## PART 2 Corporate Social Responsibility

### 10 Zero Hours Contracts

10.1 Any reference to zero hours contracts, for the purposes of this Contract, means as they relate to employees or workers and not those who are genuinely self-employed and undertaking work on a zero hours arrangement.

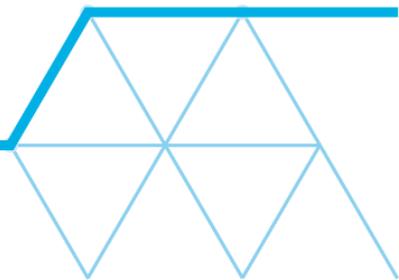
10.2 When offering zero hours contracts, the Supplier shall consider and be clear in its communications with its employees and workers about:

- (a) whether an individual is an employee or worker and what statutory and other rights they have;
- (b) the process by which work will be offered and assurance that they are not obliged to accept work on every occasion; and
- (c) how the individual's contract will terminate, for example, at the end of each work task with notice given by either party.

### 11 Sustainability

11.1 The Supplier shall:

- (a) comply with the applicable Government Buying Standards; and
- (b) perform its obligations under the Contract in a way that:
  - (i) conserves energy, water, wood, paper and other resources;
  - (ii) reduces waste and avoids the use of ozone depleting substances; and
  - (iii) minimises the release of greenhouse gases, volatile organic compounds and substances damaging to health and the environment.





## SCHEDULE 9 – POLICIES AND STANDARDS

### 1. INTRODUCTION

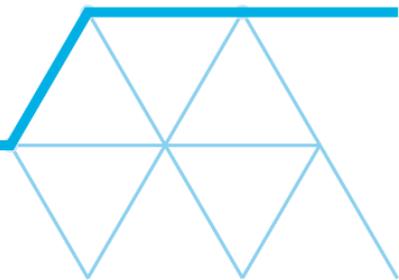
- 1.1 The Supplier shall at all times comply with the Policies and Standards listed in Annex 1 of this Schedule.
- 1.2 The Parties acknowledge that any standard, policy and/or other document referred to within a Policy or Standard shall be deemed to form part of that Policy or Standard.

### 2. GENERAL

- 2.1 The Authority shall provide copies of the Policies and Standards from time to time to the Supplier upon request.
- 2.2 Throughout the Contract Period, the Parties shall monitor and notify each other of any new or emergent policies or standards which could affect the Suppliers provision, or the Authority's receipt, of the Services.
- 2.3 Where a new or emergent standard is to be developed or introduced by the Authority, the Supplier shall be responsible for ensuring that the potential impact on the Suppliers provision, or the Authority's receipt, of the Services is explained to the Authority (in a reasonable timeframe), prior to the implementation of the new or emergent standard.
- 2.4 Where new versions of the Authority's Polices or Standards are developed and notified to the Supplier, the Supplier shall be responsible for ensuring that the potential impact on the Suppliers provision, or the Authority's receipt, of the Services is explained to the Authority (in a reasonable timeframe), prior to the implementation of the new version of the Policy or Standard, and the Supplier shall comply with such revised Policy or Standard (and any necessary Variations to the Contract shall be agreed in accordance with clause F4 (Change).

### 3. CONFLICTING POLICIES OR STANDARDS

Where Policies or Standards referenced conflict with each other or with Good Industry Practice, then the later Policy or Standard or best practice shall be adopted by the Supplier. Any such alteration to any Policy or Standard(s) shall require the prior written agreement of the Authority and shall be implemented within an agreed timescale.

