



# Ministry of JUSTICE

OFFICIAL SENSITIVE

## **Contract for the Provision of Prisoner Education Services (Careers Information, Advice and Guidance (CIAG))**

between

**The Secretary of State for Justice**

(as Authority)

and

**The Growth Company Limited** (as Contractor)

In relation to Lot 10 (West Midlands Group)

Volume [1] of [2] volumes

For and on behalf of the Contractor:		For and on behalf of the Authority:	
Signature:	[REDACTED Section 40 of the FOIA: Personal Information]	Signature:	[REDACTED Section 40 of the FOIA: Personal Information]
Name:	[REDACTED Section 40 of the FOIA: Personal Information]	Name:	[REDACTED Section 40 of the FOIA: Personal Information]
Role:	[REDACTED Section 40 of the FOIA: Personal Information]	Role:	[REDACTED Section 40 of the FOIA: Personal Information]
Date:	6 December 2024	Date:	6 December 2024



**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))**

Date:

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## Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

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) THE GROWTH COMPANY LIMITED a private limited company with registered company number 02443911 whose registered office is Lee House, 90 Great Bridgewater Street, Greater Manchester, M1 5JW (the **Contractor**),

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

### WHEREAS

- (A) On 25 October 2023 the Authority issued an invitation to tender for Careers Information, Advice and Guidance ("**CIAG**") services. The procurement established contracts for eleven (11) Lots for CIAG services (of which this Contract is one).
- (B) On 19 December 2023 the Contractor submitted a response to the Authority's invitation to tender to provide Services (as defined herein) in relation to Lot 10.
- (C) The Authority wishes to appoint the Contractor to provide the Services in Lot 10 (as defined herein) and the Contractor agrees to provide those services in accordance with these terms and conditions.

### NOW IT IS HEREBY AGREED:

#### A GENERAL

##### A1 DEFINITIONS AND INTERPRETATION

- A1.1 In this Contract, unless otherwise provided or the context otherwise requires, capitalised expressions shall have the meaning given to them in Schedule 1 (*Definitions*) or the relevant Schedule in which that capitalised expression appears. This Contract shall be interpreted in line with the principles set out at Paragraph 2 of Schedule 1 (*Definitions*).

##### A2 AUTHORITY OBLIGATIONS

- A2.1 Save as otherwise expressly provided, the Authority's obligations under this Contract are the Authority's obligations in its capacity as the Crown and as a contracting counterparty and





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nothing in this Contract operates as an obligation upon, or in any other way fetters or constrains, the Authority in any other capacity.

- A2.2 The exercise by the Authority/the Crown of its duties and powers in any other capacity shall not make it liable to the Contractor in any way.

### **A3 CONTRACTOR'S STATUS**

- A3.1 The Contractor is an independent contractor and nothing in this 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 this Contract.
- A3.2 The Contractor shall not (and shall ensure that any other person engaged in relation to this Contract shall not) say or do anything that might lead another person to believe that the Contractor is acting as the agent or employee of the Authority.
- A3.3 The Contractor must comply at all times with the Mandatory Guidelines whilst carrying out its obligations under this Contract.
- A3.4 The Contractor shall:
- (a) comply with the requirements set out in Schedule 24 (*Collaboration*) and the Collaboration Agreement;
  - (b) co-operate with the Authority, Prison staff, Related Third Parties and any Other Contractor notified to the Contractor by the Authority from time to time by providing:
    - (i) reasonable information (including any documentation); (ii) advice; and (iii) reasonable assistance,
  - (c) as further specified in Schedule 24 (*Collaboration*) and the Collaboration Agreement, in connection with the Services collaborate and work in good faith with any Other Contractor to enable such Other Contractor to create and maintain technical or organisational interfaces with the Services and, on the expiry or termination of this Contract for any reason, to enable the timely transition of the Services (or any of them) to the Authority and/or to any Replacement Contractor in accordance with the following collaborative working principles:
    - (i) proactively leading on, mitigating and contributing to the resolution of problems or issues irrespective of its contractual obligations, acting in accordance with the principle of "fix first, settle later";
    - (ii) being open, transparent and responsive in sharing relevant and accurate information with such Other Contractors;



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- (iii) where reasonable, adopting common working practices, terminology, standards and technology and a collaborative approach to service development and resourcing with such Other Contractors;
- (iv) providing reasonable cooperation, support, information and assistance to such Other Contractors in a proactive, transparent and open way and in a spirit of trust and mutual confidence; and
- (v) identifying, implementing and capitalising on opportunities to improve deliverables and deliver better solutions and performance throughout the relationship lifecycle.

### A4 MISTAKES IN INFORMATION

The Contractor is responsible for the accuracy of all drawings, documentation and information supplied to the Authority by the Contractor in connection with the Services and shall pay the Authority any extra costs occasioned by, or any Losses resulting from, any discrepancies, errors or omissions therein.

### A5 TERM

- A5.1 This Contract starts on the Effective Date and ends on 31 March 2029 (the "**Initial Term**") unless it is terminated early or extended in accordance with this Contract.
- A5.2 The Authority, in its absolute discretion, may extend the term of this Contract beyond the end of the Initial Term or beyond the end of any additional period (as applicable) for a minimum of one (1) year and provided the maximum aggregate additional period shall not exceed three (3) years (the "**Extension**").
- A5.3 Unless otherwise agreed by the Parties in accordance with Schedule 4 (*Change Control Procedure*), the terms of this Contract will apply throughout the period of any Extension.
- A5.4 Unless it is terminated early in accordance with this Contract, the Term will end on the later of:
  - (a) expiry of the Initial Term; and
  - (b) expiry of the Extension,(the "**End Date**").

### A6 PRECEDENCE OF DOCUMENTATION

- A6.1 If there is any inconsistency or conflict between the provisions of the main body of this Contract and the Schedules and/or any Appendices or Annexes to the Schedules, the inconsistency or conflict shall be resolved in accordance with the following descending order of precedence:



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- (a) the main body of this Contract (which shall be deemed to include the recitals and Clauses A1 to I12 (inclusive));
- (b) the Specification as set out in Schedule 2 (*Specification*);
- (c) any other Schedules and their Appendices or Annexes (other than Schedule 27 (*Contractor's Tender*)); and
- (d) the Tender as set out in Schedule 27 (*Contractor's Tender*).

A6.2 In the event of any inconsistency or conflict between the Specification and the Tender or any documents produced in accordance with the provisions of this Contract, the Specification shall take precedence.

## **B THE SERVICES**

### **B1 BASIS OF THE CONTRACT**

- B1.1 In consideration of the Contractor's performance of its obligations under this Contract the Authority shall pay the Contractor the Charges in accordance with Clause C1.
- B1.2 Subject to the terms of this Contract, the Contractor shall provide the Services on and from the Services Commencement Date and at all times during the remainder of the Term. The Mobilisation Period shall commence from the Effective Date in accordance with the provisions of Clause B2.
- B1.3 The terms and conditions in this Contract apply to the exclusion of any other terms and conditions the Contractor seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

### **B2 MOBILISATION**

- B2.1 The Contractor shall comply with all mobilisation obligations as set out in Schedule 21 (*Mobilisation*).
- B2.2 The Contractor shall receive Mobilisation Payments in accordance with the relevant provisions in Schedule 3 (*Charges*).

### **B3 DELIVERY OF THE SERVICES**

- B3.1 From the Services Commencement Date, the Contractor shall provide the Services in accordance with the Specification and the Tender. The Contractor shall at all times comply with the Quality Standards and, where applicable, shall maintain accreditation with the relevant Quality Standards authorisation body. To the extent that the standard of the Services has not been specified in this Contract, the Contractor shall agree the relevant standard of the Services with the Authority prior to the supply of the Services and, in any event, the Contractor



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shall perform its obligations under this Contract in accordance with the Law and Good Industry Practice.

- B3.2 The Contractor acknowledges that the Authority relies on the skill and judgement of the Contractor in the supply of the Services and the performance of the Contractor's obligations under this Contract.
- B3.3 The Contractor shall:
- (a) 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;
  - (b) ensure that all Staff are properly managed and supervised;
  - (c) comply with the requirements in relation to Staff as set out in the Specification, PSI 07/2014 and PSI 27/2014;
  - (d) comply with the standards and requirements set out in Schedule 9 (*Statutory Obligations and Corporate Social Responsibility*);
  - (e) deliver the Services using efficient business processes and ways of working having regard to the Authority's obligation to ensure value for money.
- B3.4 During the Term, the Contractor shall:
- (a) at all times have all necessary licences, approvals and consents necessary to enable the Contractor and Staff to carry out the Services and/or the receipt of the Services by the Authority, including but not limited to the relevant software and other IP licences;
  - (b) not, in delivering the Services, in any manner endanger the safety or convenience of the public.
- B3.5 The Authority may inspect the manner in which the Contractor supplies the Services at the Premises during normal business hours on reasonable notice. The Contractor shall provide at its own cost all such facilities as the Authority may reasonably require for such inspection. In this Clause B3, Services include planning or preliminary work in connection with the supply of the Services.
- B3.6 If reasonably requested to do so by the Authority, the Contractor shall co-ordinate its activities in supplying the Services with those of the Authority and Other Contractors engaged by the Authority.
- B3.7 If the Authority informs the Contractor in writing that the Authority reasonably believes that any part of the Services does not meet the requirements of this Contract or differs in any way from those requirements, and this is not as a result of a Default by the Authority, the Contractor



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shall at its own expense re-schedule and carry out the Services in accordance with the requirements of this Contract within such reasonable time as may be specified by the Authority.

- B3.8 In delivering the Services, the Contractor is required to access and work within the Prisons and shall comply with Schedule 8 (*Access to Prisons*).

### **B4 ASSETS**

- B4.1 The Authority shall provide or shall procure the provision by third parties of Authority Assets in accordance with Schedule 23 (*Authority Responsibilities*).
- B4.2 The Contractor shall provide all the Contractor Assets and resource necessary for the delivery of the Services.
- B4.3 The Contractor undertakes to the Authority to utilise all Contractor Assets and all Authority Assets for their intended purpose only, to exercise all due and reasonable care in their use and to comply with any instructions or guidelines in respect of the use of such assets.
- B4.4 The Services shall include the provision of any consumables, spares or replacement parts as necessary for the provision of the Services (but excluding those required for the Authority's ICT System), and the Contractor shall not be entitled to make any additional charge for the supply of such items, except where expressly agreed between the Parties.
- B4.5 The Contractor shall not deliver any Contractor Assets to the Premises, or begin any work on such Contractor Assets, without Approval.
- B4.6 The Contractor shall provide for the haulage or carriage of all Contractor Assets and consumables to the Premises at its sole cost.
- B4.7 Provision and use of all Contractor Assets is at the Contractor's own risk and the Authority has no liability for any loss of or damage to any Contractor Assets unless the Contractor demonstrates that such loss or damage was caused or contributed to by the Authority's Default.
- B4.8 The Contractor shall comply with the requirements of Schedule 20 (*Exit Management*) including provision of an updated copy of the Register(s) to the Authority at the frequencies stated in Schedule 20 (*Exit Management*) and upon request.
- B4.9 The Contractor shall:
- (a) maintain all Contractor Assets in a safe, serviceable and clean condition; and
  - (b) keep all Authority Assets in a safe and clean condition and allow the Authority access as necessary for any maintenance works



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- B4.10 The Contractor shall replace any Contractor Assets at regular intervals for the duration of the Term so that they remain in good working order (and meet any requirements for such assets in this Contract) for the delivery of the Services and at no additional cost to the Authority. This does not include Authority Assets.
- B4.11 To the extent that the Contractor can evidence that loss or damage to Contractor Assets is caused by the Authority's Default, the Authority may (at its discretion):
- (a) procure replacement Contractor Assets as soon as reasonably possible ; or
  - (b) request that the Contractor procures replacement Contractor Assets as soon as reasonably possible and the Authority will as soon as reasonably possible reimburse the Contractor for such costs following receipt of the appropriate undisputed invoice with any additional information as the Authority may reasonably require.
- B4.12 The Contractor shall, at the Authority's written request, at its own cost and as soon as reasonably practicable:
- (a) remove immediately from the Premises any Contractor Assets which are, in the Authority's opinion, hazardous, noxious, a danger to persons or not supplied in accordance with this Contract and Good Industry Practice; and
  - (b) replace such item with a suitable substitute item of Contractor Assets, as approved by the Authority acting reasonably.

## B5 KEY PERSONNEL

- B5.1 The Contractor acknowledges that Key Personnel are essential to the proper provision of the Services.
- B5.2 The Contractor shall ensure that the Key Personnel fulfil the Key Roles at all times during the Term.
- B5.3 Column 1 of the table in Schedule 15 (*Key Personnel*) lists the key roles (the "**Key Roles**") and column 2 of the table in Schedule 15 (*Key Personnel*) lists the names of the persons who the Contractor shall appoint to fill those Key Roles at the Effective Date.
- B5.4 The Authority may, from time to time, identify any further roles as being Key Roles and, following agreement to the same by the Contractor, the relevant person selected to fill those Key Roles shall be included on the lists of Key Roles and Key Personnel in the table in Schedule 15 (*Key Personnel*).
- B5.5 The Contractor shall not, and shall procure that any Sub-Contractor shall not, remove or replace any Key Personnel (including when carrying out exit management) unless:
- (a) requested to do so by the Authority;



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- (b) the person concerned resigns, retires, or dies or is on long-term sick leave, maternity leave, paternity leave, or shared parental leave;
- (c) the person's employment or contractual arrangement with the Contractor or Sub-Contractor is terminated for material breach of contract by the employee; or
- (d) the Contractor obtains the Authority's prior written consent (such consent not to be unreasonably withheld or delayed).

**B5.6 The Contractor shall:**

- (a) maintain a clear management structure and set that structure out on an organisation chart identifying the Key Personnel;
- (b) notify the Authority promptly of the absence of any Key Personnel (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Contractor shall ensure appropriate temporary cover for that Key Role);
- (c) ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
- (d) give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Personnel and, except in the cases of death, unexpected ill health or a material breach of the Key Personnel's employment contract, this will mean at least three (3) Months' notice;
- (e) ensure that all arrangements for planned changes in Key Personnel provide adequate periods during which incoming and outgoing personnel work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Services; and
- (f) ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Personnel whom he or she has replaced.

**B5.7** The Authority may request sight of a curriculum vitae (CV) and/or interview to assess any proposed replacement for Key Personnel and any replacements to Key Personnel are subject to Approval. Such replacements shall be of at least equal status, experience and skills to Key Personnel being replaced and be suitable in all regards for the responsibilities of that person in relation to the Services.

**B5.8** The Authority shall not unreasonably withhold approval under Clauses B5.5(d) or B5.7 and such approval is conditional on appropriate arrangements (in the opinion of the Authority) being made by the Contractor to minimise any adverse effect on the Services which could be caused by a change in Key Personnel.

**B5.9** The Parties agree that they will update the list of Key Personnel in Paragraph 3 of Schedule 15 (*Key Personnel*) periodically to record any Key Personnel appointed by the Contractor with



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Approval (subject to Clauses B5.7 and B5.8) after the Effective Date for the purposes of the delivery of the Services.

### **B6 STAFF**

B6.1 The Contractor shall:

- (a) ensure that all Staff:
  - (i) are appropriately qualified, trained and experienced to provide the Services with all reasonable skill, care and diligence;
  - (ii) are vetted in accordance with Good Industry Practice and, where applicable, the security requirements set out in Schedule 2 (*Specification*) and Schedule 8 (*Access to Prisons*);
  - (iii) have the levels of qualification set out in Schedule 2 (*Specification*); and
  - (iv) comply with all reasonable requirements of the Authority concerning conduct at the Authority Premises, including the security requirements as set out in Schedule 8 (*Access to Prisons*);
- (b) subject to Schedule 17 (*TUPE, Employees and Pensions*), retain overall control of the Staff at all times so that the Staff shall not be deemed to be employees, agents or contractors of the Authority;
- (c) be liable at all times for all acts or omissions of Staff, so that any act or omission of any member of Staff which results in a Default under this Contract shall be a Default by the Contractor;
- (d) use all reasonable endeavours to minimise the number of changes in Staff;
- (e) subject to Clause B6.1(f) below, replace (temporarily or permanently, as appropriate) any Staff as soon as practicable if any Staff have been removed or are unavailable for any reason whatsoever;
- (f) fill any absences as soon as practical to ensure that service delivery is maintained;
- (g) bear other costs associated with any replacement of any Staff; and
- (h) procure that the Staff shall vacate the Premises immediately upon the termination or expiry of this Contract.

B6.2 If the Authority reasonably believes that any of the Staff (including Key Personnel) are unsuitable to undertake work in respect of this Contract, it may:

- (a) refuse admission to the relevant person(s) to the Authority Premises; and/or





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- (b) direct the Contractor to end the involvement in the provision of the Services of the relevant person(s).
- B6.3 The Authority shall maintain the security of the Authority Premises in accordance with its standard security requirements, including Prison Rules 1999 Part III, the Prison (Amendment) Rules 2005 and the YOI Rules (each as varied, extended or replaced from time to time), available to the Contractor on request. The Contractor shall comply with all security requirements of the Authority while on the Authority Premises and ensure that all Staff comply with such requirements.
- B6.4 The Authority may search any persons or vehicles engaged or used by the Contractor and the Staff at the Authority Premises.
- B6.5 At the Authority's written request, the Contractor 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 Premises, specifying the capacities in which they are concerned with this Contract and giving such other particulars as the Authority, may reasonably request.
- B6.6 The Contractor shall ensure that all Staff who have access to the Authority Premises, the Authority System or the Authority Data have been cleared in accordance with the BPSS.
- B6.7 The Contractor 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.
- B6.8 The Contractor shall comply with PSI 10/2012 as amended from time to time and available from the Authority on request.
- B6.9 Notwithstanding Clauses B6.1 to B6.8, the Contractor will comply with the vetting and staffing requirements set out in Schedule 2 (*Specification*).

**B7 DUE DILIGENCE**

- B7.1 The Contractor acknowledges that:
  - (a) the Authority has delivered or made available to the Contractor all of the information and documents that the Contractor considers necessary or relevant for the performance of its obligations under this Contract;



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- (b) it has made its own enquiries to satisfy itself as to the accuracy and adequacy of any and all information supplied to the Contractor by or on behalf of the Authority prior to the Effective Date (the "**Due Diligence Information**"); and
- (c) it has: (i) satisfied itself (whether by inspection or having raised all relevant due diligence questions with the Authority before the Effective Date) of all relevant details relating to this Contract (including the Specification and the requirements for delivery of the Services), the ownership, functionality, capacity, condition and suitability for use in the Services of the Property and the operating processes and procedures and the working methods of the Authority; and (ii) advised the Authority of the actions needed to remedy any unsuitable aspects and confirms that any such actions are fully reflected and costed in this Contract.

B7.2 The Contractor is not excused from the performance of any of its obligations under this Contract on the grounds of, and is not entitled to recover any additional costs or charges arising as a result of, any misinterpretation of this Contract or any failure by the Contractor to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information.

**B8 LICENCE TO OCCUPY**

B8.1 Any land or Premises made available from time to time to the Contractor by the Authority in connection with this Contract are on a non-exclusive licence basis free of charge and are used by the Contractor solely for the purpose of performing its obligations under this Contract. The Contractor has the use of such land or Premises as licensee and shall vacate the same on termination or expiry of this Contract. The Contractor shall keep the Premises subject to this licence to occupy clean and tidy in accordance with the Specification and the Authority's reasonable instructions.

B8.2 The Contractor shall limit access to the land or Premises to such Staff as is necessary for it to perform its obligations under this Contract and the Contractor shall co-operate (and ensure that its Staff co-operate) with other persons working concurrently on such land or Premises as the Authority may reasonably request.

B8.3 The Authority shall maintain the Premises as listed in Schedule 26 (*Premises*) in accordance with Clause B8.1 above and the provisions of Schedule 23 (*Authority Responsibilities*). If the Contractor requires modifications to the Authority Premises such modifications are subject to Approval and shall be carried out by the Authority at the Contractor's cost (unless such modification is part of the estates maintenance programme). The Authority shall undertake Approved modification work without undue delay.

B8.4 The Contractor shall (and shall ensure that any Staff on the Authority Premises shall) observe and comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when on the Authority Premises as determined by the Authority.

B8.5 This Contract does not create a tenancy of any nature in favour of the Contractor or its Staff, does not entitle the Contractor or any Staff to exclusive occupancy or exclusive possession



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and no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to this Contract, the Authority may use the Premises owned or occupied by it in any manner it sees fit.

- B8.6 The Contractor shall be liable for all losses, or other costs falling upon the Authority as a result of the loss of any keys provided to the Contractor/Staff including the loss or damage to property and the costs of replacing locks and lost keys.

### **B9 PROPERTY**

- B9.1 All Property and Authority Assets are and remain the property of the Authority and the Contractor irrevocably licenses the Authority and its agents to enter any Premises of the Contractor during normal business hours on reasonable notice to recover any such Property and/or Authority Assets.
- B9.2 The Authority will make the Authority Assets and the Property available at its discretion (on a non-exclusive basis) to the Contractor for use in connection with the provision of the Services at Services Commencement Date.
- B9.3 The Contractor does not have a lien or any other interest on the Property and/or Authority Assets and the Contractor at all times possesses the Property and/or Authority Assets as fiduciary agent and bailee of the Authority. The Contractor shall take all reasonable steps to ensure that the title of the Authority to the Property and Authority Assets and the exclusion of any such lien or other interest are brought to the notice of all Sub-Contractors and other appropriate persons and shall, at the Authority's request, store the Property and Authority Assets separately and ensure that they are clearly identifiable as belonging to the Authority.
- B9.4 The Property and Authority Assets are deemed to be in good condition when received by or on behalf of the Contractor unless the Contractor notifies the Authority otherwise within five (5) Working Days of receipt.
- B9.5 The Contractor shall maintain the Property in good order and condition (excluding fair wear and tear) in so far as this is not an Authority responsibility (as set out in Schedule 23 (*Authority Responsibilities*)). The Contractor shall use the Property and the Authority Assets solely in connection with this Contract and for no other purpose without Approval.
- B9.6 The Contractor shall co-operate with the Prison to ensure the security of all the Property and/or Authority Assets whilst in its possession, either on the Premises, in accordance with the Authority's reasonable security requirements as required from time to time and in accordance with this Contract.
- B9.7 The Contractor is liable for and shall indemnify and keep indemnified the Authority against all loss of or damage to the Property, Authority Assets and Premises arising from performance of the Services, non-performance of the Services and/or the presence of the Contractor and/or Staff at the Premises (and their actions), unless such loss or damage was caused by the Authority's negligence. The Contractor shall inform the Authority immediately upon becoming



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aware of any defects appearing in, or losses or damage occurring to, the Property, Authority Assets and Premises.