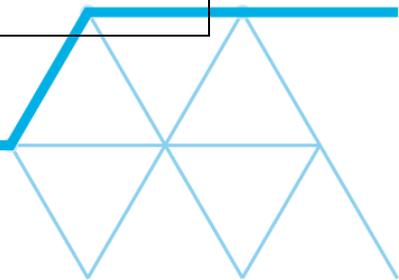




ANNEX 1

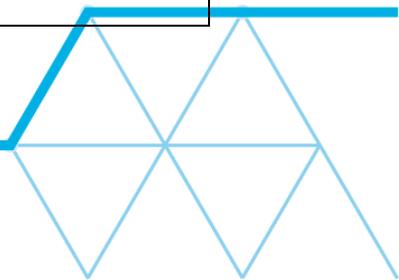
POLICES AND STANDARDS

Policy or Standard	Description	Owner
<i>AssetPlus Assessment and Planning Interventions v3</i>	Working with the MOJ and YCS	YJB
<i>AssetPlus Joint Working Protocol v1.3, 2018</i>	Case Management and Resettlement	YJB
<i>AssetPlus Secure Estate FAQs v1.0</i>		YJB
BPSS / DBS Checks	<a href="https://www.gov.uk/government/publications/government-baseline-personnel-security-standard">https://www.gov.uk/government/publications/government-baseline-personnel-security-standard</a>  <a href="https://www.gov.uk/disclosure-barring-service-check/overview">https://www.gov.uk/disclosure-barring-service-check/overview</a> .	UK GOV
<i>Children's Homes (England) Regulations 2015</i>	Introduction  <a href="http://www.legislation.gov.uk/ukxi/2015/541/contents/made">http://www.legislation.gov.uk/ukxi/2015/541/contents/made</a>	UK GOV (SI)
Civil Service – Good Governance	 governance_standard[1].pdf	UK GOV
Civil Service Code of Conduct / MOJ Code of Conduct	<a href="https://www.gov.uk/government/collections/civil-service-conduct-and-guidance">https://www.gov.uk/government/collections/civil-service-conduct-and-guidance</a>   conduct-policy.pdf	UK GOV
Cloud Security / HMG Cloud Security Guidance and the Cloud Security Principles	<a href="https://www.gov.uk/digital-marketplace">https://www.gov.uk/digital-marketplace</a>  <a href="https://www.ncsc.gov.uk/guidance/cloud-security-collection">https://www.ncsc.gov.uk/guidance/cloud-security-collection</a>	UK GOV
CPNI – Standard for Secure Destruction of Sensitive Items	<a href="https://www.cpni.gov.uk/secure-destruction">https://www.cpni.gov.uk/secure-destruction</a>	UK GOV



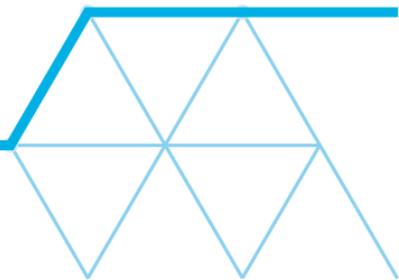


Policy or Standard	Description	Owner
<i>Critical Casework Panel, 2018</i>	Safeguarding	YCS
Cyber Security	<a href="https://www.gov.uk/government/publications/cyber-essentials-scheme-overview">https://www.gov.uk/government/publications/cyber-essentials-scheme-overview</a> <a href="https://www.cyberstreetwise.com/cyberessentials/files/requirements.pdf">https://www.cyberstreetwise.com/cyberessentials/files/requirements.pdf</a>	UK GOV
<i>Developing a Restraint Minimisation Strategy, Guidance for secure establishments on the development of restraint minimisation strategies, 2009</i>		YJB
Domestic Violence Crimes and Victims Act 2004	<a href="http://www.legislation.gov.uk/ukpga/2004/28/contents">http://www.legislation.gov.uk/ukpga/2004/28/contents</a>	UK GOV (legislation)
<i>Every Child Matters: Change for Children, 2009</i>	Introduction <a href="https://www.gov.uk/government/publications/every-child-matters-statutory-guidance">https://www.gov.uk/government/publications/every-child-matters-statutory-guidance</a>	DfE
<i>Guide to the Children's Regulations including the quality standards, DfE, 2015</i>	Introduction <a href="https://www.gov.uk/government/publications/childrens-homes-regulations-including-quality-standards-guide">https://www.gov.uk/government/publications/childrens-homes-regulations-including-quality-standards-guide</a>	DFE
<i>Healthcare Standards for Young People in Secure Settings, 2013</i>	Introduction <a href="https://www.rcpch.ac.uk/sites/default/files/2018-03/healthcare_standards_for_children_and_young_people_in_secure_settings_june_2013.pdf">https://www.rcpch.ac.uk/sites/default/files/2018-03/healthcare_standards_for_children_and_young_people_in_secure_settings_june_2013.pdf</a>	RCPCH
HM Government Security Classifications (Data Security)	<a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251480/Government-Security-Classifications-April-2014.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251480/Government-Security-Classifications-April-2014.pdf</a>	UK GOV
HMG (Cabinet Office and NCSC) guidance on Security Technology at OFFICIAL	<a href="https://www.gov.uk/government/collections/securing-technology-at-official">https://www.gov.uk/government/collections/securing-technology-at-official</a> .	UK GOV