- B9.8 All property of the Contractor and its Sub-Contractors and Staff shall be at the risk of the Contractor whilst it is on any Authority Premises, and the Authority shall accept no liability for any loss or damage howsoever occurring thereto or caused thereby, except and subject always to Clause G1 (*Liability, Indemnity and Insurance*) where any such loss or damage was caused or contributed to by any act, neglect or default of any Government servant or agent then the Authority shall accept liability therefore to the extent to which such loss or damage is so caused or contributed to as aforesaid in which circumstance the Authority shall make good or, at the option of the Contractor in accordance with the provisions Clause G1 (*Liability, Indemnity and Insurance*) pay compensation for any damage to such property.

### **B10 OFFERS OF EMPLOYMENT**

- B10.1 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 six (6) Months thereafter.
- B10.2 If either Party breaches Clause B10.1, it shall pay the other Party a sum equivalent to 20% of the annual base salary payable by the Party in breach in respect of the first year of the relevant person's employment.
- B10.3 The Parties hereby agree that the sum specified in Clause B10.2 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 B10.1.

### **B11 EMPLOYMENT**

- B11.1 The Parties shall comply with the provisions of Schedule 17 (*TUPE, Employees and Pensions*).
- B11.2 The Contractor must perform its obligations meeting the requirements of all applicable Law regarding employment.

## **C PAYMENT**

### **C1 PAYMENT AND VAT**

- C1.1 The Contractor shall submit invoices to the Authority in accordance with this Clause C1 and Schedule 3 (*Charges*).
- C1.2 The Authority issues Purchase Orders using Basware and, unless Approved otherwise, the Contractor shall, when invited, register on Basware.



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- C1.3 If the Contractor registers on Basware, a Valid Invoice is an invoice issued through Basware, unless the invoice contains:
- (a) additional lines not included in the relevant Purchase Order;
  - (b) line descriptions which have been materially altered so that they no longer match the equivalent description in the relevant Purchase Order; or
  - (c) Charges and/or volumes which have been increased without Approval.
- C1.4 If, with Approval, the Contractor does not register on Basware, a Valid Invoice is an invoice which includes:
- (a) the unique identification number;
  - (b) the Contractor's name, address and contact information;
  - (c) the name and address of the department and/or agency which the Contractor is working for;
  - (d) a clear description of what the Contractor is charging for;
  - (e) the date on which the Services were provided;
  - (f) the date of the invoice;
  - (g) the amount(s) being charged;
  - (h) VAT (if applicable);
  - (i) the total amount owed;
  - (j) a valid Purchase Order or cost centre number and account code; and
  - (k) the address of the Premises and the date on which work was undertaken.
- C1.5 The Authority shall not pay an invoice which is not a Valid Invoice.
- C1.6 The Authority shall not pay the Contractor's overhead costs or any other expenses whatsoever unless, in accordance with Schedule 3 (*Charges*) and where required by Schedule 3 (*Charges*) or this Contract.
- C1.7 If the Authority pays the Contractor prior to the submission of a Valid Invoice this payment is on account of and deductible from the next payment to be made.
- C1.8 If any overpayment has been made or the payment or any part of it is not supported by a Valid Invoice the Authority may recover this payment by setting it off against future invoices raised or directly from the Contractor. All payments made by the Authority to the Contractor are on



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an interim basis pending final resolution of an account with the Contractor in accordance with the terms of this Clause C1.

### C1.9 The Contractor shall:

- (a) add VAT to the Charges at the prevailing rate as applicable and show the amount of VAT payable separately on all invoices as an extra charge. If the Contractor fails to show VAT on an invoice, the Authority is not, at any later date, liable to pay the Contractor any additional VAT;
- (b) 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; and
- (c) not suspend the Services unless the Contractor is entitled to terminate this Contract under Clause H3.3 for failure to pay undisputed sums of money.

### C1.10 The Contractor 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 Contractor's failure to account for or to pay any VAT relating to payments made to the Contractor under this Contract. Any amounts due under this Clause C1.10 shall be paid by the Contractor to the Authority not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Authority.

### C1.11 The Authority shall:

- (a) in addition to the Charges and following receipt of a Valid Invoice, pay the Contractor a sum equal to the VAT chargeable on the value of the Services supplied in accordance with this Contract; and
- (b) pay all sums due to the Contractor within 30 days of receipt of a Valid Invoice unless an alternative arrangement has been Approved.

### C1.12 Any late payment of undisputed invoices by the Authority will be subject to interest at the rate of a maximum of 3% above the base rate from time to time of Barclays Bank.

### C1.13 Any late payment of sums due by the Contractor to the Authority will be subject to interest at the rate of a maximum of 3% above the base rate from time to time of Barclays Bank.

## C2 RECOVERY OF SUMS DUE

### C2.1 If under this Contract any sum of money is recoverable from or payable by the Contractor to the Authority (including any sum which the Contractor is liable to pay to the Authority in respect of any breach of this Contract), the Authority may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Contractor from the Authority under this Contract or under any other agreement with the Authority or the Crown.



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- C2.2 Any overpayment by either Party, whether of the Charges 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.
- C2.3 The Contractor shall make all payments due to the Authority without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Contractor has a valid court order requiring an amount equal to such deduction to be paid by the Authority to the Contractor.
- C2.4 All payments due shall be made within a reasonable time unless otherwise specified in this Contract, in cleared funds, to such bank or building society account in the United Kingdom as the recipient Party may from time to time direct.

### **C3 PRICE DURING EXTENSION**

Subject to Schedule 3 (*Charges*) and Clause F3 (*Change*), the Charges apply for the Term.

## **D PROTECTION OF INFORMATION**

### **D1 AUTHORITY DATA**

- D1.1 The Contractor shall access the Authority Data for the performance of its obligation under this Contract on the Authority System and shall not transfer any of the Authority Data to the Contractor System or any system held by a third party (unless the provisions of D1.2 apply). If any Authority Data is transferred in breach of this requirement, it will be classified as a Material Breach.
- D1.2 If there is a change in the management of Authority Data (as agreed by the Authority and the Contractor), and it is proposed that Authority Data is stored by the Contractor, the Contractor will prior to holding any such Authority Data:
- (a) provide an Information Security and Management Plan in the format reasonably as requested by the Authority for the Authority's approval and once approved, it shall be adopted by the Contractor immediately and thereafter operated and maintained throughout the Term. The Contractor shall also review the Information Security and Management Plan at least annually throughout the Term (or more often where there is a significant change to the Contractor System or where an actual or potential Breach of Security or weakness is identified);
  - (b) obtain and maintain the Government's Cyber Essentials Scheme at the "Plus" level security accreditation and ensure that any systems, on which Information Assets and Authority Data are stored and/or processed it uses, or are used by Sub-Contractors, are certified as compliant with the Government's Cyber Essentials Scheme at the "Plus" level; and



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- (c) comply with the additional security requirements set out in Annex 1 of Schedule 7 (*Baseline Security Requirements*) or such updated version of the same as may be in place at the time.

- D1.3 The Contractor shall not delete or remove any proprietary notices contained within or relating to the Authority Data.
- D1.4 The Contractor shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Contractor of its obligations under this Contract or as otherwise expressly authorised in writing by the Authority.
- D1.5 The Contractor shall comply with the requirements of Schedule 7 (*Baseline Security Requirements*), as applicable.

## D2 DATA PROTECTION AND PRIVACY

The Parties shall comply with their respective obligations under the Data Protection Legislation and comply with their respective obligations set out in Schedule 10 (*Data Processing*).

## D3 CONFIDENTIAL INFORMATION

- D3.1 Except to the extent set out in this Clause D3 or if disclosure or publication is expressly allowed elsewhere in this 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 in any way except for the purposes anticipated under this Contract.
- D3.2 The Contractor 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 this Contract, to the general public.
- D3.3 If required by the Authority, the Contractor shall ensure that Staff, professional advisors and consultants sign a non-disclosure agreement prior to commencing any work in connection with this Contract in a form approved by the Authority. The Contractor shall maintain a list of the non-disclosure agreements completed in accordance with this Clause D3.3.
- D3.4 If requested by the Authority, the Contractor shall give the Authority a copy of the list (as referred to in C3.3 above) and, subsequently upon request by the Authority, copies of such of the listed non-disclosure agreements as required by the Authority. The Contractor shall ensure that Staff, professional advisors and consultants are aware of the Contractor's confidentiality obligations under this Contract.
- D3.5 The Contractor 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. Where the Contractor discloses Confidential Information of the Authority





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pursuant to this Clause D3.5, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Contract by the persons to whom disclosure has been made.

D3.6 The Contractor shall not, and shall procure that the Staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes anticipated under this Contract.

D3.7 Clause D3.1 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) any legal challenge or potential legal challenge against the Authority arising out of or in connection with this Contract;
- (c) such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
- (d) the receiving Party has reasonable grounds to believe that the disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure is being made to the Serious Fraud Office;
- (e) such information was obtained from a third party without obligation of confidentiality;
- (f) such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract (or any other contract between the Contractor and the Authority); or
- (g) it is independently developed without access to the other Party's Confidential Information.

D3.8 Nothing in Clause D3.1 prevents the Authority disclosing any Confidential Information obtained from the Contractor:

- (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;
- (c) to Parliament and Parliamentary committees;
- (d) to any Crown Body or any Contracting Authority and the Contractor 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



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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;

- (e) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or
- (f) to any consultant, professional advisor, contractor or other person engaged by the Authority,

provided that in disclosing information under Clauses D3.8(d) and (f) 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.

- D3.9 Nothing in Clauses D3.1 to D3.6 prevents either Party from using any techniques, ideas or Know-How gained during the performance of its obligations under this 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.
- D3.10 The Authority shall use reasonable endeavours to ensure that any Government department, Contracting Authority, employee, third party or Sub-Contractor to whom the Contractor's Confidential Information is disclosed pursuant to Clause D3.8 is made aware of the Authority's obligations of confidentiality.
- D3.11 If the Contractor does not comply with Clauses D3.1 to D3.8 the Authority may terminate this Contract immediately on notice to the Contractor and/or seek injunctive relief in any competent jurisdiction.
- D3.12 To ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the supply of the Services, the Contractor shall maintain adequate security arrangements that meet the requirements of professional standards and best practice.
- D3.13 The Contractor shall treat the Authority's Confidential Information as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored and the nature of the Confidential Information contained in those materials).
- D3.14 The Contractor 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



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- (d) at its own expense, alter any security systems at any time during the Term at the Authority's request if the Authority reasonably believes the Contractor has failed to comply with Clause D3.12.

### D4 TRANSPARENCY, OPEN BOOK DATA AND FREEDOM OF INFORMATION

D4.1 The Parties acknowledge that:

- (a) the Transparency Reports;
- (b) the content of this Contract, including any changes to this Contract agreed from time to time, except for:
  - (i) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Authority; and
  - (ii) Commercially Sensitive Information; and
- (c) the Publishable Performance Information,

(together the "**Transparency Information**") are not Confidential Information.

D4.2 Notwithstanding any other provision of this Contract, the Contractor hereby gives its consent for the Authority to publish to the general public the Transparency Information in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted). The Authority shall, prior to publication, consult with the Contractor on the manner and format of publication to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.

D4.3 The Contractor shall assist and co-operate with the Authority to enable the Authority to publish the Transparency Information, including the preparation of the Transparency Reports in accordance with Paragraph 4.9 of Schedule 22 (*Reporting Requirements*).

D4.4 If the Authority believes that publication of any element of the Transparency Information would be contrary to the public interest, the Authority shall be entitled to exclude such information from publication. The Authority acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information in its entirety. Accordingly, the Authority acknowledges that it will only exclude Transparency Information from publication in exceptional circumstances and agrees that where it decides to exclude information from publication it will provide a clear explanation to the Contractor.

D4.5 The Authority shall publish the Transparency Information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how this Contract is being performed, having regard to the context of the wider commercial relationship with the Contractor.



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- D4.6 The Contractor agrees that any Information it holds that is not included in the Transparency Reports but is reasonably relevant to or that arises from the provision of the Services shall be provided to the Authority on request unless the cost of doing so would exceed the appropriate limit prescribed under section 12 of the FOIA. The Authority may disclose such information under the FOIA and the EIRs and may (except for Commercially Sensitive Information, Confidential Information (subject to Clause D3.8(d) and Open Book Data) publish such Information. The Contractor shall provide to the Authority within five (5) Working Days (or such other period as the Authority may reasonably specify) any such Information requested by the Authority.
- D4.7 The Contractor acknowledges that the Authority is subject to the requirements of the FOIA and the EIR.
- D4.8 The Contractor shall transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within two (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 five (5) Working Days (or such other period as the Authority may specify) of the Authority's request;
  - (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 directly to a Request for Information unless authorised to do so in writing by the Authority.
- D4.9 The Contractor acknowledges that the Authority may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Contractor.
- D4.10 The Authority shall determine in its absolute discretion and notwithstanding any other provision in this 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.
- D4.11 The Contractor acknowledges the importance to the Authority of the Financial Transparency Objectives and the Authority's need for complete transparency in the way in which the Charges are calculated.
- D4.12 During the Term, and for a period of seven (7) years following the end of the Term, the Contractor shall:
- (a) maintain and retain the Open Book Data; and
  - (b) disclose and allow the Authority and/or the Audit Agents access to the Open Book Data.



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- D4.13 During the Term, and for a period of eighteen (18) Months following the end of the Term, the Contractor shall make available the Financial Representatives at reasonable times and on reasonable notice to answer any queries that the Authority may have on any of the financial reports and/or Open Book Data.

**D5 PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES**

- D5.1 The Contractor shall not:

- (a) make any press announcements or publicise this 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.

- D5.2 Each Party acknowledges that nothing in this 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.
- D5.3 The Contractor shall use reasonable endeavours to ensure that its Staff and professional advisors comply with Clause D5.1.

**E INTELLECTUAL PROPERTY RIGHTS**

**E1 GENERAL PROVISIONS AND OWNERSHIP OF IPR**

- E1.1 Any New IPR created under this Contract is owned by the Authority.
- E1.2 Each Party keeps ownership of its own Existing IPR.
- E1.3 Where either Party acquires, by operation of law, ownership of Intellectual Property Rights that is inconsistent with Clauses E1.1 and E1.2, it must assign in writing the Intellectual Property Rights concerned to the other Party on the other Party's request (whenever made).
- E1.4 Neither Party has the right to use the other Party's IPR, including any use of the other Party's names, logos or trademarks, except as expressly granted elsewhere under this Contract or otherwise agreed in writing.
- E1.5 Except as expressly granted elsewhere under this Contract, neither Party acquires any right, title or interest in or to the IPR owned by the other Party or any third party.



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- E1.6 Unless otherwise agreed in writing, the Contractor and the Authority will record any New IPR in the table in Schedule 6 (*IPR*) and keep this updated throughout the Term.
- E1.7 If the Contractor becomes aware at any time, including after the earlier of the End Date or date of termination, that, in respect of any Deliverable, the Authority has not received the licences to Contractor Existing IPR or Third Party IPR required by Clauses E2 or E5, the Contractor must, within ten (10) Working Days notify the Authority:
- (a) the specific Intellectual Property Rights the Authority has not received licences to; and
  - (b) the Deliverables affected.
- E1.8 For the avoidance of doubt:
- (a) except as provided for in Clauses E2.3(b)(ii)C)(A) or E5.1(b)(ii) and E5.1(b)(iii), the expiry or termination of this Contract does not of itself terminate the licences granted to the Authority under Clauses E2 or E5;
  - (b) the award of this Contract or the ordering of any Deliverables does not constitute an authorisation by the Crown under:
    - (i) Sections 55 and 56 of the Patents Act 1977;
    - (ii) section 12 of the Registered Designs Act 1949; or
    - (iii) sections 240 to 243 of the Copyright, Designs and Patents Act 1988.

## **E2 LICENCES IN RESPECT OF CONTRACTOR EXISTING IPR**

- E2.1 The Contractor grants the Authority a Contractor Existing IPR licence on the terms set out in Clause E2.3 in respect of each Deliverable where:
- (a) the Contractor Existing IPR is embedded in the Deliverable;
  - (b) the Contractor Existing IPR is necessary for the Authority to use the Deliverable for any of the purposes set out in Clause E2.4; or
  - (c) the Deliverable is a customisation or adaptation of Contractor Existing IPR.
- E2.2 The categories of Contractor Existing IPR described in Clause E2.1 are mutually exclusive.
- E2.3 The Contractor Existing IPR licence granted by the Contractor to the Authority is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:
- (a) in the case of Contractor Existing IPR embedded in a Deliverable:



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- (i) has no restriction on the identity of any transferee or sub-licensee;
  - (ii) allows the Authority and any transferee or sub-licensee to use, copy and adapt the Contractor Existing IPR for any of the purposes set out in Clause E2.4; and
  - (iii) is subject to the restriction that no sub-licence granted to the Contractor Existing IPR shall purport to provide the sub-licensee with any wider rights than those granted to the Authority under this Clause;
- (b) in the case of Contractor Existing IPR that is necessary for the Authority to use the Deliverable for its intended purpose or has been customised or adapted to provide the Deliverable:
  - (i) allows the Authority and any transferee or sublicensee to use and copy, but not adapt, disassemble or reverse engineer the relevant Contractor Existing IPR for any of the purposes set out in Clause E2.4;
  - (ii) is transferrable to only:
    - A) a Crown Body;
    - B) any body (including any private sector body) that performs or carries out any of the functions or activities that the Authority had previously performed or carried out; or
    - C) a person or organisation that is not a direct competitor of the Contractor and that transferee either:
      - (A) enters into a direct arrangement with the Contractor in the form set out in Annex 1 (*Form of Confidentiality Undertaking*) to Schedule 6 (*IPR*); or
      - (B) enters into a confidentiality arrangement with the Authority in terms equivalent to those set out in set out in Clause D3 (*Confidential Information*);
  - (iii) is sub-licensable to the Replacement Contractor or any third party pursuant to Clause F10.2 (*Authority Step-In*) or any other CIAG Contractors (including where the Replacement Contractor, Step-In provider or CIAG Contractors is a competitor of the Contractor) where the relevant third party either:
    - A) enters into a direct arrangement with the Contractor in the form set out in Annex 1 (*Form of Confidentiality Undertaking*) to Schedule 6 (*IPR*); or



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B) enters into a confidentiality arrangement with the Authority in terms equivalent to those set out in set out in Clause D3 (*Confidential Information*); and

(iv) is subject to the restriction that no sub-licence granted to the Contractor Existing IPR shall purport to provide the sub-licensee with any wider rights than those granted to the Authority under this Clause.

E2.4 For the purposes of Clause E2.3, the relevant purposes are:

- (a) to allow the Authority or any Prisoner to receive and use the Deliverables;
- (b) relating to the Services (or substantially equivalent services) or the Collaboration Agreement;
- (c) to allow the Authority to commercially exploit the New IPR and New IPR Items; and
- (d) for any purpose relating to the exercise of the Authority's (or, if the Authority is a Public Sector Body, any other Public Sector Body's) business or function.

**E3 LICENCES GRANTED BY THE AUTHORITY**

E3.1 Subject to Clause E3.2, the Authority grants the Contractor a licence to the New IPR and Authority Existing IPR that:

- (a) is non-exclusive, royalty-free and non-transferable;
- (b) is sub-licensable to any Sub-Contractor where:
  - (i) the Sub-Contractor enters into a confidentiality undertaking with the Contractor on the same terms as set out in Clause D3 (*Confidential Information*); and
  - (ii) the sub-licence does not purport to provide the sub-licensee with any wider rights than those granted to the Contractor under this Clause; and
- (c) allows the Contractor and any sub-licensee to use, copy and adapt any Authority Existing IPR for the purpose of fulfilling its obligations under this Contract; and
- (d) terminates at the end of the Term or the end of any Termination Assistance Period or end of the duration of the Collaboration Agreement, whichever is the latest.

E3.2 Where the Contractor (or by a Sub-Contractor or other third party on behalf of the Contractor) has contributed to the creation and/or development of any New IPR, the Authority hereby grants to the Contractor a perpetual, worldwide, royalty-free, non-exclusive licence to use such New IPR for any purpose relating to the exercise of the Contractor's business or function,





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including using or commercially exploiting such New IPR, including the right to grant sub-licences without limitation.

E3.3 When the licence granted under Clause E3.1 terminates, the Contractor must, and must ensure that each Sub-Contractor granted a sub-licence under Clause E3.1:

- (a) immediately cease all use of the Authority Existing IPR and New IPR (including the Authority Data within which the Authority Existing IPR or New IPR may subsist);
- (b) either:
  - (i) at the discretion of the Authority, return or destroy documents and other tangible materials that contain any of the Authority Existing IPR, New IPR and the Authority Data; or
  - (ii) if the Authority has not made an election within six (6) Months of the termination of the licence, destroy the documents and other tangible materials that contain any of the Authority Existing IPR, the New IPR and the Authority Data (as the case may be); and
- (c) ensure, so far as reasonably practicable, that any Authority Existing IPR, New IPR and Authority Data held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Contractor.

E3.4 The Authority may terminate any licence it grants under this Clause by notice in writing with immediate effect where:

- (a) the Contractor breaches any condition in that licence; and/or
- (b) the Contractor's use of such licence harms or is reasonably likely to harm the Authority's reputation or interests.

## **E4 PROVISION OF INFORMATION ON NEW IPR**

E4.1 The Authority may, at any time, require the Contractor to provide information on:

- (a) the purposes, other than for the purposes of this Contract, for which the Contractor uses New IPR; and
- (b) the activities the Contractor undertakes, other than under this Contract, with or in respect of the New IPR.

E4.2 The Contractor must provide the information required by the Authority:

- (a) within twenty (20) Working Days of the date of the requirement; and



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- (b) in the form and with the content specified by the Authority.

**E5 LICENCES IN RESPECT OF THIRD-PARTY IPR**

E5.1 The Contractor shall not use in the delivery of the Deliverables any Third Party IPR unless:

- (a) Approval is granted by the Authority; and
- (b) one of the following conditions is met:
  - (i) the owner or an authorised licensor of the relevant Third Party IPR has granted a direct Third Party IPR licence on the terms set out in Clause E5.2;
  - (ii) if the Contractor cannot, after commercially reasonable endeavours, obtain for the Authority a Third Party IPR licence as set out in Clause E5.1(b)(i), all the following conditions are met:
    - A) the Contractor has notified the Authority in writing giving details of:
      - 1. what licence terms can be obtained from the relevant third party; and
      - 2. whether there are providers which the Contractor could seek to use and the licence terms obtainable from those third parties;
    - B) the Authority has agreed to accept the licence terms of one of those third parties; and
    - C) the owner and authorised licensor of the Third Party IPR has granted a direct licence of the Third Party IPR to the Authority on those terms; or
  - (iii) the Authority has provided authorisation to the use of the Third Party IPR in writing, with reference to the acts authorised and the specific IPR involved.

E5.2 The Third Party IPR licence referred to in Clause E5.1 is the licence set out in Clause E2.3 as if:

- (a) the term Third Party IPR were substituted for the term Contractor Existing IPR; and
  - (b) the term third party were substituted for the term Contractor,
- in each place they occur.