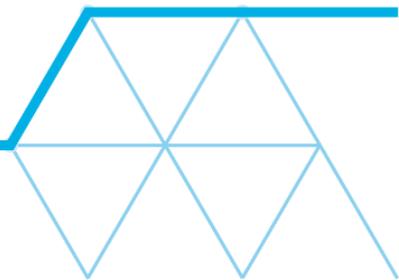


Policy or Standard	Description	Owner
HMG (Security Policy Framework) and NCSC standards and guidance	<a href="https://www.gov.uk/government/collections/government-security">https://www.gov.uk/government/collections/government-security</a> <a href="https://www.ncsc.gov.uk/guidance">https://www.ncsc.gov.uk/guidance</a>	UK GOV
HMG policy and guidance on Offshoring	<a href="https://www.ncsc.gov.uk/guidance">https://www.ncsc.gov.uk/guidance</a>	UK GOV
HMG Security Policy Framework (SPF)	<a href="https://www.gov.uk/government/collections/government-security">https://www.gov.uk/government/collections/government-security</a>	UK GOV
<i>Independent Review of Restraint in Juvenile Secure Settings, 2008</i>		MOJ
<i>Managing the Behaviour of Children and Young People in the Secure Estate: Code of Practice, 2009</i>	Management of Children	YJB
<i>Mental Health Act, 1983</i>	Case Management and Resettlement  <a href="https://www.legislation.gov.uk/ukpga/1983/20/contents">https://www.legislation.gov.uk/ukpga/1983/20/contents</a>	UK GOV
<i>National Standards for Youth Justice Services, 2013</i>		YJB
Payment Card Industry PCI Data Security Standard	 payment-card-industry-pci-data-security-s	
Protective Monitoring	 GPG 13 - Protective Monitoring for HMG IC	UK GOV
Public Sector Equality Duty	 psed-guidance.pdf	UK GOV
<i>Secure Stairs Key Principles and Outcomes, 2018</i>	Interventions	NHS(E)
<i>Serious &amp; Significant Incident Reporting Protocol</i>		YJB





Policy or Standard	Description	Owner
TCE Act including fees	<a href="http://www.legislation.gov.uk/ukpga/2007/15/contents">http://www.legislation.gov.uk/ukpga/2007/15/contents</a>  <a href="http://www.legislation.gov.uk/uksi/2013/1894/made">http://www.legislation.gov.uk/uksi/2013/1894/made</a>	UK GOV (legislation)
<i>Use of restraint policy framework for the under-18 secure estate, 2012</i>		MOJ
Welsh Language Scheme	 welsh-language-scheme-web.pdf	UK GOV
<i>YCS Incident Reporting and Management (NIMU), 2017</i>	Soon to be provided, YJB Serious & Significant Incident Protocol to be complied with until this is launched.	YCS
<i>YCS Placement Review Guidance, 2017</i>	Case Management and Resettlement	YCS
<i>YCS Placement Team Overview of Operational Procedures, 2017</i>	Working with the MoJ and YCS (3)	YCS
<i>YCS Transition Protocol, 2018</i>	Case Management and Resettlement  Please refer to page 12 of the <i>YCS Placement Review Guidance, 2017</i>	YCS
<i>YJAF Change Guide – Sentence &amp; Remand Meetings</i>		YJB
<i>YJB National Protocol for Case Responsibility</i>		YJB