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### **E6 PATENTS**

- E6.1 Where a patent owned by the Contractor is infringed by the use of the New IPR by the Authority or any Replacement Contractor, the Contractor hereby grants to the Authority and the Replacement Contractor a non-exclusive, irrevocable, royalty-free, worldwide patent licence to use the infringing methods, materials or software.

### **E7 IPR CLAIMS**

- E7.1 The Contractor shall:
- (a) not infringe any Intellectual Property Rights of any third party in supplying the Services; and
  - (b) at all times, during and after the Term, on written demand indemnify the Authority and each other Indemnified Person and keep indemnified the Authority and Indemnified Persons against all Losses incurred by, awarded against or agreed to be paid by an Indemnified Person arising from an IPR Claim.
- E7.2 If an IPR Claim is made or anticipated the Contractor must at its own expense and the Authority's sole option, either:
- (a) obtain for the Authority the rights to continue using the relevant item without infringing any Third Party IPR; or
  - (b) replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables.
- E7.3 If the Authority requires that the Contractor procures a licence in accordance with Clause E7.2(a) or to modify or replace an item pursuant to Clause E7.2(b), but this has not avoided or resolved the IPR Claim, then the Authority may terminate this Contract by written notice with immediate effect and the consequences of termination set out in Clause H7 shall apply.

## **F CONTROL OF THIS CONTRACT**

### **F1 CONTRACT PERFORMANCE**

- F1.1 The Contractor 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 six (6) Months from the Services Commencement Date and each anniversary of the Services Commencement Date thereafter, the Authority may carry out a review of the performance of the Contractor (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):



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- (a) the Contractor's delivery of the Services;
- (b) the Contractor'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 Contractor 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 Contractor's obligations under this Contract.
- F1.5 The Authority shall give the Contractor a copy of the Review Report (if applicable). The Authority shall consider any Contractor comments and may produce a revised Review Report.
- F1.6 The Contractor shall, within ten (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 Contractor's failure to meet its obligations under this Contract identified by the Review Report, or those which result from the Contractor's failure to meet the Authority's expectations notified to the Contractor or of which the Contractor ought reasonably to have been aware) shall be implemented at no extra cost to the Authority.

## **F2 TRANSFER AND SUB-CONTRACTING**

- F2.1 Except where both Clauses F2.14 and F2.15 apply, the Contractor shall not transfer, charge, assign, sub-contract or in any other way dispose of this 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 this Contract does not relieve the Contractor of any of its obligations or duties under this Contract.
- F2.2 In order to receive Approval, the Contractor shall provide the Authority with:
- (a) the proposed Sub-Contractor's name, registered office and company registration number;
  - (b) the scope/description of any Services to be provided by the proposed Sub-Contractor;



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- (c) where the proposed Sub-Contractor is an Affiliate of the Contractor, evidence that demonstrates to the reasonable satisfaction of the Authority that the proposed Key Sub-Contractor has been agreed on "arms-length" terms; and
- (d) where proposing a Key Sub-Contractor,
  - (i) the Key Sub-Contract price expressed as percentage of a total projected Charges over the Term; and
  - (ii) (where applicable) the Credit Rating Threshold (as defined in Schedule 25 (*Financial Distress*) of the Key Sub-Contractor.

- F2.3 The Authority consents to the appointment of the Approved Sub-Contractors listed in Schedule 16 (*Approved Sub-Contractors and Authority Market Stewardship Principles*).
- F2.4 In accordance with Schedule 16 (*Approved Sub-Contractors and Authority Market Stewardship Principles*), the Parties agree that they will update the List of Sub-Contractors and Key Sub-Contractors in Part A (*List of Approved Sub-Contractors*) of Schedule 16 (*Approved Sub-Contractors and Authority Market Stewardship Principles*) to record any Sub-Contractors and Key Sub-Contractors appointed by the Contractor with Approval after the Effective Date for the purpose of the delivery of the Services.
- F2.5 The provisions of Clause F2.1 do not apply to the entry into by the Contractor or relevant Sub-Contractor of the Sub-Contracts with the Approved Sub-Contractors.
- F2.6 As set out in Schedule 16 (*Approved Sub-Contractors and Authority Market Stewardship Principles*), the Contractor shall comply with the Market Stewardship Principles when providing the Services, including to ensure that each Sub-Contract shall also comply with the Market Stewardship Principles.
- F2.7 The Contractor is responsible for the acts and/or omissions of its Sub-Contractors as though they are its own. If it is appropriate, the Contractor shall provide each Sub-Contractor with a copy of this Contract and obtain written confirmation from them that they will provide the Services fully in accordance with this Contract.
- F2.8 The Contractor shall ensure that Sub-Contractors retain all records relating to the Services for at least six (6) years from the date of their creation and make them available to the Authority on request in accordance with Clause F5 (*Audit*) and Schedule 22 (*Reporting Requirements*). 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 Contractor on the basis of such documents or work carried out by the Sub-Contractor.
- F2.9 If the Authority has consented to the award of a Sub-Contract, the Contractor shall ensure that:
- (a) the Sub-Contract contains:



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- (i) provisions which will enable the Contractor to discharge its obligations under this Contract;
- (ii) a right under CRTA for the Authority to enforce any provisions under the Key Sub-Contract which are capable of conferring a benefit upon the Authority;
- (iii) the conduct of audits set out in Clause F5 (*Audit*) and Schedule 22 (*Reporting Requirements*);
- (iv) a provision enabling the Contractor, the Authority or any other person on behalf of the Authority to step-in on substantially the same terms as are set out in Clause F11 (*Authority Step-in*);
- (v) a right for the Contractor to terminate if the Sub-Contractor does not comply with its obligations in Data Protection Legislation, environmental, social or labour law;
- (vi) obligations no less onerous on the Sub-Contractor than those on the Contractor under this Contract in respect of data protection in Clauses D1 (*Authority Data*), D2 (*Data Protection and Privacy*), D3 (*Confidential Information*), D4 (*Transparency, Open Book Data and Freedom of Information*) and D5 (*Publicity, Media and Official Enquiries*) and Schedule 9 (*Statutory Obligations and Corporate Social Responsibility*);
- (vii) obligations no less onerous on the Sub-Contractor than those on the Contractor under this Contract in respect of security as set out in Schedule 7 (*Baseline Security Requirements*);
- (viii) the right for the Contractor or, as appropriate, Sub-Contractor to terminate the Sub-Contract voluntarily on terms no more onerous than the Authority's right to terminate this Contract voluntarily;
- (ix) the right to enable the Contractor or, as appropriate, Sub-Contractor to assign or novate its rights and obligations under the Sub-Contract to the Authority or any Replacement Contractor free of charge in connection with the termination or expiry of this Contract pursuant to an Authority request in accordance with Schedule 20 (*Exit Management*);
- (x) a provision which requires payment by the Contractor to the Sub-Contractor within a specified period not exceeding thirty (30) days from receipt of a valid invoice in respect of any amount which has fallen due and payable as required by the provisions of such Sub-Contract;
- (xi) a requirement for a provision to be included in the contract between the Sub-Contractor and its contractors which requires payment by the Sub-Contractor to its contractors within a specified period not exceeding thirty



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(30) days from receipt of a valid invoice in respect of any amount which has fallen due and payable as required by the provisions of such contract;

- (xii) provisions regarding the right of the Contractor to monitor the performance of the Sub-Contractor that are relevant and proportionate to the particular service the particular Sub-Contractor is to provide on terms based upon those performance measures placed upon the Contractor by the Authority under this Contract;
  - (xiii) provisions for the Sub-Contractor to provide such information as necessary for the Contractor to comply with its obligations in respect of Exit Information required pursuant to Schedule 20 (*Exit Management*) and employee information required pursuant to Schedule 17 (*TUPE, Employees and Pensions*);
  - (xiv) the Sub-Contractor includes a provision having the same effect as set out in this Clause F2.9(a) in any Sub-Contract which it awards; and
  - (xv) copies of each Sub-Contract are sent to the Authority immediately after their execution.
- (b) where it is a Key Sub-Contract, the Sub-Contract also contains:
- (i) a provision enabling the Authority to enforce the Key Sub-Contract as if it were the Contractor;
  - (ii) a provision enabling the Contractor to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to the Authority or any Replacement Contractor without restriction (including any need to obtain any consent or approval) or payment by the Authority;
  - (iii) the keeping of records in respect of the services being provided under the Key Sub-Contract, consistent with Schedule 22 (*Reporting Requirements*);
  - (iv) a provision restricting the ability of the Key Sub-Contractor to sub-contract all or any part of the services provided to the Contractor under the Key Sub-Contract without first seeking the written consent of the Authority; and
  - (v) an obligation to co-operate with the Contractor and the Authority in order to give full effect to the provisions of Schedule 25 (*Financial Distress*), including meeting with the Contractor and the Authority to discuss and review the effect of the Financial Distress Event on the continued performance and delivery of the Services, and contributing to and complying with the Financial Distress Remediation Plan, and providing the information specified at Paragraph 4.3(b)(ii) of Schedule 25 (*Financial Distress*).



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- F2.10 Unless Approved otherwise, if the total value of this Contract over the Term is, or is likely to be, in excess of two million pounds sterling (£2,000,000), the Contractor 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 twenty-five thousand pounds sterling (£25,000);
  - (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 F2.10(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 Clause F2.10(a) includes a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder.
- F2.11 The Contractor shall, at its own cost, supply to the Authority by the end of April each year for the previous Financial Year:
- (a) the total revenue received from the Authority pursuant to this 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.
- F2.12 The Authority may from time to time change the format and the content of the information required pursuant to Clause F2.11.
- F2.13 If the Authority believes there are:
- (a) compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the Contractor 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 Contractor to replace or not appoint the Sub-Contractor and the Contractor shall comply with such requirement.





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- F2.14 Notwithstanding Clause F2.1, the Contractor may assign to a third party (the “**Assignee**”) the right to receive payment of the Charges or any part thereof due to the Contractor (including any interest which the Authority incurs under Clause C1 (*Payment and VAT*)). Any assignment under this Clause F2.14 is subject to:
- (a) reduction of any sums in respect of which the Authority exercises its right of recovery under Clause C2 (*Recovery of Sums Due*);
  - (b) all related rights of the Authority under this Contract in relation to the recovery of sums due but unpaid; and
  - (c) the Authority receiving notification under both Clauses F2.15 and F2.16.
- F2.15 If the Contractor assigns the right to receive the Charges under Clause F2.14, the Contractor or the Assignee shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.
- F2.16 The Contractor shall ensure that the Assignee notifies the Authority of the Assignee’s contact information and bank account details in the United Kingdom to which the Authority can make payment.
- F2.17 Clause C1 continues to apply in all other respects after the assignment and shall not be amended without Approval.
- F2.18 Subject to Clause F2.19, the Authority may assign, novate or otherwise dispose of its rights and obligations under this 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 Contractor’s obligations under this Contract.
- F2.19 Any change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not, subject to Clause F2.20, affect the validity of this Contract and this Contract shall bind and inure to the benefit of any successor body to the Authority.
- F2.20 If the rights and obligations under this Contract are assigned, novated or otherwise disposed of pursuant to Clause F2.18 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**”):



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- (a) the rights of termination of the Authority in Clauses H1 and H3 are available to the Contractor 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 this Contract or any part thereof with the prior consent in writing of the Contractor (such consent not to be unreasonably withheld).

F2.21 The Authority may disclose to any Transferee any Confidential Information of the Contractor which relates to the performance of the Contractor's obligations under this Contract. In such circumstances the Authority shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Contractor's obligations under this 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.

F2.22 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 this Contract.

### F3 CHANGE

F3.1 Any requirement for a Change shall be subject to Schedule 4 (*Change Control Procedure*).

F3.2 The Contractor is deemed to warrant and represent that each Change Request Form has been executed by a duly authorised representative of the Contractor in addition to the warranties and representations set out in Clause G3.

F3.3 The Change Control Procedure outlined in Schedule 4 (*Change Control Procedure*) 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 (the **Emergency Change**) and require a Change Request Form to be entered into on a retrospective basis which may itself vary the Emergency Change. In such event the Contractor will be reimbursed any costs reasonably incurred in good faith in relation to the Emergency Change.

F3.4 The Contractor acknowledges that from time to time the Authority may add or remove Prisons from the scope of this Contract, which shall be agreed through the Change Control Procedure.

### F4 INNOVATION & CHANGE POT

F4.1 The Authority has created an Innovation & Change Pot, which comprises a limited amount of annual funding which the Authority may, at its sole discretion, award in whole or part for the purposes of:

- (a) supporting Prisons and contractors in responding flexibly to significant changes to the needs of Prisoners; and/or



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- (b) supporting Prisons and contractors in innovating and developing innovative solutions to problems,

(the **Innovation & Change Purpose**).

F4.2 The Innovation & Change Pot will not be exclusively available to the Contractor and CIAG Contractors and may be available to other parties able to advance the Innovation & Change Purpose.

F4.3 The Contractor may independently, or jointly with other CIAG Contractors, submit an innovation proposal, using the template as provided by the Authority, to the Authority which must show that the innovative solution they propose:

- (a) will fulfil the Innovation & Change Purpose;
- (b) adds additional value to the CIAG service which goes above and beyond the expectations and obligations contained within this Contract;
- (c) promotes the Collaborative Objectives (as defined in Schedule 24 (*Collaboration*));
- (d) is value for money; and
- (e) requires additional funding from the Innovation & Change Pot,

(an **Innovation & Change Proposal**).

F4.4 Additionally, the Innovation & Change Proposal shall include:

- (a) the estimated cost,
- (b) the timeline for delivery, and
- (c) any other information reasonably requested by the Authority.

F4.5 The Innovation & Change Proposal may include innovations and solutions that are proposed as part of the Joint Collaboration Plan (as described in Schedule 24 (*Collaboration*)), which may be delivered by a subset of CIAG Contractors but be of benefit to all CIAG Contractors.

F4.6 Following the submission of an Innovation & Change Proposal, the Authority shall consider the Innovation & Change Proposal.

F4.7 The Authority shall confirm to the Contractor (or if jointly, CIAG Contractors) the outcome of its decision by notice. If the Authority approves the Innovation & Change Proposal, the Authority will also confirm the funding that will be provided by the Authority and the terms associated with its provision.



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- F4.8 Where the Authority has approved the Innovation & Change Proposal the Contractor (or if jointly, the CIAG Contractors) shall:
- (a) evidence that funding awarded has been used to finance the Innovation & Change Proposal as agreed with the Authority, on an open book basis;
  - (b) share outcomes and learning with CIAG Contractors through the Collaboration Forums; and
  - (c) provide any other information the Authority shall reasonably require as part of the delivery of the Innovation & Change Proposal.
- F4.9 The Contractor shall be liable for any increased costs attributable to the delivery of the Innovation & Change Proposal. The Authority will not be liable for increased costs beyond those agreed as part of the Innovation & Change Proposal.
- F4.10 Any Innovation & Change Proposal shall not be (or deemed to be) a Change.



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**F5 AUDIT**

**F5.1 The Contractor shall:**

- (a) keep and maintain until seven (7) years after the end of the Term, or as long a period as may be agreed between the Parties, full and accurate records of this 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 this Contract;
- (c) make available to the Authority, free of charge, whenever requested, copies of audit reports obtained by the Contractor in relation to the Services;
- (d) provide the Authority with all reasonable co-operation and assistance (and shall procure such co-operation and assistance from its Sub-Contractors) in relation to each audit.
- (e) allow authorised representatives of the Authority and/or the National Audit Office to examine the Contractor's records and documents relating to this Contract and provide such copies and oral or written explanations as may reasonably be required; and
- (f) 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 conducting a 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 Contractor shall provide such explanations as are reasonably required for these purposes.

**F5.2 Without prejudice to the foregoing, the Contractor shall provide the Authority:**

- (a) as soon as they are available, and in any event within sixty (60) Working Days after the end of the first six (6) Months of each financial year of the Contractor during the Term, a copy, certified as a true copy by an authorised representative of the Contractor, of its un-audited interim accounts and, if applicable, of consolidated un-audited interim accounts of the Contractor and its Affiliates which would (if the Contractor were listed on the London Stock Exchange (whether or not it is)) be required to be sent to shareholders as at the end of and for each such six (6) Month period; and
- (b) no later than one hundred and thirty (130) Working Days after the end of each accounting reference period of the Contractor part or all of which falls during the



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Term, the Contractor's audited accounts (if applicable) and if applicable, of the consolidated audited accounts of the Contractor and its Affiliates in respect of that period together with copies of all related directors' and auditors' reports and all other notices/circulars to shareholders/guarantors.

- F5.3 Where Records are retained in electronic form, the original metadata shall be preserved together with all subsequent metadata in a format reasonably accessible to the Authority.
- F5.4 The Authority may, at its discretion, instruct the Contractor to carry out its own audit and provide such records to the Authority from time to time as the Authority reasonably requests.
- F5.5 Nothing in this Contract shall prevent or restrict the rights of the Comptroller and/or Auditor General and/or their representatives from carrying out an audit, examination or investigation of the Contractor and/or any of the Sub-Contractors for the purposes of and pursuant to applicable Law.
- F5.6 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause F5, unless the audit identifies a material Default by the Contractor in which case the Contractor shall reimburse the Authority for all the Authority's reasonable costs incurred in connection with the audit. The Authority may, at its discretion, rely on any remedies in accordance with Clause F2 (or any other remedies in accordance with the remainder of this Contract) in the event that a Default is discovered during an audit.

### **F6 MANAGEMENT INFORMATION**

The Contractor shall provide the Management Information in accordance with Schedule 22 (*Reporting Requirements*).

### **F7 GOVERNANCE**

The Parties shall comply with their respective obligations in relation to governance arrangements to be adopted by the Parties in meeting the requirements of this Contract as set out in Schedule 13 (*Governance*).

### **F8 KEY PERFORMANCE INDICATORS**

- F8.1 The Contractor shall ensure that the Services comply with and meet all the requirements of the Key Performance Indicators.
- F8.2 The Parties shall comply with their respective obligations in relation to the Key Performance Indicators as set out in Schedule 14 (*Key Performance Indicators and Performance Management*).



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**F9 BUSINESS CONTINUITY AND DISASTER RECOVERY**

- F9.1 The Parties shall comply with their respective obligations in relation to business continuity and disaster recovery arrangements as set out in Schedule 11 (*Business Continuity and Disaster Recovery*).
- F9.2 Where a Disaster arises which prevents the usual performance of the Services at the Premises the Authority will work with the Contractor to arrange alternative delivery solutions and the Contractor shall use all reasonable endeavours to continue the provision of Services.

**F10 AUTHORITY STEP-IN**

- F10.1 A Step-In Trigger Event means:
- (a) the Authority considers that the circumstances constitute an emergency despite the Contractor not being in breach of its obligations under this Contract;
  - (b) the existence of a serious risk exists to the health or safety of persons or property or to the environment in connection with the Services;
  - (c) a need by the Authority to take action to discharge a statutory duty;
  - (d) the Authority being advised by a regulatory body that the exercise by the Authority of its rights under this Clause F10 (*Authority Step-In*) is necessary; and/or
  - (e) any event falling within the definition of Default by the Contractor.
- F10.2 On the occurrence of a Step-In Trigger Event, the Authority may serve notice on the Contractor (a "**Step-In Notice**") that it will be taking action under this Clause F10 (*Authority Step-In*), either itself or with the assistance of a third party (provided that the Contractor may require any third parties to comply with a confidentiality undertaking equivalent to Clause D3 (*Confidential Information*)). The Step-In Notice shall set out the following:
- (a) the action the Authority wishes to take and in particular the Services that it wishes to control (the "**Required Action**");
  - (b) the Step-In Trigger Event that has occurred and whether the Authority believes that the Required Action is due to the Contractor's Default;
  - (c) the date on which it wishes to commence the Required Action;
  - (d) the time period which it believes will be necessary for the Required Action; and
  - (e) to the extent practicable, the impact that the Authority anticipates the Required Action will have on the Contractor's obligations to provide the Services during the period that the Required Action is being taken.



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F10.3 Following service of a Step-In Notice, the Authority shall:

- (a) take the Required Action set out in the Step-In Notice and any consequential additional action as it reasonably believes is necessary to achieve the Required Action;
- (b) keep records of the Required Action taken and provide information about the Required Action to the Contractor;
- (c) co-operate wherever reasonable with the Contractor in order to enable the Contractor to continue to provide the Services in relation to which the Authority is not assuming control; and
- (d) act reasonably in mitigating the cost that the Contractor will incur as a result of the exercise of the Authority's rights under this Clause F10 (*Authority Step-In*).

F10.4 For so long as and to the extent that the Required Action is continuing, then:

- (a) the Contractor shall not be obliged to provide the Services to the extent that they are the subject of the Required Action;
- (b) In respect of the Services subject to the Required Action, the Authority shall be obliged to pay the Contractor the Charges due under Schedule 3 (*Charges*) as if the Contractor had met its obligations under this Contract after subtracting, where the Required Action arises from any performance, non-performance or breach of this Contract by the Contractor, the Withheld Performance Incentive Payment relating to the Required Action and the Authority's costs of taking the Required Action.

F10.5 If the Contractor demonstrates to the reasonable satisfaction of the Authority that the Required Action has resulted in:

- (a) the degradation of any Services not subject to the Required Action; or
- (b) the non-achievement of a KPI,

beyond that which would have been the case had the Authority not taken the Required Action, then the Contractor shall be entitled to an agreed adjustment of the Charges to put the Contractor in no better or worse position.

F10.6 Before ceasing to exercise its step-in rights under this Clause F10 (*Authority Step-In*) the Authority shall deliver a written notice to the Contractor (a "**Step-Out Notice**"), specifying:

- (a) the Required Action it has taken; and
- (b) the date on which the Authority plans to end the Required Action (the "**Step-Out Date**") subject to the Authority being satisfied with the Contractor's ability to resume





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the provision of the Services and the Contractor's plan developed in accordance with Clause F10.7 and F10.8.

- F10.7 The Contractor shall, following receipt of a Step-Out Notice and not less than twenty (20) Working Days prior to the Step-Out Date, develop for the Authority's approval a draft plan (a "**Step-Out Plan**") relating to the resumption by the Contractor of the Services, including any action the Contractor proposes to take to ensure that the affected Services satisfy the requirements of this Contract.
- F10.8 If the Authority does not approve the draft Step-Out Plan, the Authority shall inform the Contractor of its reasons for not approving it. The Contractor shall then revise the draft Step-Out Plan taking those reasons into account and shall re-submit the revised plan to the Authority for the Authority's approval. The Authority shall not withhold or delay its approval of the draft Step-Out Plan unnecessarily.
- F10.9 The Contractor shall bear its own costs in connection with any step-in by the Authority under this Clause F10 (*Authority Step-In*), provided that the Authority shall reimburse the Contractor's reasonable additional expenses incurred directly as a result of any step-in action taken by the Authority under:
- (a) Clause F10.1(a) and (d); or
  - (b) Clause F10.1(b) and (c) (insofar as the primary cause of the Authority serving the Step-In Notice is identified as not being the result of the Contractor's Default).
- F10.10 On the Step-Out Date:
- (a) the Authority shall be released from all of its obligations and liabilities in relation to the Required Action arising prior to the cessation of the Required Action; and
  - (b) the Contractor shall resume the provision of all or any relevant part of the Services which were the subject of the Required Action.

## F11 FINANCIAL DISTRESS

The Contractor shall comply with the provisions of Schedule 25 (*Financial Distress*)

## G LIABILITIES

### G1 LIABILITY, INDEMNITY AND INSURANCE

- G1.1 Neither Party limits its liability for:
- (a) death or personal injury caused by its negligence, or that of its employees, agents or Sub-Contractors (as applicable);
  - (b) fraud or fraudulent misrepresentation by it or its employees;



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- (c) any breach of any obligation implied as to title by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
  - (d) any liability to the extent it cannot be limited or excluded by Law.
- G1.2 The Contractor's liability in respect of any breach of Clause D3 (*Confidential Information*), Schedule 7 (*Baseline Security Requirements*) and Schedule 9 (*Statutory Obligations and Corporate Social Responsibility*) and the indemnities in Clause C1.10 (*Payment and VAT*), E7 (*IPR Claims*), G4.2(b) (*Tax Compliance*), Schedule 7 (*Baseline Security Requirements*), Schedule 9 (*Statutory Obligations and Corporate Social Responsibility*) and Schedule 17 (*TUPE, Employees and Pensions*) shall be unlimited.
- G1.3 Subject to Clause G1.4, the Contractor 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 Contractor of its obligations under this Contract or the presence of the Contractor 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 Contractor, or any other loss which is caused directly by any act or omission of the Contractor.
- G1.4 Subject to Clauses G1.1, G1.2 and G1.7:
  - (a) the Contractor's aggregate liability in respect of loss of or damage to the Premises or other Property or assets of the Authority (including technical infrastructure, assets or equipment but excluding any loss or damage to the Authority Data or any other data) that is caused by Defaults of the Contractor occurring in each and any Contract Year shall in no event exceed the higher of ten million pounds sterling (£10 million) and the level of insurance cover the Contractor is required to maintain under Schedule 18 (*Insurances*); and
  - (b) the Contractor's aggregate liability in respect of loss of or damage to Authority Data or Losses incurred by the Authority due to breach of Data Protection Legislation and Schedule 10 (*Data Processing*) that is caused by Default of the Contractor occurring in each and any Contract Year shall in no event exceed five million pounds sterling (£5 million).
- G1.5 The Contractor's aggregate liability in respect of Uninsured Losses incurred by the Authority under or in connection with this Contract as a result of Defaults by the Contractor (other than damage to Property, Premises, or loss or damage to data or breach of Data Protection Legislation or Schedule 10 (*Data Processing*), where the caps in Clause G1.4 shall apply) shall not exceed:
  - (i) in relation to Defaults occurring during the period from the Effective Date to the end of the first Financial Year, an amount equal to one hundred and fifty per cent (150%) of the Annual Charge for the first Financial Year;



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- (ii) in relation to Defaults occurring during any subsequent Financial Year, an amount equal to one hundred and fifty per cent (150%) of the Annual Charge for the relevant Financial Year; and
- (iii) in relation to Defaults occurring after the end of the Term, an amount equal to one hundred and fifty per cent (150%) of the Annual Charge for the final Financial Year of the Term,

provided that where any Losses referred to this Clause have been incurred by the Authority as a result of the Contractor's abandonment of this Contract or the Contractor's wilful default, wilful breach of a fundamental term of this Contract or wilful repudiatory breach of this Contract, the references in such clause to 150% shall be deemed to be references to 200%.

G1.6 Notwithstanding Clause G1.2, the Authority's aggregate liability in respect of all Losses incurred by the Contractor under or in connection with this Contract shall not exceed:

- (a) in relation to Defaults occurring during the period from the Effective Date to the end of the first Financial Year, an amount equal to the Annual Charge for the first Financial Year;
- (b) in relation to Defaults occurring during any subsequent Financial Year, an amount equal to the Annual Charge for the relevant Financial Year; and
- (c) in relation to Defaults occurring after the end of the Term, an amount equal to the Annual Charge for the final Financial Year of the Term.

G1.7 Subject to Clauses G1.1, G1.2, and G1.3, neither Party is liable to the other Party 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 Losses.

G1.8 Notwithstanding Clause G1.6 but subject to Clause G1.3, the Contractor acknowledges that the Authority may, amongst other things, recover from the Contractor the following losses incurred by the Authority to the extent they arise as a result of a Default by the Contractor:

- (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 Replacement Services for the remainder of the Term (which at the Authority's option may include Extensions) and/or replacement deliverables which shall include any incremental costs associated with the



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Replacement Services and/or replacement deliverables above those which would have been payable under this 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.

G1.9 Without prejudice to its obligations to the Authority under this Contract, including its indemnity and liability obligations, the Contractor shall for the periods specified in Schedule 18 (*Insurances*) take out and maintain, or procure the taking out and maintenance of the insurances as set out in Schedule 18 (*Insurances*) and any other insurances as may be required by applicable Law (together the "**Insurances**"). The Contractor shall ensure that each of the Insurances is effective no later than the date on which the relevant risk commences.

G1.10 The Insurances shall be maintained in accordance with Good Industry Practice and (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time.

G1.11 The Insurances shall be taken out and maintained with insurers who are:

- (a) of good financial standing;
- (b) appropriately regulated;
- (c) regulated by the applicable regulatory body and are in good standing with that regulator; and
- (d) of good repute in the international insurance market.

G1.12 The Contractor shall ensure that the public and products liability policy shall contain an indemnity to principals clause under which the Authority shall be indemnified in respect of claims made against the Authority in respect of death or bodily injury or third party property damage arising out of or in connection with this Contract and for which the Contractor is legally liable.

G1.13 Without limiting the other provisions of this Contract, the Contractor shall:

- (a) take or procure the taking of all reasonable risk management and risk control measures in relation to the Services as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
- (b) promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Contractor is or becomes aware; and



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- (c) hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

- G1.14 The Contractor shall upon the Effective Date and within fifteen (15) Working Days after the renewal or replacement of each of the insurances, provide evidence, in a form satisfactory to the Authority, that the Insurances are in force and effect and meet in full the requirements of Schedule 18 (*Insurances*). Receipt of such evidence by the Authority shall not in itself constitute acceptance by the Authority or relieve the Contractor of any of its liabilities and obligations under this Contract
- G1.15 If the Contractor does not have and maintain the insurances required by this Contract in full force and effect, the Authority may elect (but shall not be obliged to) following written notice to the Contractor to purchase the relevant insurances, and the Authority shall be entitled to recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Contractor.
- G1.16 The provisions of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under this Contract.
- G1.17 The Contractor shall not take any action or fail to take any action, or permit anything to occur in relation to the Contractor, which would entitle any insurer to refuse to pay any claim under any of the Insurances.
- G1.18 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Contractor shall be liable for such excess or deductible. The Contractor shall not be entitled to recover from the Authority any sum paid by way of excess or deductible under the insurances whether under the terms of this Contract or otherwise.
- G1.19 Subject to Clause G1.20, the Contractor shall notify the Authority in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- G1.20 Without prejudice to the Contractor's obligations under Clause G1.15, Clause G1.19 shall not apply where the termination of any Insurances occurs purely as a result of a change of insurer in respect of any of the Insurances.
- G1.21 The Contractor shall promptly notify to insurers any matter arising from, or in relation to, the Services and/or this Contract for which it may be entitled to claim under any of the Insurances. In the event that the Authority receives a claim relating to or arising out of the Services and/or this Contract, the Contractor shall co-operate with the Authority and assist it in dealing with such claims at its own expense including without limitation providing information and documentation in a timely manner.
- G1.22 The Contractor shall maintain a register of all claims under the Insurances in connection with this Contract and shall allow the Authority to review such register at any time.



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- G1.23 Except where the Authority is the claimant party, the Contractor shall give the Authority notice within twenty (20) Working Days after any insurance claim in excess of fifty thousand pounds sterling (£50,000) relating to or arising out of the provision of the Services or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Authority) full details of the incident giving rise to the claim.
- G1.24 Where any Insurance requires payment of a premium, the Contractor shall be liable for and shall promptly pay such premium.

### G2 CONDUCT OF CLAIMS

- G2.1 If a Party (the "**Beneficiary**") receives notice of any claim from a third party for which it appears that the Beneficiary is, or may become, entitled to indemnification under this Contract (a "**Claim**"), then it shall give notice in writing to the Party from whom an indemnity is sought under this Contract (the "**Indemnifier**") as soon as reasonably practicable and in any event within ten (10) Working Days.
- G2.2 The Beneficiary will allow the Indemnifier to conduct all negotiations and proceedings in relation to a Claim and will provide the Indemnifier with such reasonable assistance required by the Indemnifier, each at the Indemnifier's cost, regarding the Claim.
- G2.3 The Beneficiary will not make an admission relating to the Claim without the prior written consent of the Indemnifier (not to be unreasonably withheld or delayed).
- G2.4 The Indemnifier shall consider and defend the Claim diligently using competent counsel and in such a way as not to bring the reputation of the Beneficiary into disrepute.
- G2.5 The Indemnifier shall not settle or compromise any Claim without the Beneficiary's prior written consent (not to be unreasonably withheld or delayed).
- G2.6 Each Beneficiary shall at all times take all reasonable steps to minimise and mitigate any loss it may suffer as the result of a Claim.
- G2.7 If the Indemnifier pays to the Beneficiary an amount in respect of an indemnity and the Beneficiary subsequently recovers a sum which is directly referable to the Claim, the Beneficiary shall forthwith repay to the Indemnifier the lesser of:
- (a) the sum recovered less any out-of-pocket costs properly incurred by the Beneficiary in recovering the same; and
  - (b) the amount paid to the Beneficiary by the Indemnifier in respect of the Claim.

### G3 WARRANTIES AND REPRESENTATIONS

- G3.1 The Contractor warrants and represents on the Effective Date and for the Term that:



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- (a) it has full capacity and authority and all necessary consents to enter into and perform this Contract and that this Contract is executed by a duly authorised representative of the Contractor;
- (b) its execution, delivery and performance of its obligations under this Contract will not constitute a breach of any Law or obligation applicable to it and will not cause or result in a default under any agreement by which it is bound;
- (c) in entering this Contract, it has not committed any fraud;
- (d) as at the Effective Date, all information contained in the Tender or other offer made by the Contractor 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 this 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;
- (e) 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 this Contract;
- (f) 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 this Contract;
- (g) 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 Contractor 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 Contractor's assets or revenue;
- (h) it owns, or has obtained or is able to obtain all necessary rights in and to all Intellectual Property Rights and any other materials made available by the Contractor (and/or Sub-Contractor) to the Authority that are necessary for the performance of its obligations under this Contract and/or receipt of the Services by the Authority;
- (i) in the three (3) years (or period of existence if the Contractor has not been in existence for three (3) years) prior to the date of this 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



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- (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 this 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 this Contract; and
  - (k) it has notified the Authority in writing of any Occasion of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance.
- G3.2 The Contractor confirms that in entering into this 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 this Contract except those expressly set out in this Contract and the Contractor hereby waives and releases the Authority in respect thereof absolutely.
- G3.3 If at any time the Contractor becomes aware that a representation or warranty given by it under Clause G3.1 or G3.2 has been breached, is untrue or is misleading, it shall immediately notify the Authority of the relevant occurrence in sufficient detail to enable the Authority to make an accurate assessment of the situation.
- G3.4 The fact that any provision within this Contract is expressed as a warranty shall not preclude any right of termination which the Authority may have in respect of breach of that provision by the Contractor.
- G3.5 Except as expressly stated in this Contract, all warranties and conditions whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by Law.
- G3.6 The Authority warrants and represents on the Effective Date and for the Term that:
  - (a) it has full capacity and authority to enter into and to perform this Contract;
  - (b) this Contract is entered into by its duly authorised representative;
  - (c) there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it that might affect its ability to perform its obligations under this Contract; and
  - (d) its obligations under this Contract constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or law).





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**G4 TAX COMPLIANCE**

G4.1 If, during the Term, an Occasion of Tax Non-Compliance occurs, the Contractor shall:

- (a) notify the Authority in writing of such fact within five (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.

G4.2 If the Contractor or any Staff are liable to be taxed in the UK or to pay NICs in respect of consideration received under this Contract, the Contractor 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 (including secondary contributions), apprenticeship levies, and social security contributions and any other liability, deduction, contribution, assessment or claim (including any interest, fines, penalties and/or expenses thereon) arising from or made (whether before or after the making of a demand pursuant to the indemnity hereunder) in connection with the provision of the Services by the Contractor or any Staff, including where the Authority is required to pay or account for to the relevant taxing authority any sums (of whatever type and nature) due to the engagement by the Contractor of any individual(s) engaged through a limited company or partnership which meets the conditions specified in sections 61O or 61P of ITEPA.
- (c) The Authority and the Contractor agree that, as between them for the purposes of the off-payroll working rules known as "IR35", the Contractor agrees that it is the "client" and shall be responsible for issuing all status determinations in respect of all persons engaged directly by the Contractor or indirectly through its supply chain and/or through a limited company or other entity.



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**H DEFAULT, DISRUPTION AND TERMINATION**

**H1 INSOLVENCY CHANGE OF CONTROL, FINANCIAL DISTRESS, PARENT BREACH AND CROSS DEFAULT**

**Insolvency Event**

- H1.1 The Authority may terminate this Contract with immediate effect by notice to the Contractor if an Insolvency Event occurs in respect of the Contractor or Guarantor.

**Change of Control**

- H1.2 The Contractor shall notify the Authority immediately following a merger, take-over, change of control, change of name or status including where the Contractor, Key Sub-Contractor or Guarantor undergoes a change of control within the meaning of section 1124 of the Corporation Taxes Act 2010 ("**Change of Control**"). The Authority may terminate this Contract with immediate effect by notice upon:

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

but the Authority is not permitted to terminate where:

- (c) the Authority has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed;
- (d) the Authority has not served its notice of objection within six (6) Months of the later of the date on which the Change of Control took place or the date on which the Authority was given notice of or, if later, became aware of the Change of Control; or
- (e) in the case of a Key Sub-Contractor, where notified by the Authority that it objects to such change of Control, the Contractor terminates the relevant Key Sub-Contract and replaces it with a comparable Key Sub-Contract which is approved by the Authority pursuant to Clause F2.1 (*Transfer and Sub-Contracting*).

**Financial Distress**

- H1.3 The Authority shall be entitled to terminate this Contract with immediate effect by notice to the Contractor if:
- (a) the Contractor fails to notify the Authority of a Financial Distress Event in accordance with Paragraph 3.4(b) of Schedule 25 (*Financial Distress*);



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- (b) the Contractor fails to comply with any part of Paragraph 4.3 of Schedule 25 (*Financial Distress*);
- (c) the Authority finally rejects a Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraphs 4.4 to 4.6(a) of Schedule 25 (*Financial Distress*); and/or
- (d) the Contractor fails to comply with the terms of the Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraph 4.7(c) of Schedule 25 (*Financial Distress*).

H1.4 The Authority shall be entitled to terminate this Contract if the Contractor is required to provide CRP Information under Paragraph 9 of Part 2 of Schedule 25 (*Financial Distress*) and either:

- (a) the Contractor fails to provide the CRP Information within four (4) Months of the Effective Date if this is a Critical Service Contract or otherwise within four (4) Months of the Relevant Authority's request; or
- (b) the Contractor fails to obtain an Assurance from the Relevant Authority within four (4) Months of the date that it was first required to provide the CRP Information under this Contract.

**Guarantor Breach**

H1.5 *Not used*

**Cross Default**

H1.6 The Authority shall be entitled to terminate this Contract with immediate effect by notice to the Contractor if any other Relevant Contract is terminated by the Authority for an Insolvency Event or Default (each as defined in that Relevant Contract).

**H2 MATERIAL BREACH**

H2.1 If the Authority reasonably believes the Contractor has committed a Material Breach it may, without prejudice to its rights under Clause H3 (*Default*), do any of the following:

- (a) without terminating this Contract, itself supply or procure the supply of all or part of the Services in accordance with Clause F10.1 until such time as the Contractor has demonstrated to the Authority's reasonable satisfaction that the Contractor will be able to supply the Services in accordance with the Specification and this Contract;
- (b) without terminating the whole of this Contract, terminate this Contract in respect of part of the Services only (whereupon a corresponding reduction in the Charges shall be made) and thereafter itself supply or procure a third party to supply such part of the Services;



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- (c) withhold or reduce payments to the Contractor in such amount as the Authority reasonably deems appropriate in each particular case; and/or
- (d) terminate this Contract in accordance with Clause H3 (*Default*).

H2.2 Without prejudice to its right under Clause C2 (*Recovery of Sums Due*), the Authority may charge the Contractor 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 Contractor for such terminated part of the Services.

H2.3 If the Authority reasonably believes the Contractor has failed to supply all or any part of the Services in accordance with this 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 Contractor notice specifying the way in which its performance falls short of the requirements of this Contract or is otherwise unsatisfactory.

H2.4 If the Contractor has been notified of a failure in accordance with Clause H2.3 the Authority may:

- (a) direct the Contractor 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 Contractor in such amount as the Authority deems appropriate in each particular case until such failure has been remedied to the satisfaction of the Authority.



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- H2.5 If the Contractor has been notified of a failure in accordance with Clause H2.3, 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 H2.5 and the progress of those measures until resolved to the satisfaction of the Authority.
- H2.6 If, having been notified of any failure, the Contractor does not remedy it in accordance with Clause H2.4 in the time specified by the Authority, the Authority may treat the continuing failure as a Material Breach and may terminate this Contract immediately on notice to the Contractor.
- H3 DEFAULT**
- H3.1 The Authority may terminate this Contract (in whole or in part at the Authority's sole discretion) with immediate effect by notice if the Contractor commits a Default and:
- (a) the Contractor has not remedied the Default to the satisfaction of the Authority within twenty (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 acting reasonably, capable of remedy; or
  - (c) the Default is a Material Breach.
- H3.2 If, through any Default of the Contractor, data transmitted or processed in connection with this Contract is either lost or sufficiently degraded as to be unusable, the Contractor will be 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.
- H3.3 If the Authority fails to pay the Contractor undisputed sums of money amounting to 10% of the Annual Charge when due, the Contractor shall give notice to the Authority of its failure to pay. If the Authority fails to pay such undisputed sums within 40 Working Days of the date of such notice, the Contractor may terminate this 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 C1.5 or to a Force Majeure Event.



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**H4 TERMINATION ON NOTICE**

The Authority may terminate this Contract (in whole or in part) at any time by six (6) Months' notice in writing to the Contractor.

**H5 OTHER GROUNDS**

The Authority may terminate this Contract if:

- (a) this Contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;
- (b) the Contractor was, at the time this 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 this Contract; or
- (c) the Contractor has not, in performing the Services, complied with its legal obligations in respect of environmental, social or labour law.

**H6 TERMINATION FOR PROLONGED FORCE MAJEURE EVENTS**

If a Force Majeure Event (as set out in Clause I2 (*Force Majeure Events*)) continues for a period of more than ninety (90) Working Days or more from the date upon which the Affected Party serves notice on the other Party of its occurrence, either Party may by twenty (20) Working Days' notice to the other Party:

- (a) terminate any Services affected by the Force Majeure Event; or
- (b) if substantially all of the Parties' obligations have been affected by the Force Majeure Event, terminate this Contract as a whole,

and this Contract (or the part of this Contract related to the affected Services) shall be terminated.

**H7 CONSEQUENCES OF EXPIRY OR TERMINATION**

- H7.1 The provisions of Clauses B9.7 (*Property*), C1 (*Payment and VAT*), C2 (*Recovery of Sums Due*), D1 (*Authority Data*), D2 (*Data Protection and Privacy*), D3 (*Confidential Information*), D4 (*Transparency, Open Book Data and Freedom of Information*), E1 (*General Provisions and Ownership of IPR*), E2 (*Licences in respect of Contractor Existing IPR*), E3 (*Licences granted by the Authority*), E6 (*Patents*), E7 (*IPR Claims*), F5 (*Audit*), G1 (*Liability, Indemnity and Insurance*), G2 (*Conduct of Claims*), G4 (*Tax Compliance*), H7 (*Consequences of Expiry or Termination*), I1 (*Dispute Resolution*), I5 (*Rights of Third Parties*), I8 (*Severability*), I9 (*Entire Agreement*) and I12 (*Governing Law and Jurisdiction*), and the provisions of Schedule 1 (*Definitions*), Schedule 3 (*Charges*), Schedule 6 (*IPR*), Schedule 7 (*Baseline Security Requirements*), Schedule 10 (*Data Processing*), Schedule 17 (*TUPE, Employees and*



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*Pensions*), Schedule 20 (*Exit Management*), and Schedule 22 (*Reporting Requirements*), shall survive the termination or expiry of this Contract.

H7.2 Where this Contract has been terminated by the Authority pursuant to:

- (a) Clause H1.1 (*Insolvency Event*);
- (b) Clause H1.2 (*Change of Control*);
- (c) Clause H1.3 or H1.4 (*Financial Distress Breach*);
- (d) Clause H1.5 (*Guarantor Breach*);
- (e) Clause H1.6 (*Cross Default*);
- (f) Clause H2 (*Material Breach*);
- (g) Clause H3 (*Default*);
- (h) Clause H5 (*Other Grounds*);
- (i) Clause H8.4 (*Disruption*);
- (j) Clause D3.11 (*Confidential Information*);
- (k) Clause E7.3 (*IPR Claims*);
- (l) Clause I4.2 (*Conflicts of Interest*),

the only payments that the Authority shall be required to make as a result of such termination (whether by compensation or otherwise) are:

- (m) payments in respect of any assets in accordance with Schedule 20 (*Exit Management*); and
- (n) payments in respect of unpaid Charges received up until the termination date.

H7.3 If the Authority terminates this Contract under those Clauses listed in Clause H7.2 and makes other arrangements for the supply of the Services the Authority may recover from the Contractor the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Term.

H7.4 If this Contract is terminated under those Clauses listed in Clause H7.2 the Authority shall make no further payments to the Contractor (for Services supplied by the Contractor prior to termination and in accordance with this 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 H7.



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- H7.5 The costs of termination incurred by the Parties shall lie where they fall if either Party terminates or partially terminates this Contract for a continuing Force Majeure Event pursuant to Clause H6.
- H7.6 If this Contract is terminated by the Authority pursuant to Clause H4, the Authority shall pay the Contractor its reasonable and properly incurred and evidenced breakage costs which shall be capped at an amount equal to the Charges over a 6 (six) Month period in the Contract Year in which the termination occurs.

**H8 DISRUPTION**

- H8.1 The Contractor shall take reasonable care to ensure that in the performance of its obligations under this Contract it does not disrupt the operations of the Authority, its employees or any other contractor employed by the Authority.
- H8.2 The Contractor 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 this Contract.
- H8.3 If there is industrial action by Staff, the Contractor shall seek Approval for its proposals to continue to perform its obligations under this Contract.
- H8.4 If the Contractor's proposals referred to in Clause H8.3 are considered insufficient or unacceptable by the Authority acting reasonably, this Contract may be terminated with immediate effect by the Authority.
- H8.5 If the Contractor is unable to deliver the Services owing to disruption of the Authority's normal business (but not including a planned full or partial Lockdown or Standstill), the Contractor may request a reasonable allowance of time to reschedule planned delivery.