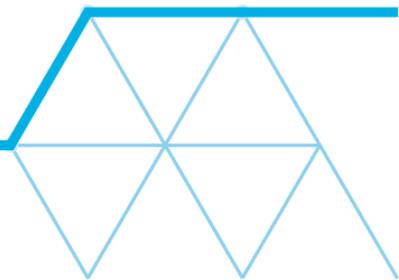




## SCHEDULE 10 – BUSINESS CONTINUITY AND DISASTER RECOVERY

### 1. BCDR PLAN

- 1.1 The Service Provider shall develop, implement and maintain a BCDR Plan to apply during the Contract Period (and after the end of the term as applicable) which will be approved by the Authority, tested, periodically updated and audited in accordance with this Schedule.
- 1.2 Within 30 days of the Commencement Date the Service Provider will deliver to the Authority for approval its proposed final BCDR Plan, which will be based on the draft BDCR Plan set out in Annex 1.
- 1.3 If the BCDR Plan is approved by the Authority it will be adopted immediately. If the BCDR Plan is not approved by the Authority the Service Provider shall amend it within 10 Working Days of a notice of non-approval from the Authority and re-submit to the Authority for approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than 15 Working Days (or such other period as the Parties may agree in writing) from the date of its first submission to the Authority. If the Authority does not approve the BCDR Plan following its resubmission, the matter will be resolved in accordance with clause 11 (Dispute Resolution). No approval to be given by the Authority pursuant to this paragraph 1.3 may be unreasonably withheld or delayed. Any failure to approve the BCDR Plan on the grounds that it does not comply with the requirements set out in paragraphs 1.1 to 1.3 shall be deemed to be reasonable.
- 1.4 The BCDR Plan shall, as a minimum:
- (a) address a wide range of disaster scenarios are contemplated and a variety of disaster response plans are set out which are appropriate to the occurrence of incidents of varying levels of severity.
  - (b) include an obligation upon the Service Provider to liaise with the Authority with respect to issues concerning business continuity and disaster recovery;
  - (c) contain a risk analysis, including:
    - (i) failure or disruption scenarios and assessments and estimates of frequency of occurrence;
    - (ii) identification of any single points of failure within the Services and processes for managing the risks arising therefrom;
    - (iii) a business impact analysis (detailing the impact on business processes and operations) of different anticipated failures or disruptions;
  - (d) provide for documentation of processes, including business processes, and procedures;
  - (e) identify the responsibilities (if any) that the Authority has agreed it will assume in the event of the invocation of the BCDR Plan; and
  - (f) include details of the procedures and processes to be put in place by the Service Provider in order to deal with the occurrence of an emergency or disaster, including but not limited to:
    - (i) backup methodology and details of the Service Provider's approach to data backup and data verification;
    - (ii) documentation of processes and procedures;

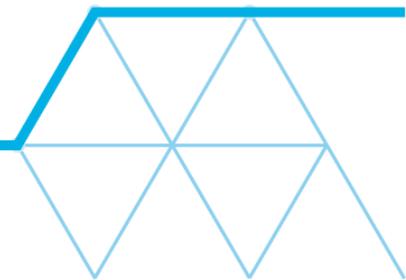




- (iii) Service recovery procedures; and
- (iv) steps to be taken upon resumption of the Services to address any prevailing effect of the failure or disruption of the Services;
- (g) include details of how the Service Provider shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the BCDR Plan is invoked;
- (h) address testing and management arrangements;
- (i) cover planned and unplanned unavailability of access to the Service Provider System;
- (j) set out recovery times for key activities;
- (k) describe minimum office equipment requirements (desks, telephones, PCs, etc. including any non-standard software applications, stand-alone systems and/or other hardware);
- (l) describe Service Provider System redundancy and resilience;
- (m) include arrangements for remote access to the service network devices;
- (n) include a Recovery Point Objective of 8 hours and Recovery Time Objective of 24 hours; and
- (o) include the location and integrity of configuration, password, operating manuals and other data and knowledge necessary for the continued operation of the Services.

## 2. TESTING

- 2.1 The Service Provider shall, at no cost to the Authority, conduct a test of the BCDR Plan on an annual basis and on such further occasions as may reasonably be required by the Authority. The scope of such testing shall be agreed between the Parties.
- 2.2 The Service Provider shall provide the Authority with a written report summarising the results of all tests carried out pursuant to paragraph 2.1, any failures of the BCDR Plan and any remedial action which the Service Provider has taken or intends to take (which may include improvements to the



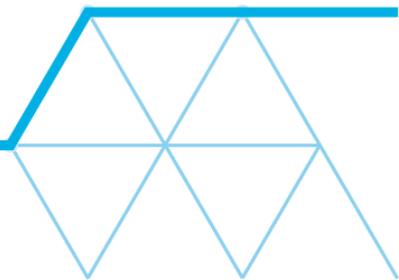


BCDR Plan). The Authority may make recommendations of remedial action and the Service Provider shall implement such as soon as practically possible at no cost to the Authority.

### 3. INVOKING THE BCDR PLAN

3.1 If an event occurs which, in the reasonable opinion of the Authority, constitutes an emergency or disaster affecting the Service Provider's ability to perform the Services, the Service Provider shall:

- (a) immediately notify the Authority of the full details of the event and its anticipated impact on the Service Provider's ability to perform its obligations under the Contract; and
- (b) as soon as reasonably practicable but within a maximum of 6 hours:
  - (i) implement the BCDR Plan; and
  - (ii) agree with the Authority the steps that it will take to address and mitigate the event with a view to ensuring minimum disruption to the Services.



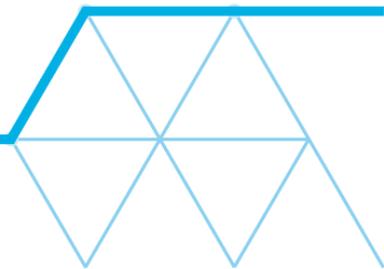




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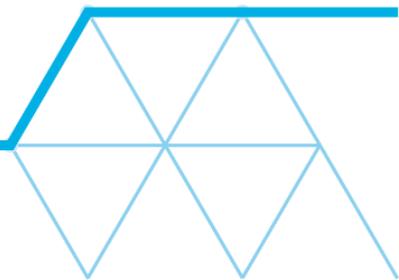
**ANNEX 1**  
**OUTLINE BCDR PLAN**

[redacted]





**SCHEDULE 11 – NOT USED**

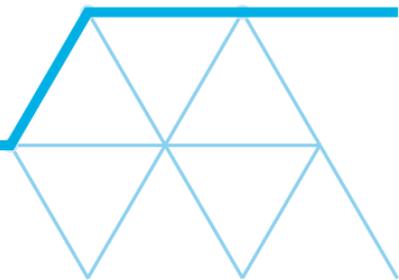




## SCHEDULE 12 – EXIT PLAN

### 1. Exit Plan

- 1.1 The Supplier will, upon request by the Authority, giving not less than three months' notice, deliver to the Authority a plan for managing the exit of the Supplier ("Exit Plan") which sets out the Supplier's proposed methodology for achieving an orderly transition of CYP from the Supplier to the Authority on the expiry or termination of this Contract and which complies with the requirements set out in paragraphs 1.2 and 1.3 below.
- 1.2 The Exit Plan will contain, as a minimum:
  - 1.2.1 the management structure to be employed during both transfer and cessation of the Services; and
  - 1.2.2 a detailed description of both the transfer and cessation processes and activities, including a timetable.





## SCHEDULE 13 – STANDARD OPERATING PROCEDURES

### 1. STANDARD OPERATING PROCEDURES

In accordance with Clause B.2.12 – B2.13 the Supplier shall provide copies of all standard operating procedures, as amended from time to time, to the Authority and append them in this Schedule 13.

[Standard operating procedures to be attached]