**H9 EXIT MANAGEMENT**

The Parties shall comply with the provisions of Schedule 20 (*Exit Management*) in relation to an orderly transition of the Services to the Authority or a Replacement Contractor (as appropriate).

**H10 KNOWLEDGE RETENTION**

The Contractor shall co-operate fully with the Authority in order to enable an efficient and detailed knowledge transfer from the Contractor to the Authority on the expiry or earlier termination of this Contract and in addition, to minimise any disruption to routine operational requirements. To facilitate this transfer, the Contractor 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. Without prejudice to Schedule 20 (*Exit Management*), the Contractor shall comply with such requests for information in relation to the expiry or earlier termination of this Contract no later than fifteen (15) Working Days from the date that that request was made.





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**I GENERAL**

**I1 DISPUTE RESOLUTION**

- I1.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with this Contract within twenty (20) Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute first, to the Escalation Board and if necessary, thereafter to the finance director of the Contractor and the commercial director of the Authority.
- I1.2 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.
- I1.3 If the dispute cannot be resolved by the Parties pursuant to Clause I1.1 either Party may refer it to mediation pursuant to the procedure set out in Clause I1.5. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute shall be resolved in accordance with Clause I1.6.
- I1.4 The obligations of the Parties under this Contract shall not cease, or be suspended or delayed, by the reference of a dispute to mediation (or arbitration) and the Contractor and the Staff shall comply fully with the requirements of this Contract at all times.
- I1.5 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 ten (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 ten (10) Working Days from the date of the proposal to appoint a Mediator or within ten (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 ten (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;



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- (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 this Contract without the prior written consent of both Parties; and
  - (f) if the Parties fail to reach agreement within sixty (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 and I1.3, 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 Contractor requiring the dispute to be referred to and resolved by arbitration in accordance with Clause I1.7;
  - (b) if the Contractor intends to commence court proceedings, it shall serve notice on the Authority of its intentions and the Authority has twenty-one (21) days following receipt of such notice to serve a reply on the Contractor requiring the dispute to be referred to and resolved by arbitration in accordance with Clause I1.7; and
  - (c) the Contractor 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 will be governed by the Arbitration Act 1996 and the Authority shall give a notice of arbitration to the Contractor (the “**Arbitration Notice**”):
    - (i) stating 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 Clause I1.7(a) shall be applied and are deemed to be incorporated by reference to this 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 I1.7(a) or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;



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- (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.

**I2 FORCE MAJEURE**

- I2.1 Subject to this Clause I2, a Party may claim relief under this Clause I2 from liability for failure to meet its obligations under this Contract for as long as and only to the extent that the performance of those obligations is prevented by a Force Majeure Event. Any failure or delay by the Contractor in performing its obligations under this 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 Contractor.
- I2.2 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.
- I2.3 If the Contractor is the Affected Party, it is not entitled to claim relief under this Clause I2 to the extent that consequences of the relevant Force Majeure Event:
  - (a) are capable of being mitigated by any of the Services, but the Contractor 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 this Contract.
- I2.4 Subject to Clause I2.5, 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.
- I2.5 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 Contractor 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.
- I2.6 If, as a result of a Force Majeure Event:
  - (a) an Affected Party fails to perform its obligations in accordance with this Contract, then during the continuance of the Force Majeure Event:



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- (i) the other Party is not entitled to exercise its rights to terminate this Contract in whole or in part as a result of such failure pursuant to Clause H3.1 or H3.3; and
    - (ii) neither Party is liable for any Default arising as a result of such failure;
  - (b) the Contractor fails to perform its obligations in accordance with this Contract it is entitled to receive payment of the Charges (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 this 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 this 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 this 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 this 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 Jaggaer.
- 13.2 If it is not returned as undelivered a notice served in:
- (a) a letter is deemed to have been received two (2) Working Days after the day it was sent; and
  - (b) an email is deemed to have been received four (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 17 or to terminate this 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 this Contract:
- (a) For the Authority:  
  
Contact Name: [REDACTED Section 40 of the FOIA: Personal Information]  
Address: [REDACTED Section 40 of the FOIA: Personal Information]



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Email: [REDACTED Section 40 of the FOIA: Personal Information]

(b) For the Contractor:

[REDACTED Section 40 of the FOIA: Personal Information]

**I4 CONFLICTS OF INTEREST**

- I4.1 The Contractor shall ensure that neither the Contractor 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 Contractor and the duties owed to the Authority under this Contract. The Contractor will notify the Authority immediately giving full particulars of any such conflict of interest which may arise.
- I4.2 The Authority may terminate this Contract immediately by notice and/or take or require the Contractor 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 Contractor and the duties owed to the Authority under this Contract. The actions of the Authority pursuant to this Clause I4 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

**I5 RIGHTS OF THIRD PARTIES**

- I5.1 Clause D2 (*Data Protection and Privacy*) and Schedule 10 (*Data Processing*) and Clause E7 (*IPR Claims*) and Paragraphs 2.1, 2.6, 3.1 and 3.3 of Part B (*Transferring Former Contractor Employees at Commencement of Services*), Part D (*Pensions*) and Paragraphs 1.2, 1.4, 2.3 and 2.8 of Part E (*Employment Exit Provisions*) of Schedule 17 (*TUPE, Employees and Pensions*) 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 CRTPA.
- I5.2 Subject to Clause I5.1, a person who is not a Party has no right under the CRTPA to enforce this 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.
- I5.3 No Third Party Beneficiary may enforce or take steps to enforce any Third Party Provision without Approval.
- I5.4 Any amendments to this Contract may be made by the Parties without the consent of any Third Party Beneficiary.

**I6 REMEDIES CUMULATIVE**

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



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**I7 WAIVER**

- I7.1 The failure of either Party to insist upon strict performance of any provision of this 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 this Contract.
- I7.2 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 I3 (*Notices and Communications*).
- I7.3 A waiver of any right or remedy arising from a breach of this Contract does not constitute a waiver of any right or remedy arising from any other or subsequent breach of this Contract.

**I8 SEVERABILITY**

If any part of this 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 this Contract shall continue in full effect as if this Contract had been executed with the invalid, illegal or unenforceable part eliminated.

**I9 ENTIRE AGREEMENT**

This Contract constitutes the entire agreement between the Parties in respect of the matters dealt with therein. This 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**

- I10.1 The Contractor is neither relieved of its obligations to supply the Services in accordance with the terms and conditions of this Contract nor entitled to an increase in the Charges 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 Effective Date.
- I10.2 If a Specific Change in Law occurs or will occur during the Term (other than as referred to in Clause I10.1(b)), the Contractor 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 Charges or this Contract; and



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- (ii) relief from compliance with the Contractor's obligations is required; and
- (b) provide the Authority with evidence:
  - (i) that the Contractor 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 Charges or relief from the Contractor'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 F3.

**I11 COUNTERPARTS**

This 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*) this Contract, including any matters arising out of or in connection with it, are governed by and interpreted in accordance with English Law and are subject to the jurisdiction of the Courts of England and Wales. The submission to such jurisdiction does not limit the right of the Authority to take proceedings against the Contractor in any other court of competent jurisdiction, and the taking of proceedings in any other court of competent jurisdiction does not preclude the taking of proceedings in any other jurisdiction whether concurrently or not.



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

acting by .....

[REDACTED Section 40 of the FOIA: Personal Information]

**SIGNED** by **The Growth Company** )  
**Limited** )  
)  
)  
acting by )

.....  
Signature of Director

[REDACTED Section 40 of the FOIA:  
Personal Information]





**Ministry of  
JUSTICE**

**OFFICIAL SENSITIVE**

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))**

# **SCHEDULE 1 – DEFINITIONS**



## Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

### 1 INTRODUCTION

In this Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in Paragraph 3 of this Schedule 1 (*Definitions*) or the relevant Schedule in which that capitalised expression appears.

### 2 INTERPRETATION

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

2.2 In this Contract, unless the context otherwise requires:

2.2.1 the singular includes the plural and vice versa;

2.2.2 reference to a gender includes the other gender and the neuter;

2.2.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;

2.2.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;

2.2.5 the words "including", "other", "in particular", "for example" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "without limitation";

2.2.6 references to "writing" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;

2.2.7 references to "representations" shall be construed as references to present facts, to "warranties" as references to present and future facts and to "undertakings" as references to obligations under this Contract;

2.2.8 references to "Clauses" and "Schedules" are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, appendices, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, appendices, annexes and tables of the Schedule in which these references appear;



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- 2.2.9 references to "Paragraphs" are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided; and
- 2.2.10 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified.
- 2.2.11 the headings in this Contract are for ease of reference only and shall not affect the interpretation or construction of this Contract; and
- 2.2.12 where the Authority is a Crown Body it shall be treated as contracting with the Crown as a whole.
- 2.2.13 Any reference in this Contract which immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to Section 1A of the European Union (Withdrawal) Act 2018) is a reference to (as it has effect from time to time):
- (a) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to form part of domestic law by application of Section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of Section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
  - (b) any EU institution or EU authority or other such EU body shall be read on and after IP Completion Day as a reference to the UK institution, authority or body to which its functions were transferred.
- 2.3 Where a standard, policy or document is referred to in this Contract by reference to a hyperlink, then if the hyperlink is changed or no longer provides access to the relevant standard, policy or document, the Supplier shall notify the Authority and the Parties shall update this Contract with a reference to the replacement hyperlink.



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**3 DEFINITIONS**

<b>"2013 Regulations"</b>	has the meaning given to it in Part D, Appendix D1 ( <i>LGPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"Accepted Employer"</b>	has the meaning given to it in Part D, Appendix D2 ( <i>TPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"Accession Letter"</b>	has the meaning given to it in Schedule 24 ( <i>Collaboration</i> ).
<b>"Accounting Reference Date"</b>	has the meaning given to it in Schedule 25 ( <i>Financial Distress</i> ).
<b>"Actuary"</b>	has the meaning given to it in Part D ( <i>Pensions</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"Additional Learning Needs"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Administering Authority"</b>	has the meaning given to it in Part D, Appendix D1 ( <i>LGPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"Affected Party"</b>	means the Party seeking to claim relief in respect of a Force Majeure Event.
<b>"Affiliate"</b>	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.
<b>"Allow List"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Anti-Slavery Policy"</b>	has the meaning given to it in Schedule 9 ( <i>Statutory Obligations and Corporate Social Responsibility</i> ).



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<b>"Annual Charge"</b>	has the meaning given to it in Schedule 3 ( <i>Charges</i> ).
<b>"Annual Contract Review Meeting"</b>	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
<b>"Approval" and "Approved"</b>	means the prior written consent of the Authority.
<b>"Approved Sub-Contractor"</b>	means any Sub-Contractor identified as such in Part A of Schedule 16 ( <i>Approved Sub-Contractors and Authority Market Stewardship Principles</i> ).
<b>"Approved Sub-Licensee"</b>	means any of the following: <ul style="list-style-type: none"><li>(a) a Central Government Body;</li><li>(b) any third party providing services to a Central Government Body; and/or</li><li>(c) any body (including any private sector body) which performs or carries on any of the functions and/or activities that previously had been performed and/or carried on by the Authority.</li></ul>
<b>"Associated Person(s)"</b>	has the meaning given to in Schedule 9 ( <i>Statutory Obligations and Corporate Social Responsibility</i> ).
<b>"Assurance"</b>	has the meaning given to it in Schedule 25 ( <i>Financial Distress</i> ).
<b>"Audit Agent"</b>	means: <ul style="list-style-type: none"><li>(a) the Authority's internal and external auditors;</li><li>(b) the Authority's statutory or regulatory auditors;</li><li>(c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;</li><li>(d) HM Treasury or the Cabinet Office;</li></ul>



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- (e) any party formally appointed by the Authority to carry out audit or similar review functions; and
- (f) successors or assignees of any of the above.

**"Authority"**

means the Secretary of State for Justice of 102 Petty France, London, SW1H 9AJ acting as part of the Crown.

**"Authority Assets"**

has the meaning given to it in Schedule 20 (*Exit Management*).

**"Authorised Representative"**

means the Authority's Representative named in a CCN as authorised to approve Changes.

**"Authority Data"**

has the meaning given to it in Schedule 20 (*Exit Management*).

**"Authority Digital"**

has the meaning given to in Schedule 24 (*Collaboration*).

**"Authority Existing IPR"**

means the Authority Materials, the Authority infrastructure and any other IPR in data, software, assets, equipment or other property owned by and/or licensed or leased to the Authority (and where the Authority is a Crown Body, any Crown IPR, and which are or have been developed independently of this Contract (whether prior to the Effective Date or otherwise)) and which is or may be used in connection with the provision or receipt of the Services or the Collaboration Agreement.

**"Authority's ICT System"**

means the Authority's ICT system which will be deployed in the provision of the Services, and will consist of the:

- (a) digital Wi-Fi network;
- (b) end-user devices including monitor, keyboard, mouse and system box (desktop



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or laptops) as determined as appropriate by the Authority;

- (c) operating system and standard software;
- (d) peripherals including multi-functional devices; and
- (e) Authority Software including but not limited to Curious, Learning Management System, data collection systems, Labour Market Intelligence Tool, screening and assessment tools, Prison-NOMIS, the library management system, Digital Prison Services, OASys and/or any other software packages the Authority makes available to the Contractor to enable delivery of the Services or associated reporting requirements.

**"Authority Group Member"**

has the meaning given to it in Schedule 13 (*Governance*).

**"Authority Materials"**

has the meaning given to it in Schedule 20 (*Exit Management*).

**"Authority Premises"**

means any premises owned, occupied or controlled by the Authority or any other Crown Body which are made available for use by the Contractor or its Sub-Contractors for provision of the Services.

**"Authority's Representative"**

has the meaning given to it in Schedule 13 (*Governance*).

**"Authority Software"**

means software which is owned by or licensed to the Authority (other than under or pursuant to this Contract) and which is or will be used by the Contractor 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



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by the Authority or the Contractor in connection with this Contract which is owned by or licensed to the Authority by a third party and which interfaces with the Contractor System or which is necessary for the Authority to receive the Services.

**"Base Annual Charge"**

has the meaning given to it in Schedule 3 (*Charges*).

**"Baseline Payment"**

has the meaning given to it in Schedule 3 (*Charges*).

**"Basware"**

means Basware eMarketplace, supplied by the Basware Corporation ([\*Procure to Pay \(P2P\) Solutions – Procure to Pay Automation - Basware\*](#)), the procurement software used by the Authority for its financial transactions.

**"BCDR Plan"**

has the meaning given to it in Schedule 11 (*Business Continuity and Disaster Recovery*).

**"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 this 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 this Contract, including copies; and/or
- (c) any part of the Contractor System ceasing to be compliant with the Certification Requirements.





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<b>"Broadly Comparable"</b>	has the meaning given to it in Part D ( <i>Pensions</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"Business Continuity Plan"</b>	has the meaning given to it in Schedule 11 ( <i>Business Continuity and Disaster Recovery</i> ).
<b>"Business Continuity Services"</b>	has the meaning given to it in Schedule 11 ( <i>Business Continuity and Disaster Recovery</i> ).
<b>"CIAG"</b>	means careers, information, advice and guidance.
<b>"Change Control Procedure"</b>	means the procedure for changing this Contract set out in Schedule 4 ( <i>Change Control Procedure</i> ).
<b>"Cabinet Office Markets and Suppliers Team"</b>	has the meaning given to it in Schedule 25 ( <i>Financial Distress</i> ).
<b>"Central Government Body"</b>	<p>means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics, including:</p> <ul style="list-style-type: none"><li>(a) Government Departments;</li><li>(b) Non-Departmental Public Bodies or Assembly Sponsored Public Bodies (advisory, executive, or tribunal);</li><li>(c) Non-Ministerial Departments; or</li><li>(d) Executive Agencies.</li></ul>
<b>"Change Communication"</b>	has the meaning given to it in Schedule 4 ( <i>Change Control Procedure</i> ).
<b>"Change of Control"</b>	has the meaning given in Clause H1.2 ( <i>Change of Control</i> ).
<b>"Change Request Form"</b>	has the meaning given to it in Schedule 4 ( <i>Change Control Procedure</i> ).



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<b>"Contract Change Notice" or "CCN"</b>	has the meaning given to it in Schedule 4 ( <i>Change Control Procedure</i> ).
<b>"Change"</b>	means a change in any of the terms or conditions of this Contract.
<b>"Change in Law"</b>	means any change in Law which affects the performance of the Services which comes into force after the Effective Date.
<b>"Charges"</b>	has the meaning given to it in Schedule 3 ( <i>Charges</i> ).
<b>"CIAG Contractors"</b>	has the meaning given to it in Schedule 24 ( <i>Collaboration</i> ).
<b>"CIAG Space"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Code"</b>	has the meaning given to it in Schedule 9 ( <i>Statutory Obligations and Corporate Social Responsibility</i> ).
<b>"Collaboration Agreement"</b>	has the meaning given to it in Schedule 24 ( <i>Collaboration</i> ).
<b>"Collaboration Behaviours"</b>	has the meaning given to it in Schedule 24 ( <i>Collaboration</i> ).
<b>"Collaboration Delivery Partners"</b>	has the meaning given to it in Schedule 24 ( <i>Collaboration</i> ).
<b>"Collaboration Forums"</b>	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
<b>"Collaboration Sponsor"</b>	has the meaning given to it in Schedule 24 ( <i>Collaboration</i> ).
<b>"Collaborative Intention"</b>	has the meaning given to it in Schedule 24 ( <i>Collaboration</i> ).
<b>"Collaborative Objectives"</b>	has the meaning given to it in Schedule 24 ( <i>Collaboration</i> ).



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**“Commercially  
Information”**

**Sensitive** means the information listed in Schedule 5 (*Commercially Sensitive Information*) comprising the information of a commercially sensitive nature relating to:

- (a) the Charges; and/or
- (b) the Contractor’s business and investment plans,

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

**“Comparable Supply”**

means the supply of services to another customer of the Contractor that are the same as 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 D3 (*Confidential Information*);
- (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



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(d) is independently developed without access to the Confidential Information.

**"Continuous Improvement Plan"**

has the meaning given to it in Schedule 14 (*Key Performance Indicators and Performance Management*).

**"Contract"**

means these terms and conditions, the attached Schedules, Appendices, Annexes and any other provisions the Parties expressly agree are included.

**"Contractor"**

means The Growth Company Limited a private limited company with registered company number 02443911 whose registered office is Lee House, 90 Great Bridgewater Street, Greater Manchester, M1 5JW

**"Contract Year"**

means the period from 1<sup>st</sup> April each year to the 31<sup>st</sup> March the following year provided that the final Contract Year shall end on the expiry or termination of the Term.

**"Contracting Authority"**

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

**"Contractor Assets"**

has the meaning given to it in Schedule 20 (*Exit Management*).

**"Contractor Existing IPR"**

means:

- (a) Intellectual Property Rights owned by or licensed to the Contractor before the Effective Date, for example those subsisting in the Contractor's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Contractor's Know-How, documentation, processes



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and procedures or generic business methodologies; and/or

- (b) Intellectual Property Rights created by the Contractor independently of this Contract and/or the Collaboration Agreement,

which in each case is or will be used before or during the Term (or any Termination Assistance Period) or term of the Collaboration Agreement for designing, testing implementing or providing the Services or for performing its obligations under the Collaboration Agreement.

<b>"Contractor's Final Contractor Personnel List"</b>	has the meaning given to it in Part 1 ( <i>Introduction</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"Contractor Group Member"</b>	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
<b>"Contractor's Proposals"</b>	has the meaning given to it in Schedule 11 ( <i>Business Continuity and Disaster Recovery</i> ).
<b>"Contractor's Provisional Contractor Personnel List"</b>	has the meaning given to it in Part 1 ( <i>Introduction</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"Contractor's Representative"</b>	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
<b>"Contractor System"</b>	means the information and communications technology system used by the Contractor in managing the delivery of the Services (but excluding the Authority System).
<b>"Contracts Finder"</b>	means the Government's portal for public sector procurement opportunities.



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<b>“Control”</b>	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 <b>“Controls”</b> and <b>“Controlled”</b> are interpreted accordingly.
<b>“Controller”</b>	has the meaning given to it in Schedule 10 ( <i>Data Processing</i> ).
<b>“Copyright”</b>	means as it is defined in s.1 of Part 1 Chapter 1 of the Copyright, Designs and Patents Act 1988.
<b>“Core Education Contractors”</b>	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
<b>“Core Education Provider”</b>	has the meaning given to it in Schedule 24 ( <i>Collaboration</i> ).
<b>“CPA”</b>	has the meaning given to it in Schedule 7 ( <i>Baseline Security Requirements</i> ).
<b>“CPI”</b>	has the meaning given to it in Schedule 3 ( <i>Charges</i> ).
<b>“Credit Rating Threshold”</b>	has the meaning given to it in Schedule 25 ( <i>Financial Distress</i> ).
<b>“Critical National Infrastructure”</b>	has the meaning given to it in Schedule 25 ( <i>Financial Distress</i> ).
<b>“Critical Service Contract”</b>	has the meaning given to it in Schedule 25 ( <i>Financial Distress</i> ).
<b>“Crown”</b>	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



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

**"Crown IPR"**

means any IPR which is owned by or licensed to the Crown, and which are or have been developed independently of this Contract (whether prior to the Effective Date or otherwise).

**"CRP Information"**

has the meaning given to it in Schedule 25 (*Financial Distress*).

**"CRTPA"**

means the Contracts (Rights of Third Parties) Act 1999.

**"CV Builder"**

has the meaning given to it in Schedule 2 (*Specification*).

**"Data Loss Event"**

has the meaning given to it in Schedule 10 (*Data Processing*).

**"Data Map"**

has the meaning given to it in Schedule 10 (*Data Processing*).

**"Data Mapping"**

has the meaning given to it in Schedule 10 (*Data Processing*).

**"Data Privacy Notice"**

has the meaning given to it in Schedule 2 (*Specification*).

**"Data Protection Impact Assessment"**

has the meaning given to it in Schedule 10 (*Data Processing*).

**"Data Protection Legislation"**

means:

- (a) the UK GDPR and applicable implementing Laws;
- (b) the DPA 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.



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<b>"Data Protection Officer"</b>	has the meaning given to it in Schedule 10 ( <i>Data Processing</i> ).
<b>"Data Subject"</b>	has the meaning given to it in Schedule 10 ( <i>Data Processing</i> ).
<b>"Data Subject Request"</b>	has the meaning given to it in Schedule 10 ( <i>Data Processing</i> ).
<b>"Default"</b>	means any breach of the obligations or warranties of the relevant Party (including abandonment of this 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 this Contract.
<b>"Deliverable"</b>	<p>means:</p> <ul style="list-style-type: none"><li>a) goods made available by the Contractor as specified in Schedule 2 (<i>Specification</i>) and in relation to this Contract;</li><li>b) Services; or</li><li>c) software,</li></ul> <p>that may be ordered and/or developed under this Contract including the Documentation.</p>
<b>"Developed Mobilisation Plan"</b>	has the meaning given to it in Schedule 21 ( <i>Mobilisation</i> ).
<b>"DHCP"</b>	has the meaning given to it in Schedule 7 ( <i>Baseline Security Requirements</i> ).
<b>"Digital Equipment"</b>	has the meaning given to it in Schedule 20 ( <i>Exit Management</i> ).
<b>"Disaster"</b>	has the meaning given to it in Schedule 11 ( <i>Business Continuity and Disaster Recovery</i> ).





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<b>"Disaster Recovery Plan"</b>	has the meaning given to it in Schedule 11 ( <i>Business Continuity and Disaster Recovery</i> ).
<b>"Disaster Recovery Services"</b>	has the meaning given to it in Schedule 11 ( <i>Business Continuity and Disaster Recovery</i> ).
<b>"Disaster Recovery System"</b>	has the meaning given to it in Schedule 11 ( <i>Business Continuity and Disaster Recovery</i> ).
<b>"Dispute"</b>	means any dispute, difference or question of interpretation arising out of or in connection with this Contract, including any dispute, difference or question of interpretation relating to the Services, failure to agree in accordance with the Change Control Procedure or any matter where this Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure.
<b>"Dispute Resolution Procedure"</b>	means the procedure for resolving disputes arising out of or in connection with this Contract, as set out in Clause I1 ( <i>Dispute Resolution</i> ).
<b>"Documentation"</b>	<p>means descriptions of the Services and Key Performance Indicators, details of the Contractor System (including (i) vendors and versions for off-the-shelf components and (ii) source code and build information for proprietary components), relevant design and development information, technical specifications of all functionality including those not included in standard manuals (such as those that modify system performance and access levels), configuration details, test scripts, user manuals, operating manuals, process definitions and procedures, and all such other documentation as:</p> <p>(a) is required to be supplied by the Contractor to the Authority under this Contract or the Collaboration Agreement;</p> <p>(b) would reasonably be required by a competent third party performing in accordance with Good Industry Practice</p>



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contracted by the Authority to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Services or deliverables under the Collaboration Agreement;

- (c) is required by the Contractor in order to provide the Services or perform its obligations under the Collaboration Agreement; and/or
- (d) has been or shall be generated for the purpose of providing the Services or deliverables under the Collaboration Agreement.

### **“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”**

has the meaning given to it in Schedule 10 (*Data Processing*).

### **"DPS Provider"**

has the meaning given to it in Schedule 24 (*Collaboration*).

### **“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.



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<b>"Effective Date"</b>	means 9 December 2024.
<b>"Emergency Exit"</b>	has the meaning given to it in Schedule 20 ( <i>Exit Management</i> ).
<b>"Employee Liabilities"</b>	<p>means all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation related to employment or the engagement of an individual including in relation to the following:</p> <ul style="list-style-type: none"><li>(a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;</li><li>(b) unfair, wrongful or constructive dismissal compensation;</li><li>(c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;</li><li>(d) compensation for less favourable treatment of part-time workers or fixed term employees;</li><li>(e) outstanding debts and unlawful deduction of wages including any PAYE and national insurance contributions;</li><li>(f) claims whether in tort, contract or statute or otherwise; and</li><li>(g) any investigation relating to employment or individual engagement matters by the Equality and Human Rights Commission or</li></ul>



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other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation.

"Employer Events"	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
"Employment Readiness Checklist"	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
"Employment Regulations"	has the meaning given to it in Part 1 ( <i>Introduction</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
"ESW"	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
"End Date"	means the date specified in Clause A5 ( <i>Term</i> ).
"Environmental Policy"	has the meaning given to it in Schedule 9 ( <i>Statutory Obligations and Corporate Social Responsibility</i> ).
"Escalation Board"	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
"Establishment Level Quality Improvement Group"	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
"Establishment Operational Performance Meeting"	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
"Ethical Wall Agreement"	has the meaning given to it in Schedule 20 ( <i>Exit Management</i> ).
"Exclusive Assets"	has the meaning given to it in Schedule 20 ( <i>Exit Management</i> ).
"Excluded Prisoners"	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
"Exemption(s)"	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).



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<b>"Existing IPR"</b>	means any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of this Contract (whether prior to the Effective Date or otherwise).
<b>"Exit Information"</b>	has the meaning given to it in Schedule 20 ( <i>Exit Management</i> ).
<b>"Exit Manager"</b>	has the meaning given to it in Schedule 20 ( <i>Exit Management</i> ).
<b>"Exit Plan"</b>	has the meaning given to it in Schedule 20 ( <i>Exit Management</i> ).
<b>"Extension"</b>	means as it is defined in Clause A5 ( <i>Term</i> ).
<b>"Face to Face"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Fair Deal Eligible Employees"</b>	has the meaning given to it in Part D ( <i>Pensions</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"Fair Deal Employees"</b>	has the meaning given to it in Part D ( <i>Pensions</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"Financial Distress Event"</b>	has the meaning given to it in Schedule 25 ( <i>Financial Distress</i> ).
<b>"Financial Distress Remediation Plan"</b>	has the meaning given to it in Schedule 25 ( <i>Financial Distress</i> ).
<b>"Financial Transparency Objectives"</b>	has the meaning given to it in Schedule 22 ( <i>Reporting Requirements</i> ).
<b>"Financial Representative"</b>	a reasonably skilled and experienced member of the Contractor's staff who has specific responsibility for preparing, maintaining, facilitating access to, discussing and explaining the Open Book Data and financial reports.



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<b>"Financial Response Template"</b>	has the meaning given to it in Schedule 3 ( <i>Charges</i> ).
<b>"Financial Year"</b>	means the period from 1 <sup>st</sup> April each year to the 31 <sup>st</sup> March the following year.
<b>"FOIA"</b>	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.
<b>"Force Majeure Event"</b>	<p>means any event, occurrence, circumstance, matter or cause affecting the performance by either the Authority or the Contractor of its obligations arising from:</p> <ul style="list-style-type: none"><li>(a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under a Contract;</li><li>(b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare;</li><li>(c) acts of a Crown Body, local government or regulatory bodies;</li><li>(d) fire, flood or any disaster; or</li><li>(e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding:<ul style="list-style-type: none"><li>(i) any industrial dispute relating to the Contractor, the Staff (including any subsets of them) or any other failure in the Contractor or the Sub-Contractor's supply chain;</li></ul></li></ul>



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(ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and

(iii) any failure of delay caused by a lack of funds.

**"Former Contractor"**

has the meaning given to it in Part 1 (*Introduction*) of Schedule 17 (*TUPE, Employees and Pensions*).

**"Functional Skills Tests"**

has the meaning given to it in Schedule 23 (*Authority Responsibilities*).

**"Fund"**

has the meaning given to it in in Part D, Appendix D1 (*LGPS*) of Schedule 17 (*TUPE, Employees and Pensions*).

**"Fund Actuary"**

has the meaning given to it in the relevant part of Schedule 17 (*TUPE, Employees and Pensions*).

**"Gatsby Benchmarks"**

has the meaning given to it in Schedule 2 (*Specification*).

**"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 Contractor) or which affects or relates to a Comparable Supply.

**"Good Industry Practice"**

means at any time the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be



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reasonably expected at such time from a leading and expert supplier of services similar to the Services to a customer like the Authority, such supplier seeking to comply with its contractual obligations in full and complying with applicable Laws.

**"Government"**

means the government of the United Kingdom.

**"Government Buying Standards"**

means the standards available via the link in Schedule 28 (*Policies and Procedures*), as amended from time to time.

**"Government Security Classifications Scheme"**

has the meaning given to it in Schedule 7 (*Baseline Security Requirements*).

**"Governor"**

has the meaning given to it in Schedule 2 (*Specification*).

**"Greening Government Commitments"**

means the Government's policy to reduce its effects on the environment, the details of which can be accessed via the link in Schedule 28 (*Policies and Procedures*), as amended from time to time.

**"Governance Groups"**

has the meaning given to it in Schedule 13 (*Governance*).

**"Group Meetings"**

has the meaning given to it in Schedule 13 (*Governance*).

**"Group Members"**

has the meaning given to it in Schedule 13 (*Governance*).

**"Halifax Abuse Principle"**

means the principle explained in the CJEU Case C-255/02 Halifax and others.

**"Health and Safety Policy"**

has the meaning given to it in Schedule 9 (*Statutory Obligations and Corporate Social Responsibility*).

**"HMRC"**

means HM Revenue & Customs.





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<b>"HMIP"</b>	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
<b>"HMPPS"</b>	means HM Prison and Probation Service.
<b>"Holding Company"</b>	shall have the meaning given to it in section 1159 of the Companies Act 2006 and, for the purposes only of the membership requirement in subsections 1159(1)(b) and (c), a company (the "first company") shall be treated as a member of another company (the "second company") if the shares in the second company are registered in the name of (a) another person (or its nominee), where the shares are held by such other person (or its nominee) by way of security or in connection with the taking of security from the first company, or (b) a nominee for the first company.
<b>"ICT Environment"</b>	means the Authority System and the Contractor System.
<b>"ID"</b>	has the meaning given to it in Schedule 8 ( <i>Access to Prisons</i> ).
<b>"IDTA Addendum"</b>	has the meaning given to in Schedule 10 ( <i>Data Processing</i> ).
<b>"Impact Assessment"</b>	has the meaning given to it in Schedule 4 ( <i>Change Control Procedure</i> ).
<b>"Impact Assessment Estimate"</b>	has the meaning given to it in Schedule 4 ( <i>Change Control Procedure</i> ).
<b>"Improvement Actions"</b>	has the meaning given to it in Schedule 14 ( <i>Key Performance Indicators and Performance Management</i> ).
<b>"Improvement Notice"</b>	has the meaning given to it in Schedule 14 ( <i>Key Performance Indicators and Performance Management</i> ).
<b>"Improvement Notice Withholding"</b>	has the meaning given to it in Schedule 3 ( <i>Charges</i> ).



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<b>"Improvement Plan"</b>	has the meaning given to it in Schedule 14 ( <i>Key Performance Indicators and Performance Management</i> ).
<b>"Indemnified Persons"</b>	means the Authority and each and every person to whom the Authority (or any direct or indirect sub-licensee of the Authority) sub-licenses, assigns or novates any IPR or rights in any IPR in accordance with this Contract.
<b>"Induction In-Scope Prisoner"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Induction Period"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Induction Programme"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Induction Session"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Induction Session Deadline"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Information"</b>	has the meaning given under section 84 of the FOIA.
<b>"Information Assets"</b>	means definable pieces of information stored in any manner which are determined by the Authority to be valuable and relevant to the Services.
<b>"Information Security Management Plan" or "ISMP"</b>	<b>and</b> means the information security management plan prepared by the Contractor in accordance with Clause D1.2 ( <i>Authority Data</i> ).
<b>"Information Security Policy Framework"</b>	has the meaning given to it in Schedule 7 ( <i>Baseline Security Requirements</i> ).
<b>"Initial Term"</b>	has the meaning given to it in Clause A5 ( <i>Term</i> ).
<b>"Innovation &amp; Change Pot"</b>	means the funding which may be made available by the Authority to support change and innovation



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as further described in Clause F4 (*Innovation & Change Pot*).

**"Innovation & Change Proposal"**

has the meaning given to it in Clause F4.3 (*Innovation & Change Pot*).

**"Innovation & Change Purpose"**

has the meaning given to it in Clause F4.1 (*Innovation & Change Pot*).

**"Insolvency Continuity Plan"**

has the meaning given to it in Schedule 11 (*Business Continuity and Disaster Recovery*).

**"In-Scope Prisoner"**

has the meaning given to it in Schedule 2 (*Specification*).

**"Insolvency Event"**

means with respect to any person, means:

- (a) that person suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or:
  - (i) (being a company, other body corporate or a LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or
  - (ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986;
- (b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, a LLP



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or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;

- (c) another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person;
- (d) a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of that person's assets and such attachment or process is not discharged within fourteen (14) days;
- (e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- (f) where that person is a company, other body corporate, a LLP or a partnership:
  - (i) a petition is presented (which is not dismissed within fourteen (14) days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;
  - (ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that



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person (including an education administration application and an education administration order pursuant to the Technical and Further Education Act 2017);

(iii) (being a company, other body corporate or a LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or

(iv) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver (ignoring for this purpose the need for such holder to serve advance notice pursuant to Section 13 of the Technical and Further Education Act 201, where relevant); or

(g) any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above.

**"Insured Losses"**

means Losses for which the Contractor is required to maintain insurance (and whose value falls within the minimum required financial level of that insurance and disregarding any excess or deductibles that may apply to such insurance) pursuant to Clause G1.9 (*Liabilities, Indemnity and Insurance*).

**"Intellectual Property Rights" or means:  
"IPR"**

(a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions,



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semi-conductor topography rights, trade marks, rights in Internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information;

- (b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and
- (c) all other rights having equivalent or similar effect in any country or jurisdiction.

**"ISO 14001"**

means the family of standards related to environmental management published by the International Organisation for Standardisation.

**"IPR Claim"**

means any claim against any Indemnified Person of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPRs used to provide the Deliverables or otherwise provided and/or licensed by the Contractor (or to which the Contractor has provided access) to the Authority in the fulfilment of its obligations under this Contract or the Collaboration Agreement.

**"ITEPA"**

means the Income Tax (Earnings and Pensions) Act 2003.

**"Joint Collaboration Plan"**

has the meaning given to it in Schedule 24 (*Collaboration*).

**"Key Performance Indicators" or "KPI(s)"**

has the meaning given to it in Schedule 14 (*Key Performance Indicators and Performance Management*).

**"KPI Technical Notes"**

has the meaning given to it in Schedule 14 (*Key Performance Indicators and Performance Management*).



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<b>"Key Personnel"</b>	means the people named in Schedule 15 ( <i>Key Personnel</i> ) as key personnel, if any.
<b>"Key Stakeholders"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Key Sub-Contract"</b>	means any Sub-Contract with a Key Sub-Contractor.
<b>"Key Sub-Contractor"</b>	<p>means any Sub-Contractor:</p> <ul style="list-style-type: none"><li>(a) listed in Schedule 16 (Approved Sub-Contractors and Authority Market Stewardship Principles);</li><li>(b) which, in the opinion of the Authority performs (or would perform if appointed) a critical role in provision of all or any part of the Services; and/or</li><li>(c) with a Sub-Contract with a contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under this Contract.</li></ul>
<b>"Know-How"</b>	means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know how relating to the Services but excluding know how already in the other Party's possession before this Contract.
<b>"Labour Market Information Tool"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Law"</b>	means law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, by-law, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Contractor is bound to comply.



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<b>"Law Enforcement Purposes"</b>	has the meaning given to it in Schedule 10 ( <i>Data Processing</i> ).
<b>"Level 3 Qualification"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Level 4 Qualification"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Level 6 Qualification"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"LGPS"</b>	has the meaning given to it in in Part D, Appendix D1 ( <i>LGPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"LGPS Admission Agreement"</b>	has the meaning given to it in in Part D, Appendix D1 ( <i>LGPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"LGPS Admission Body"</b>	has the meaning given to it in in Part D, Appendix D1 ( <i>LGPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"LGPS Eligible Employees"</b>	has the meaning given to it in in Part D, Appendix D1 ( <i>LGPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"LGPS Fair Deal Employees"</b>	has the meaning given to it in in Part D, Appendix D1 ( <i>LGPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"LGPS Initial Contribution Rate"</b>	has the meaning given to it in in Part D, Appendix D1 ( <i>LGPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"LGPS Participating Employees"</b>	has the meaning given to it in in Part D, Appendix D1 ( <i>LGPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"LGPS Regulations"</b>	has the meaning given to it in in Part D, Appendix D1 ( <i>LGPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).





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<b>"Library Provider"</b>	has the meaning given to it in Schedule 24 ( <i>Collaboration</i> ).
<b>"Local Authority"</b>	has the meaning given to 'local authority' in the Local Government Act 1972.
<b>"Local Parties"</b>	has the meaning given to it in Schedule 24 ( <i>Collaboration</i> ).
<b>"Local Security Strategy" or "LSS"</b>	has the meaning given to it in Schedule 8 ( <i>Access to Prisons</i> ).
<b>"Locally Commissioned Core Education Provider"</b>	has the meaning given to it in Schedule 24 ( <i>Collaboration</i> ).
<b>"Lockdown"</b>	means a period of time in which Prisoners must remain in their cell.
<b>"Loss" or "Losses"</b>	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.
<b>"Lot"</b>	means the group of Prisons grouped together by the Authority for the purposes of delivery of CIAG.
<b>"Lot Level Quality Improvement Group"</b>	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
<b>"Lot Pass Percentage"</b>	has the meaning given to it in Schedule 14 ( <i>Key Performance Indicators and Performance Management</i> ).
<b>"Management Information"</b>	means the management information set out in Table 1 of Schedule 22 ( <i>Reporting Requirements</i> ).
<b>"Mandatory Guidelines"</b>	means the guidelines as set out in Appendix A ( <i>Mandatory Guidelines</i> ) of Schedule 2 ( <i>Specification</i> ).



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<b>“Market Stewardship Principles”</b>	means the principles set out in Part B of Schedule 16 ( <i>Approved Sub-Contractors and Authority Market Stewardship Principles</i> ).
<b>“Material Breach”</b>	means a breach (including an anticipatory breach) of this Contract including (without limitation):  <ul style="list-style-type: none"><li>(a) those having a serious effect on the benefit which the Authority would otherwise derive from a substantial or otherwise important part of this Contract or the Services; or</li><li>(b) any of the obligations set out in Clauses B4 (<i>Assets</i>), D1 (<i>Authority Data</i>), D2 (<i>Data Protection and Privacy</i>), D3 (<i>Confidential Information</i>), G4 (<i>Tax Compliance</i>), I4 (<i>Conflicts of Interest</i>) or B11.2 (<i>Employment</i>).</li></ul>
<b>“matrix Standard”</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Minimum Pass Level"</b>	has the meaning given to it in Schedule 14 ( <i>Key Performance Indicators and Performance Management</i> ).
<b>"Mobilisation Meetings"</b>	has the meaning given to it in Schedule 21 ( <i>Mobilisation</i> ).
<b>"Mobilisation Payment"</b>	has the meaning given to it in Schedule 3 ( <i>Charges</i> ).
<b>"Mobilisation Period"</b>	has the meaning given to it in Schedule 21 ( <i>Mobilisation</i> ).
<b>“Mobilisation Phase”</b>	has the meaning given to it in Schedule 21 ( <i>Mobilisation</i> ).
<b>“Mobilisation Plan”</b>	has the meaning given to it in Schedule 21 ( <i>Mobilisation</i> ).
<b>"Mobilisation Progress Reports"</b>	has the meaning given to it in Schedule 21 ( <i>Mobilisation</i> ).



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<b>"Mobilisation Project Manager"</b>	has the meaning given to it in Schedule 21 ( <i>Mobilisation</i> ).
<b>"Modern Slavery Helpline"</b>	has the meaning given to it in Schedule 9 ( <i>Statutory Obligations and Corporate Social Responsibility</i> ) and is available online via the link in Schedule 28 ( <i>Policies and Procedures</i> ), as amended from time to time.
<b>"Month"</b>	means a calendar month.
<b>"Monthly Contract Review Meeting"</b>	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
<b>"Monthly Payment"</b>	has the meaning given to it in Schedule 3 ( <i>Charges</i> ).
<b>"Monthly Retained Performance Incentive Amount"</b>	has the meaning given to it in Schedule 3 ( <i>Charges</i> ).
<b>"MSA"</b>	has the meaning given to it in Schedule 9 ( <i>Statutory Obligations and Corporate Social Responsibility</i> ).
<b>"NCSC"</b>	has the meaning given to it in Schedule 7 ( <i>Baseline Security Requirements</i> ).
<b>"NCSC Guidance"</b>	has the meaning given to it in Schedule 7 ( <i>Baseline Security Requirements</i> ).
<b>"New Contractor"</b>	has the meaning given to it in Part 1 ( <i>Introduction</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"New Fair Deal"</b>	has the meaning given to it in the relevant part of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"New Futures Network" or "NFN"</b>	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
<b>"New Sub-Contractor"</b>	has the meaning given to it in Part 1 ( <i>Introduction</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).

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means:

- (a) Intellectual Property Rights in items created by the Contractor (or by a third party on behalf of the Contractor) specifically for the purposes of this Contract and updates and amendments of these items including (but not limited to) database schema, any course materials, lesson plans, guidance, specifications, reports, studies, instructions, toolkits, plans, data, drawings, patterns, models, designs; and/or
- (b) Intellectual Property Rights arising as a result of the performance of the Contractor's obligations under this Contract;

but shall not include the Contractor Existing IPR.

**"New IPR Item"**

means a deliverable, document, product, software or other item within which New IPR subsists.

**"National Parties"**

has the meaning given to it in Schedule 24 (*Collaboration*).

**"Net Book Value"**

has the meaning given to it in Schedule 20 (*Exit Management*).

**"NICs"**

means National Insurance Contributions.

**"Non-Exclusive Assets"**

has the meaning given to it in Schedule 20 (*Exit Management*).

**"Non-trivial Customer Base"**

means a significant customer base with respect to the date of first release and the relevant market but excluding Affiliates and other entities related to the licensor.



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- "Notified Sub-Contractor"** has the meaning given to it in Part 1 (*Introduction*) of Schedule 17 (*TUPE, Employees and Pensions*).
- "Object Code"** means software and/or data in machine-readable, compiled object code form.
- "Occasion of Tax Non-Compliance"** means:
- (a) any tax return of the Contractor 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 Contractor 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 Contractor 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 Contractor 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



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any jurisdiction for tax related offences which is not spent at the Effective Date or to a civil penalty for fraud or evasion.

<b>"OFSTED"</b>	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
<b>"Originating Controller"</b>	has the meaning given to it in Schedule 10 ( <i>Data Processing</i> ).
<b>"OSAG"</b>	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
<b>"Offender"</b>	means any person who has been found guilty by a court and who has received a community sentence or a custodial sentence from a court.
<b>"Old Fair Deal"</b>	has the meaning given to it in Part 1 ( <i>Introduction</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"Onerous Contract"</b>	has the meaning given to it in Schedule 22 ( <i>Reporting Requirements</i> ).
<b>"Onerous Contract Report"</b>	has the meaning given to it in Schedule 22 ( <i>Reporting Requirements</i> ).
<b>"Open Book Data"</b>	<p>means complete and accurate financial and non-financial information which is sufficient to enable the Authority to verify the costs incurred or savings made by the Contractor and the Charges already paid or payable and Charges forecast to be paid during the remainder of the Term, including details and all assumptions relating to:</p> <p>(a) the Contractor's costs broken down against each Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all hardware and software;</p>

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- (b) central indirect cost including costs related to finance, HR, legal, estates, insurance;
- (c) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Services;
- (d) confirmation that all methods of cost apportionment and overhead allocation are consistent with and not more onerous than such methods applied generally by the Contractor;
- (e) an explanation of the type and value of risk and contingencies associated with the provision of the Services, including the amount of money attributed to each risk and/or contingency; and
- (f) the actual costs profile for each Contract Year.

**"Open Source"**

means computer Software that is released on the internet for use by any person, such release usually being made under a recognised open source licence and stating that it is released as open source.

**"Operational Change"**

has the meaning given to it in Schedule 4 (*Change Control Procedure*).

**"Ordinary Exit"**

has the meaning given to it in Schedule 20 (*Exit Management*).

**"Other Contractor(s)"**

means any supplier(s) to the Authority (other than the Contractor) which is notified to the Contractor from time to time including any Replacement Contractor.



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<b>"Other Group Members"</b>	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
<b>"Outgoing Contractor(s)"</b>	has the meaning given to it in Schedule 21 ( <i>Mobilisation</i> ).
<b>"Outline Mobilisation Plan"</b>	has the meaning given to it in Schedule 21 ( <i>Mobilisation</i> ).
<b>"Outstanding Issues Notice"</b>	has the meaning given to it in Schedule 14 ( <i>Key Performance Indicators and Performance Management</i> ).
<b>"Parent Undertakings"</b>	has the meaning given to it in Schedule 25 ( <i>Financial Distress</i> ).
<b>"Pathway" or "Pathways"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Partial Termination"</b>	means the partial termination of this Contract in accordance with its terms or otherwise by mutual agreement of the Parties.
<b>"Party"</b>	means each of the Authority and the Contractor, together the "Parties".
<b>"PAS 2060"</b>	has the meaning given to it in Schedule 9 ( <i>Statutory Obligations and Corporate Social Responsibility</i> ).
<b>"Pass" and "Passed"</b>	has the meaning given to it in Schedule 14 ( <i>Key Performance Indicators and Performance Management</i> ).
<b>"Peer Mentors"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Pensionable Earnings"</b>	has the meaning given to it in Part D, Appendix D2 ( <i>TPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).





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<b>"Performance Period"</b>	has the meaning given to it in Schedule 14 ( <i>Key Performance Indicators and Performance Management</i> ).
<b>"Permitted Purpose(s)"</b>	has the meaning given to it in Schedule 10 ( <i>Data Processing</i> ).
<b>"Personal Data"</b>	means as it is defined in the UK GDPR.
<b>"Personal Data Breach"</b>	has the meaning given to it in Schedule 10 ( <i>Data Processing</i> ).
<b>"Personal Learning Plan" or "PLP"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"PES Contractors"</b>	has the meaning given to it in Schedule 24 ( <i>Collaboration</i> ).
<b>"PES Steward"</b>	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
<b>"Post Inspection Improvement Plan"</b>	has the meaning given to it in Schedule 14 ( <i>Key Performance Indicators and Performance Management</i> ).
<b>"Post Ofsted Inspection Action Plan"</b>	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
<b>"Prescribed Person"</b>	has the meaning given to it in Schedule 9 ( <i>Statutory Obligations and Corporate Social Responsibility</i> ).
<b>"Premises"</b>	means the locations where the Services are to be supplied as set out in Schedule 26 ( <i>Premises</i> ).
<b>"Pre-Release In-Scope Prisoner"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Pre-Release Session"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Previous CIAG Session"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).



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<b>"Price"</b>	has the meaning given to it in Schedule 20 ( <i>Exit Management</i> ).
<b>"Prison(s)"</b>	means those prisons identified in Schedule 26 ( <i>Premises</i> ) subject to the addition or removal of Prisons from the scope of the Services by the Authority from time to time by issue of a CCN. The term 'Prison' in this context shall include the administration and other facilities used by the Prison in addition the buildings where prisoners are housed.
<b>"Prison Employment Hub"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Prison Pass Percentage"</b>	has the meaning given to it in Schedule 14 ( <i>Key Performance Indicators and Performance Management</i> ).
<b>"Prison Rules"</b>	has the meaning given to it in Schedule 8 ( <i>Access to Prisons</i> ).
<b>"Prisoner"</b>	means any Remand Prisoner or Offender resident at a Prison.
<b>"Prisoner Education Service" or "PES"</b>	has the meaning given to it in Schedule 24 ( <i>Collaboration</i> ).
<b>"Privately Managed Prison" (or "PMP")</b>	means a prison managed by a third party as opposed to the Authority.
<b>"Probation Provider"</b>	means the National Probation Service and/or any contractor appointed by the Authority to provide probation services from time to time.
<b>"Probation Services"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Processor"</b>	has the meaning given to it in Schedule 10 ( <i>Data Processing</i> ).



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<b>"Prohibited Act"</b>		has the meaning given to it in Schedule 9 ( <i>Statutory Obligations and Corporate Social Responsibility</i> ).
<b>"Property"</b>		means the property, other than real property, made available to the Contractor by the Authority in connection with this Contract.
<b>"Protective Measures"</b>		has the meaning given to it in Schedule 10 ( <i>Data Processing</i> ).
<b>"PSI 10/2012"</b>		means the Prison Service Instruction published on 26 March 2012 relating to the Conveyance and Possession of Prohibited Items and other Related Offences available via the link in Schedule 28 ( <i>Policies and Procedures</i> ), as amended from time to time.
<b>"PSI 07/2014"</b>		means the Prison Service Instruction published on 2nd June 2014 relating to security vetting available via the link in Schedule 28 ( <i>Policies and Procedures</i> ), as amended from time to time.
<b>"PSI 27/2014"</b>		means the Prison Service Instruction published on 26 June 2021 relating to security vetting of all ex-offenders available via the link in Schedule 28 ( <i>Policies and Procedures</i> ), as amended from time to time.
<b>"Public Sector Body"</b>		means a formally established organisation that is (at least in part) publicly funded to deliver a public or government service.
<b>"Public Sector Contractor"</b>	<b>Dependant</b>	has the meaning given to it in Schedule 25 ( <i>Financial Distress</i> ).
<b>"Publishable Information"</b>	<b>Performance</b>	means information about the Contractor's performance against a Key Performance Indicator which shall not constitute Commercially Sensitive Information.
<b>"Purchase Order"</b>		means the Authority's order for the supply of the Services.



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<b>"QI Templates"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Quality Standards"</b>	means the 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 Contractor would reasonably and ordinarily be expected to comply with, and as may be further detailed in Schedule 2 ( <i>Specification</i> ).
<b>"Quality Improvement Group Meetings"</b>	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
<b>"Quality Improvement Plan"</b>	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
<b>"Quarterly Contract Review Meeting"</b>	has the meaning given to it in Schedule 13 ( <i>Governance</i> ).
<b>"Quarterly Retained Performance Incentive Amount"</b>	has the meaning given to it in Schedule 3 ( <i>Charges</i> ).
<b>"Rating Agencies"</b>	has the meaning given to it in Schedule 25 ( <i>Financial Distress</i> ).
<b>"Receiving Party"</b>	has the meaning given to it in Schedule 4 ( <i>Change Control Procedure</i> ).
<b>"Rectification"</b>	has the meaning given to it in Schedule 3 ( <i>Charges</i> ).
<b>"Rectification Plan"</b>	has the meaning given to in Schedule 14 ( <i>Key Performance Indicators and Performance Management</i> ).
<b>"Register(s)"</b>	has the meaning given to it in Schedule 20 ( <i>Exit Management</i> ).



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<b>"Regional Parties"</b>	has the meaning given to it in Schedule 24 ( <i>Collaboration</i> ).
<b>"Regulations"</b>	means the Public Contract Regulations 2015 (SI 2015/102).
<b>"Regulatory Body"</b>	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 this Contract or any other affairs of the Authority.
<b>"Related Contractor"</b>	has the meaning given to it in Schedule 11 ( <i>Business Continuity and Disaster Recovery</i> ).
<b>"Related Third Party(ies)"</b>	means any third parties that the Authority and/or the Contractor shall be required to liaise with from time to time in the provision of the Services including any Government or statutory agency, HMPPS (including its public and private Prisons and the Probation Provider), Police Authorities & Services, His Majesty's Courts and Tribunals Services ( <b>HMCTS</b> ), Magistrates' Courts Committees, Civilian Enforcement Officers, Bailiffs and accredited offices of a Court, HMRC, UK Border Agency, HM Coroners, the Local Authorities, Other Contractor(s) and other contractors providing the same or similar services to the Services in a different area or for other contracting authorities and the National Health Service (for mental health hospitals) or such other parties as set out in this Contract.
<b>"Relevant Authority"</b>	has the meaning given to it in Schedule 25 ( <i>Financial Distress</i> ).
<b>"Relevant Contract"</b>	Means the contracts for the delivery of CIAG services in Lot 6.
<b>"Relevant Deadline"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).



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<b>"Relevant Requirements"</b>	has the meaning given to it in Schedule 9 ( <i>Statutory Obligations and Corporate Social Responsibility</i> ).
<b>"Relevant Tax Authority"</b>	means HMRC or, if applicable, a tax authority in the jurisdiction in which the Contractor is established.
<b>"Relevant Transfer"</b>	has the meaning given to it in Part 1 ( <i>Introduction</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"Relevant Transfer Date"</b>	has the meaning given to it in Part 1 ( <i>Introduction</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"Remand Prisoner"</b>	means any person who has been:  <ul style="list-style-type: none"><li>(a) remanded in custody by a court pending a further court appearance; or</li><li>(b) found guilty by a court, but has been remanded in custody pending sentencing.</li></ul>
<b>"Replacement Contractor"</b>	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 this Contract (or where the Authority is providing replacement Services for its own account, the Authority).
<b>"Replacement Services"</b>	means any services which are the same as or substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the expiry or termination or partial termination of this Contract, whether those services are provided by the Authority internally and/or by any third party.
<b>"Report"</b>	has the meaning given to it in Schedule 22 ( <i>Reporting Requirements</i> ).



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<b>"Request for Information"</b>	means a request for information under the FOIA or the EIR.
<b>"Restricted Country"</b>	has the meaning given to it in Schedule 10 ( <i>Data Processing</i> ).
<b>"Review In-Scope Prisoner"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Review Report"</b>	has the meaning given to it in Schedule 11 ( <i>Business Continuity and Disaster Recovery</i> ).
<b>"Review Session Deadline"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Review Sessions"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"RFOC"</b>	has the meaning given to it in ( <i>Change Control Procedure</i> ).
<b>"Screening and Assessment Process"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"Searching Policy Framework"</b>	means the Policy Framework published on 3 October 2022 relating to the searching of the person available via the link in Schedule 28 ( <i>Policies and Procedures</i> ), as amended from time to time.
<b>"Security Policy Framework"</b>	means the Government's Security Policy Framework (available from the Cabinet Office's Government Security Secretariat) available via the link in Schedule 28 ( <i>Policies and Procedures</i> ), as amended from time to time.
<b>"Service Transfer"</b>	has the meaning given to it in Part 1 ( <i>Introduction</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"Service Transfer Date"</b>	has the meaning given to it in Part 1 ( <i>Introduction</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).



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<b>"Service Month"</b>	has the meaning given to it in Schedule 3 ( <i>Charges</i> ).
<b>"Services"</b>	means the services set out in Schedule 2 ( <i>Specification</i> ) (including any modified or alternative services) and in each Contract Year.
<b>"Services Commencement Date"</b>	means the date on which the Contractor commences provision of the Services in accordance with the terms of this Contract, which shall be 1 April 2025.
<b>"SMART"</b>	has the meaning given to it in Schedule 2 ( <i>Specification</i> ).
<b>"SME"</b>	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 and available via the link in Schedule 28 ( <i>Policies and Procedures</i> ), as amended from time to time.
<b>"Source Code"</b>	means computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software.
<b>"Specific Change in Law"</b>	means a Change in Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply.
<b>"Specification"</b>	means the description of the Services to be supplied under this Contract as set out in Schedule 2 ( <i>Specification</i> ) including, where appropriate, the Premises and the Quality Standards.
<b>"Staff"</b>	means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any of its Sub-Contractors engaged in





## Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

the performance of the Contractor's obligations under the Contract.

**"Staffing Information"**

has the meaning given to it in Part 1 (*Introduction*) of Schedule 17 (*TUPE, Employees and Pensions*).

**"Standstill"**

means a period of time that Prisoners are subject to restricted movement or when there is a temporary alteration to regime timetables.

**"Statutory Schemes"**

has the meaning given to it in Part 1 (*Introduction*) of Schedule 17 (*TUPE, Employees and Pensions*).

**"Step-In Trigger Event"**

has the meaning given to it in Clause F10.1 (*Authority Step-In*).

**"Strategic Supplier(s)"**

has the meaning given to it in Schedule 25 (*Financial Distress*).

**"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 this Contract and **"Sub-Contractor"** shall be construed accordingly.

**"Sub-processor"**

has the meaning given to it in Schedule 10 (*Data Processing*).

**"Sustainability Report"**

has the meaning given to it in Schedule 9 (*Statutory Obligations and Corporate Social Responsibility*).

**"Tender"**

means the Contractor's tender submitted in response to the Authority's invitation to suppliers for offers to supply the Services and set out in Schedule 27 (*Contractor's Tender*).

**"Term"**

means the period from the Effective Date to the End Date or such earlier date of termination of this



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	Contract in accordance with the Law or this Contract.
<b>"Termination Assistance Notice"</b>	has the meaning given to it in Schedule 20 ( <i>Exit Management</i> ).
<b>"Termination Assistance Period"</b>	has the meaning given to it in Schedule 20 ( <i>Exit Management</i> ).
<b>"Termination Services"</b>	has the meaning given to it in Schedule 20 ( <i>Exit Management</i> ).
<b>"Third Party IPR"</b>	means Intellectual Property Rights owned by a third party, which is, will be or is proposed to be used by the Contractor for the purposes of providing the Deliverables or for performing its obligations under the Collaboration Agreement.
<b>"TPS"</b>	has the meaning given to it in Part D, Appendix D2 ( <i>TPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"TPS Eligible Employees"</b>	has the meaning given to it in Part D, Appendix D2 ( <i>TPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"TPS Fair Deal Employees"</b>	has the meaning given to it in Part D, Appendix D2 ( <i>TPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"TPS Initial Contribution Rate"</b>	has the meaning given to it in Part D, Appendix D2 ( <i>TPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"TPS Participating Employees"</b>	has the meaning given to it in Part D, Appendix D2 ( <i>TPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"TPS Participation Agreement"</b>	has the meaning given to it in Part D, Appendix D2 ( <i>TPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).



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<b>"TPS Regulations"</b>		has the meaning given to it in Part D, Appendix D2 ( <i>TPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"TPS Scheme Manager"</b>		has the meaning given to it in Part D, Appendix D2 ( <i>TPS</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"Transferable Assets"</b>		has the meaning given to it in Schedule 20 ( <i>Exit Management</i> ).
<b>"Transferable Contracts"</b>		has the meaning given to it in Schedule 20 ( <i>Exit Management</i> ).
<b>"Transferring Contracts"</b>		has the meaning given to it in Schedule 20 ( <i>Exit Management</i> ).
<b>"Transferring Employees"</b>	<b>Contractor</b>	has the meaning given to it in Part 1 ( <i>Introduction</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"Transferring Former Employees"</b>	<b>Former Contractor</b>	has the meaning given to it in Part 1 ( <i>Introduction</i> ) of Schedule 17 ( <i>TUPE, Employees and Pensions</i> ).
<b>"Transition Period"</b>		has the meaning given to it in Schedule 14 ( <i>Key Performance Indicators and Performance Management</i> ).
<b>"Transparency Information"</b>		has the meaning given to it in Clause D4.1 ( <i>Transparency, Open Book Data and Freedom of Information</i> ).
<b>"Transparency PPN"</b>		has the meaning given to it in Schedule 22 ( <i>Reporting Requirements</i> ).
<b>"Transparency Reports"</b>		has the meaning given in Schedule 22 ( <i>Reporting Requirements</i> ).
<b>"TUPE"</b>		means the Transfer of Undertakings (Protection of Employment) Regulations 2006.
<b>"Uninsured Losses"</b>		means Losses which are not Insured Losses (and for the avoidance of doubt, any deductibles and



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	excesses of loss shall not be treated as an uninsured loss (which are dealt with in accordance with Clause G1 ( <i>Liability, Indemnity and Insurance</i> )).
<b>"UK GDPR"</b>	has the meaning given to it in Schedule 10 ( <i>Data Processing</i> ).
<b>"UK Public Sector Business"</b>	has the meaning given to in Schedule 25 ( <i>Financial Distress</i> ).
<b>"Valid"</b>	has the meaning given to in Schedule 25 ( <i>Financial Distress</i> ).
<b>"Valid Invoice"</b>	means an invoice containing the information set out in Clause C1 ( <i>Payment and VAT</i> ).
<b>"VAT"</b>	means value added tax charged or regulated in accordance with the Value-Added Tax Act 1994 and legislation supplemental thereto or replacing, modifying or consolidating it.
<b>"VCSE"</b>	means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.
<b>"Waste Hierarchy"</b>	has the meaning given to it in Schedule 9 ( <i>Statutory Obligations and Corporate Social Responsibility</i> ).
<b>"Withheld Performance Incentive Payment"</b>	has the meaning given to it in Schedule 3 ( <i>Charges</i> ).
<b>"Working Day"</b>	means a day (other than a Saturday or Sunday) on which banks are open for general business in the City of London.
<b>"Working Hours"</b>	means 8am to 5pm on a Working Day.
<b>"YOI Rules"</b>	means YOI Rule 75 of The Young Offender Institution Rules 2000 as amended by the Young Offender Institution Amendment Rules 2005.



**Ministry of  
JUSTICE**

**OFFICIAL SENSITIVE**

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and  
Guidance (CIAG))**

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))**

## **SCHEDULE 2 – SPECIFICATION**

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**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****1 DEFINITIONS**

1.1 In this Schedule 2, the following words shall have the following meanings and they shall supplement Schedule 1 (*Definitions*):

<b>“Additional Learning Needs”</b>	means a learning difficulty or disability (whether the learning difficulty or disability arises from a medical condition or otherwise) which calls for additional learning provision;
<b>“Allow List”</b>	means a list of IP addresses, applications and websites that is allowed or accessible from the Authority System for the delivery of the Services;
<b>“CIAG Space”</b>	means the room(s) allocated in the Prison for the delivery of the Services;
<b>“CV Builder”</b>	means the digital template that allows Prisoners to create a curriculum vitae (“ <b>CV</b> ”);
<b>“Data Privacy Notice”</b>	means the data privacy notice to be signed by a Prisoner prior to completing the Induction Session (in the format to be provided by the Authority);
<b>"Employer Events"</b>	means meetings (virtual or in person) between employers or business advisers and Prisoners to increase Prisoner awareness of work opportunities / requirements;
<b>“Employment Readiness Checklist”</b>	means the form (or such revised version of the form) prepared by the Authority to ascertain the extent to which the Prisoner is prepared for employment on the date of release;
<b>“ESW”</b>	means education skills and work;
<b>“Excluded Prisoners”</b>	means all Prisoners who are excluded from receipt of the Services as set out in Part 1 of Appendix B of this Schedule 2;
<b>“Exemption(s)”</b>	means an exemption in Part 2 of Appendix B of this Schedule 2 that may be applied to In-



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	Scope Prisoners for whom the Contractor is relieved from providing the Services;
<b>"Face to Face"</b>	means face to face in person unless otherwise agreed with the Authority;
<b>"Gatsby Benchmarks"</b>	means the evidence-informed and practical standard of what 'good' career guidance looks like, it outlines a framework of eight benchmarks that contractors can use to improve their career guidance provision;
<b>"Governor"</b>	means the most senior person responsible for the operational running of a Prison (and for the avoidance of doubt, this definition includes "Directors" of privately managed prisons);
<b>"Induction In-Scope Prisoner"</b>	<p>1.1.1 means a Prisoner that:</p> <ul style="list-style-type: none"><li>(a) has completed the required Screening and Assessment Process (with the exception that this shall not apply in the Interim Period); and</li><li>(b) has not previously completed an Induction Session at any Prison;</li></ul>
<b>"Induction Period"</b>	means the period where a Prisoner is placed on the Prison's Induction Programme. Induction timelines are individual to each Prison but usually take between 7 to 10 Working Days from the Prisoner's reception into the Prison;
<b>"Induction Programme"</b>	means the induction programme usually organised during the Induction Period where Prisoners are inducted into the prison regime and services. The Induction Programme will include an induction with the Core Education Provider and the Induction Session;
<b>"Induction Session"</b>	means the initial careers conversation to be held with the Induction In-Scope Prisoner

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when they enter the adult prison system as recorded on the Authority's ICT System. ;

**“Induction Session Deadline”**

Means:

- (c) After the Interim Period the date within ten (10) calendar days of an Induction In-Scope Prisoner completing the Screening and Assessment Process (with the exception that, if the Screening and Assessment Process is complete on a day which falls within period from 20 December to 1 January, the Induction Session Deadline shall be the calendar day that is fifteen (15) calendar days after the Screening and Assessment)
- (d) During the Interim Period the Induction Session Deadline is the calendar day that is twenty (20) calendar days from the day that the Prisoner enters the Prison (regardless of whether a Screening and Assessment Process has been undertaken) with the exception that, if the Prisoner enters Prison on a day which falls within period from 20 December to 1 January, the Induction Session Deadline shall be the calendar day that is twenty five (25) calendar days after the Prisoner enters Prison).
- (e)

**“In-Scope Prisoner”**

means all Prisoners eligible to receive any Services from the Contractor (note that the type of services will vary according to the characteristics of the Prisoner and where they are on a Pathway) who are not Excluded Prisoners. Where the context so admits this over-arching term will include:

An ‘Induction In-Scope Prisoner’;

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	A 'Review In-Scope Prisoner'; and
	A 'Pre-Release In-Scope Prisoner';
"Interim Period"	means the period from the Service Commencement Date until the Authority notifies the Contractor in writing that the New Screening and Assessment process is operational;
"Key Stakeholders"	has the meaning given in Paragraph 3.3.1 of this Schedule 2;
"Labour Market Information Tool"	means a tool procured by the Authority that holds data, graphs and statistics that describes the condition of the past and current labour market;
"Level 3 Qualification"	means qualification to "Level 3" as defined by the UK Government in the following link: <a href="https://www.gov.uk/what-different-qualification-levels-mean/list-of-qualification-levels">https://www.gov.uk/what-different-qualification-levels-mean/list-of-qualification-levels</a> ;
"Level 4 Qualification"	means qualification to "Level 4" as defined by the UK Government in the following link: <a href="https://www.gov.uk/what-different-qualification-levels-mean/list-of-qualification-levels">https://www.gov.uk/what-different-qualification-levels-mean/list-of-qualification-levels</a> ;
"Level 6 Qualification"	means qualification to "Level 6" as defined by the UK Government in the following link: <a href="https://www.gov.uk/what-different-qualification-levels-mean/list-of-qualification-levels">https://www.gov.uk/what-different-qualification-levels-mean/list-of-qualification-levels</a> ;
"matrix Standard"	means a quality standard for contractors that deliver careers, information, advice, and guidance;
"New Screening and Assessment Process"	means the New Screening and Assessment Process being procured by the Authority (as part of which the date of completion of the

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))**

	Screening Assessment will be entered on the Authority's ICT System);
<b>"Pathway" or "Pathways"</b>	means the sequence route for the Prisoner to follow to gain the education and skills required to achieve their employment goals;
<b>"Peer Mentors"</b>	means Prisoners, either qualified or those working towards gaining the relevant mentoring qualification, appointed by the Authority to support the delivery of the Services as further detailed in Paragraph 8 of this Schedule 2;
<b>"Personal Learning Plan" or "PLP"</b>	means a personalised plan used by the Contractor to identify Prisoner aspirations, employment, and education history and any additional needs to inform SMART goals to aid allocation to ESW activities;
<b>"Pre-Release In-Scope Prisoner"</b>	has the meaning given in Paragraph 6.3.1 of this Schedule 2;
<b>"Pre-Release Session"</b>	means the Review Session with a Prisoner prior to release from Prison;
<b>"Previous CIAG Session"</b>	means either an Induction Session or a previous Review Session;
<b>"Prison Employment Hub"</b>	means the area of the Prison where the CIAG Space will be located and where conversations in relation to careers and employment opportunities will take place;
<b>"Probation Services"</b>	means the statutory criminal justice service that supervises prisoners released into the community;
<b>"QI Templates"</b>	means a quality improvement planning tool issued by the Authority that allows contractors to analyse the quality of services being delivered to Prisoners;

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<b>“Relevant Deadline”</b>	means where the context so admits the Review Session Deadline and/or the Induction Session Deadline;
<b>"Review In-Scope Prisoner"</b>	has the meaning given in Paragraph 5.3.1 of this Schedule 2;
<b>“Review Session Deadline”</b>	means the date by which the Review Session shall be completed as set out in Table 1 ( <i>Review Session Deadlines</i> ) at Paragraph 5.5.2 of this Schedule 2;
<b>“Review Sessions”</b>	means the meetings between the Contractor and an In-Scope Prisoner held in accordance with the Review Session Deadline applicable to the In-Scope Prisoner depending on the duration left on their sentence;
<b>“Screening and Assessment Process”</b>	means the process undertaken by the Core Education Provider which will identify Additional Learning Needs and determine the baseline ability levels for functional skills (mathematics, English and digital skills); and
<b>"SMART"</b>	means specific, measurable, achievable, relevant and time bound.

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****2 INTRODUCTION**

This Schedule 2 sets out the Specification for the Services.

**3 SCOPE**

3.1 The scope of the Services is detailed in the following Paragraphs:

- (a) Induction Session;
- (b) Review Sessions;
- (c) Pre-Release Sessions;
- (d) Employer Events;
- (e) Peer Mentoring;
- (f) Digital Support;
- (g) Quality Delivery;
- (h) Staff;
- (i) Data Management;
- (j) CIAG Space; and
- (k) Equalities.

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3.2 Each Paragraph set out in Paragraph 3.1 above has the following subs-Paragraphs:

Purpose	The overall aim of the Authority in respect of each Paragraph.
Outcome	The outcomes to be achieved in this service line by the Contractor.
Service elements in scope	Elements of the service requirement that the Contractor has full responsibility for.
Service elements out of scope	Elements of the service that are not the responsibility of the Contractor.
Operational requirements	The minimum requirements to deliver Contractor responsibilities. This does not preclude the Contractor from providing a Service over and above the minimum requirements specified in each Paragraph below.

### 3.3 KEY STAKEHOLDERS

3.3.1 The Services are one strand in a coordinated approach to reduce reoffending by ensuring that all Prisoners can gain skills and confidence to equip them with the skills to gain sustainable employment. In delivering the Services the Contractor shall work collaboratively with the key stakeholders as listed in the table below (the "**Key Stakeholders**" and each a "**Key Stakeholder**").

3.3.2 The Authority may amend the table below at any time to reflect operational changes in each Prison or in the Lot.

Stakeholder	Role
<b>Commissioned Rehabilitative Services or CRS</b>	CRS are commissioned by regional probation directors to ensure the best outcomes are achieved for people subject to a Community Order or Suspended Sentence Order with Rehabilitation Activity Requirements (" <b>RAR</b> ") and on Licence or Post Sentence Supervision. CRS services include employment, training, and education.
<b>DWP Prison Work Coaches</b>	Department for Work and Pensions (" <b>DWP</b> ") funds DWP Prison Work Coaches. DWP Prison Work Coaches support prisoners from reception to release by:

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	<ul style="list-style-type: none"> <li>(a) helping the Prisoner retain any employment they had prior to entering Prison;</li> <li>(b) checking which benefits the prisoner may qualify for and advising the Prisoner of these;</li> <li>(c) booking telephone appointments with the job centre on release; and</li> <li>(d) checking that the Prisoner has the necessary ID and bank account and signposting them to the stakeholders who can assist in this.</li> </ul>
<b>Education Co-ordinator</b>	The Education Co-ordinator will be responsible for providing screening and assessment for Prisoners and the curriculum offer - which will include English, Maths, Information and Communication Technology ("ICT"), and English for Speakers of Other Language ("ESOL").
<b>Heads of Education, Skills and Work or HoESW</b>	HoESW are a part of the Prison senior management team and responsible for the strategic oversight and delivery of all education, skills and work-based activities and staff, and will use their expertise to drive forward improvement in education and employment.
<b>Interpretation Services</b>	Language services provided by the Authority's suppliers to support Prisoners that require other language interpretation, British Sign Language interpreters, deaf relays, speech to text reporters, lip speakers and deafblind interpreters.
<b>Key Worker</b>	The Key Worker role is incorporated into the core duties of a Prison officer. Each Prisoner should have an allocated Key Worker to signpost and direct them to CIAG services.
<b>Learning and Skills Manager or LSM</b>	Learning and Skills Managers are responsible for supporting the delivery of the HoESW's strategic vision for all of ESW within each Prison. By



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	ensuring all staff working within ESW provide a respectful, safe, and decent environment for all Prisoners and staff, leading local quality assurance processes and managing, promoting, and co-ordinating all learning and skills activity to provide a comprehensive and coherent learning and skills programme for all Prisoners.
<b>Neurodiversity Support Manager or NSM</b>	NSMs are responsible for implementing a whole Prison approach to supporting neurodivergent needs with improved processes to identify and support Prisoner needs. They are also responsible for ensuring neurodivergent Prisoners can access the education, skills, and work opportunities within a Prison.
<b>PES Providers</b>	The umbrella term for all education provision providers to Prisons within the Lots, including, core education and library provision.
<b>Prison Employment Lead or PEL</b>	The PEL is a specialist role aimed at enabling the 'construction of an end-to-end Prison employment pathway'. The PEL will ensure effective working within the Prison Employment Hub.
<b>Prison Offender Manager or POM</b>	The POM is a person in the Offender Management Unit within the Prison who will risk assess Prisoners to enable appropriate referrals to education, training and employment.
<b>Probation Practitioner or PP</b>	The PP is responsible for sentence management in the community and will oversee a Prisoner's sentence plan.
<b>Supplier providing details of local market opportunities</b>	The supplier appointed by the Authority to provide and update the Labour Market Information Tool.

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****4 INDUCTION SESSIONS****4.1 PURPOSE**

- 4.1.1 When Prisoners first enter a Prison, they begin an Induction Period. During this Induction Period, Prisoners are given time to embed and adjust to Prison life. During the Induction Period, different teams from across the Prison e.g., healthcare, will meet the Prisoners as part of their induction and, assess their needs and inform them of the support they can provide. New Prisoners should be placed on an Induction Programme as soon as they are able to benefit from it (e.g. after completing a detox period if necessary) and as soon as a vacancy on an Induction Programme is available.
- 4.1.2 During the Induction Period, Prisoners will undertake the Screening and Assessment Process (a contracted responsibility of the Core Education Provider) which will identify Additional Learning Needs, determine the baseline ability levels for functional skills (mathematics, English and digital skills), and include all screening tools and assessments required by the Authority (which for those on the ESOL pathway will be the ESOL screening tool and the Additional Learning Needs indicator tool)..
- 4.1.3 For Induction In-Scope Prisoners the Induction Session will take place after the Screening and Assessment Process is complete (with the exception that, during the Interim Period, it may be undertaken prior to the Screening and Assessment Process) and in accordance with the Induction Session Deadline.
- 4.1.4 The Induction Session will help to inform recommended Pathways in line with the educational courses available at the Prison and establish SMART goals to track Prisoner progress.
- 4.1.5 The Prisoner will be supported by Interpretation Services at the Induction Session if required.
- 4.1.6 KPI 1 will be in place to measure the Contractor's performance in relation to Induction Sessions. Further details are set out in Schedule 14 (*Key Performance Indicators and Performance Management*).

**4.2 OUTCOME**

The Contractor will ensure that Induction Sessions enable Prisoners to:

- (a) reflect on their starting point assessment outcomes, ESW history, skills, interests, previous experiences and consider aspirations on release;
- (b) understand the Prison curriculum on offer and how this may support them to realise their aspirations;

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- (c) identify realistic and achievable Pathways to success on release;
- (d) develop a PLP that will be used to identify starting points, record key information and track progress; and
- (e) highlight any known barriers identified by Screening and Assessment Process and signpost Prisoners with Additional Learning Needs which need to be overcome in the delivery of education (such as dyslexia and illiteracy).

**4.3 INDUCTION SESSION - SERVICE ELEMENTS IN-SCOPE**

4.3.1 The Contractor shall provide Face to Face Induction Sessions to all Induction In-Scope Prisoners;

4.3.2 The Contractor shall be responsible for the following services in relation to Induction Sessions:

- (a) delivering an Induction Session for all Induction In-Scope Prisoners;
- (b) completing a digital PLP with all Induction In-Scope Prisoners as part of the Induction Session;
- (c) signposting the Prisoner to relevant Pathways based on Prisoner skills, aspirations and the Screening and Assessment Process outcomes as well as the Prison curriculum offer;
- (d) setting SMART goals based on recommended Pathways;
- (e) recording relevant information during the Induction Session and capturing this on the Authority's ICT System; and

**4.4 INDUCTION SESSION - SERVICE ELEMENTS OUT OF SCOPE**

The following services are excluded from the scope of Induction Session:

- (a) the setting up and management of the Induction Programme and other associated induction activities (relating to the screening of Prisoners as part of the 'first night process' and which are not related to the Services); and
- (b) the management of prisoner activity allocations, which will be managed by the Prison's allocations team and activities hub.



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### 4.5 INDUCTION SESSION - OPERATIONAL REQUIREMENTS

#### 4.5.1 Deliver an Induction Session for all Induction In-Scope Prisoners

The Contractor shall:

- (a) complete an Induction Session with all Induction In-Scope Prisoners by the Induction Session Deadline. The Induction Session should be completed regardless of time the Prisoner has left to serve and whether they will be of working age on release;
- (b) ensure that the Induction Session is carried out by a member of Staff who holds, at least, a Level 3 Qualification in Information, Advice and Guidance (or equivalent);
- (c) gather information from the Induction In-Scope Prisoner on their education and employment history, volunteer experience, their skills and interests, career aspirations including any additional support needs to support the completion of the PLP;
- (d) set appropriate ESW SMART goals that are sequenced and informed by Prisoners' skills and interests; and
- (e) consider the Prisoners time left to serve when making decisions around the level of information needed on the PLP.

#### 4.5.2 Work in partnership with Key Stakeholders

The Contractor shall:

- (a) work with the Prison to ensure all new Induction In-Scope Prisoners receive an Induction Session. Prisons will be responsible for identifying and, where necessary, escorting Induction In-Scope Prisoners to Induction Sessions;
- (b) work with the Core Education Provider to ensure that the Induction Session follows the Screening and Assessment Process (unless this is within the Interim Period) and is completed within Induction Session Deadline within the Induction Period;
- (c) provide a further Induction Session for Induction In-Scope Prisoners who do not attend their allocated Induction Session in line with any processes established with the Prison;
- (d) attempt to re-engage the Prisoner at the earliest opportunity where a Prisoner refuses to engage or cooperate for a reason outside of the Contractor's control. Where the Prisoner has refused to engage on three (3) separate occasions, the



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Contractor shall refer this to the Learning and Skills Manager for a decision on how to proceed;

- (e) share new risk information with the PEL, POM or LSM including any reasons why a Prisoner is refused attendance at an Induction Session;
- (f) be flexible during the induction process when working with Prison staff to meet the requirements of the Prison;
- (g) be flexible about the location within the Prison where the Induction Sessions are conducted;
- (h) work with the NSM to ensure that the Induction Session is supportive of neurodivergent needs including accessible materials, neurodiversity supportive practice by staff and appropriate adjustments to the environment where practical; and
- (i) ensure that Prisoners transferring into the Prison where the Contractor is operating have an Induction Session within the Induction Session Deadline. Where a Prisoner has already had an Induction Session at another Prison, the Contractor shall undertake a Review Session to review the PLP and ensure all information contained within the PLP is up to date and that the Prisoner's goals are up-to-date and reflect the Pathways available in the current Prison. If a Prisoner has transferred from another establishment and their Screening and Assessment Process has been completed at the previous establishment, but have not yet completed an Induction Session, the Contractor must complete an Induction Session within ten (10) calendar days of transferring to the new Prison. If a Prisoner has transferred from another establishment and their Screening and Assessment Process has not been completed, the Screening and Assessment Process should be completed first and the Contractor shall complete the Induction Session by the Induction Session Deadline (with the exception that, in the Interim Period, the Induction Session shall take place by the calendar day that is twenty (20) calendar days from the day that the Prisoner enters the Prison (regardless of whether a Screening and Assessment Process has been undertaken) with the exception that, if the Prisoner enters Prison on a day which falls within period from 20 December to 1 January, the Induction Session Deadline shall be the calendar day that is twenty five (25) calendar days after the Prisoner enters Prison).

### **4.5.3 Provide high-quality information, advice and guidance**

The Contractor shall:

- (a) provide Prisoners with up-to-date information, advice and guidance that is:



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- (i) informed by labour market information in the region that, based on the reasonable assumptions of the Prison and the Contractor, the Prisoner will be released to; and
  - (ii) the curriculum offer available at the Prison;
- (b) take into consideration time left to serve, sentence length and offence type to ensure the information and advice provided is realistic and supportive;
- (c) establish whether a Prisoner will be of working age or able to work on release, as this will impact the nature of the support provided;
- (d) provide information, advice and guidance that will support Prisoners to identify their aspirations on release and help Prisoners to understand how the Prison curriculum can support them to achieve these aspirations; and
- (e) review the information in relation to Prisoner additional needs and disabilities available on the Authority's ICT System and provide information that considers additional needs or disabilities a Prisoner may have that might impact their ability to access work without additional support.

### 4.5.4 Signpost to learning, development and/or employment Pathways.

The Contractor shall:

- (a) signpost Prisoners to Pathways that align with their skills, aspirations and individual needs and take into consideration labour market information relevant to Prisoner release area;
- (b) ensure Pathways align with Prison priorities, considering the Prison vision for ESW, and will be achievable within both the curriculum offer and the Prisoner sentence; and
- (c) recommend Pathways that will be used to inform Prisoner allocations. The Contractor shall have a collaborative and flexible approach to working with allocations teams and activities hubs in each Prison at the local level (referred to in Schedule 24 (*Collaboration*)).

### 4.5.5 Set SMART goals

The Contractor shall:

- (a) engage with the Prisoner to set SMART goals, in line with Prison and Prisoner capability, following the identification of an appropriate Pathway. These goals should be, as far as possible, ones that the Prisoner embraces and commits to;



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- (b) ensure SMART goals and associated actions provide an update on progress made against achieving those goals/actions and/or set new SMART goals/actions with the Prisoner as required; and
- (c) record and review SMART goals with the Prisoner on the Authority's ICT System.

### **4.5.6 Record key information**

The Contractor shall:

- (a) ensure the digital PLP is completed, and information gathered is recorded, on the Authority's ICT System during the Induction Session.
  - (i) If the Authority's ICT System is unavailable, the Contractor must instead complete paper records downloaded from the Authority's ICT System.
  - (ii) Paper records must be uploaded to the Authority's ICT System within five (5) calendar days of the Authority's ICT System being available.
  - (iii) The Authority may request copies of these paper records at any time in the 30 days following upload to the Authority's ICT System.
  - (iv) The Contractor shall be responsible for the safe storage and destruction of the paper record.
- (b) ensure that any information gathered during an Induction Session that could support other Prison processes, such as risk reviews, sentence planning and enrolment on resettlement programmes, is recorded on the Authority's ICT System. This should be pro-actively shared and be accessible to other relevant staff such as the Offender Management Unit which includes the Prison Offender Manager, Probation Practitioner and Key Worker.

## **5 REVIEW SESSIONS**

### **5.1 PURPOSE**

- 5.1.1 Prisoners shall be provided with ongoing support throughout their prisoner journey to respond to progress and changing circumstances throughout their time in Prison. The key element of this on-going support is a Review Session.
- 5.1.2 A Review Session will support Prisoners in engaging with education, skills, and work throughout their time in custody and enable Prisoners to understand their Pathway towards meaningful outcomes on release. This will support Prisoners and staff to improve Prisoners' employment prospects in custody, on transfer, and on release, supporting the long-term aim of reducing reoffending.

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- 5.1.3 The Contractor shall complete Review Sessions with all Review In-Scope Prisoners by the Review Session Deadline.
- 5.1.4 The Prisoner will be supported by Interpretation Services at the Review Session if required.
- 5.1.5 KPI 2 will be in place to measure the Contractor's performance in relation to Review Sessions. Further details are set out in Schedule 14 (*Key Performance Indicators and Performance Management*).

**5.2 OUTCOME**

The Contractor will ensure that Review Sessions enable Review In-Scope Prisoners to:

- (a) reflect on their aspirations on release and whether these have changed;
- (b) reflect on their Pathway and whether this is still suitable;
- (c) understand the Prison curriculum on offer and how this may support them to realise their aspirations;
- (d) reflect on progress made and update SMART goals and other information contained in their PLP and set new goals where relevant;
- (e) gain skills to support employment where appropriate, such as support with CV writing, interview preparation and job applications; and
- (f) In addition, if the Prisoner has had an Induction Session at another Prison, or when serving a previous sentence, the Review Session shall ensure that the Prisoner is aware of the current Prison curriculum offer.

**5.3 REVIEW SESSIONS - SERVICE ELEMENTS IN-SCOPE**

- 5.3.1 The Contractor shall provide Face to Face Review Sessions to all Prisoners who have completed an Induction Session (at this or at a previous Prison) and have a completed





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digital PLP unless they are an Excluded Prisoner or an Exemption applies, these Prisoners shall be referred to as **“Review In-Scope Prisoners”**.

- 5.3.2 The Contractor shall ensure that where a Prisoner does not have a completed digital PLP, this Prisoner shall first receive an Induction Session then, a Review Session will be scheduled in accordance with the Review Session Deadline.
- 5.3.3 The Contractor will be responsible for the following services in relation to Review Sessions:
- (a) completing Review Sessions with all Review In-Scope Prisoners throughout their Prisoner journey in accordance with the Review Session Deadline;
  - (b) conducting the Review Sessions face-to-face with the Review In-Scope Prisoner, for a minimum of twenty-five (25) minutes;
  - (c) reviewing and updating digital PLPs on the Authority's ICT System, during the Review Session;
    - (i) If the Authority's ICT System is unavailable, the Contractor must instead complete paper records downloaded from the Authority's ICT System for the Review Session to be considered complete.
    - (ii) Paper records should be uploaded to the Authority's ICT System within five (5) calendar days of the Authority's ICT System being available.
    - (iii) The Authority may request copies of these paper records at any time in the period of 30 days following the upload to the Authority's ICT System.
    - (iv) The Contractor shall be responsible for the safe storage and destruction of the paper records.
  - (d) reviewing and amending Pathways based on Prisoner skills and aspirations as well as the Prison curriculum offer;
  - (e) reviewing progress against existing SMART goals and setting new SMART goals where appropriate;
  - (f) supporting the development of Prisoner CVs and disclosure letters in a digital format where appropriate;
  - (g) referring and signposting Prisoners to other relevant organisations the Prison may have engaged to assist in finding employment where appropriate;
  - (h) supporting the LSM and PEL where this is required; and



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- (i) providing CIAG programme content that is accessible via the Authority's ICT System to Prisoners to support them to engage in and take ownership of their career path.

### **5.4 REVIEW SESSIONS - SERVICE ELEMENTS OUT OF SCOPE**

The following services are excluded from the scope of Review Sessions:

- (a) the delivery of the Prison curriculum, which will be managed by Authority via Core Education Providers;
- (b) benefit support for Prisoners, which will be managed by the DWP Prison Work Coaches; and
- (c) employment brokerage, which will be managed by the New Futures Network.

### **5.5 REVIEW SESSIONS - OPERATIONAL REQUIREMENTS**

#### **5.5.1 Deliver a Review Session for all Review In-Scope Prisoners**

The Contractor shall:

- (a) complete Review Sessions with all Review In-Scope Prisoners and update information on the Authority's ICT System;
- (b) ensure that a Review Session follows a Previous CIAG Session (which could be an Induction Session held at a previous Prison or for an earlier sentence);
- (c) ensure a Review Session is conducted Face to Face for a minimum of twenty-five (25) minutes;
- (d) ensure information is updated on the Authority's ICT System;
- (e) ensure that SMART goals and associated actions are reviewed and updated;
- (f) work with Prisons to ensure Prisoners can access Review Sessions in accordance with the Review Session Deadline. Prisons will be responsible for escorting Review In-Scope Prisoners to a Review Session;
- (g) ensure Review Sessions are appropriately staffed by Staff qualified to at least a Level 3 Qualification in Information Advice and Guidance (or equivalent); and
- (h) set out a process for collaborating with the Prison to follow up on Review In-Scope Prisoners who do not attend their allocated meeting.



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**5.5.2 Review Session frequency**

The Contractor shall:

- (a) ensure that all Review In-Scope Prisoners receive a Review Session by the Review Session Deadline;
- (b) on an ad hoc basis, use reasonable endeavours to accommodate any request from a Prisoner for an additional Review Session (i.e. outside the frequency stated in Table 1 (*Review Session Deadlines*)) below.
- (c) During the Transition Period some Prisoners shall be temporarily excluded from the Review Session Deadlines set out in Table 1 below and an alternative deadline shall apply as set out in Appendix 4 of Schedule 14 (*Key Performance Indicators*).

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**TABLE 1: REVIEW SESSION DEADLINES**

Prisoner Time left to serve <sup>1</sup>	Review Session Deadline	Worked Examples
All Prisoners (regardless of time left to serve)	Must receive a Review Session within ten (10) calendar days from the day after they enter the Prison if they have already had an Induction Session (either at the current Prison or a previous Prison or in relation to a previous sentence)	<i>A prisoner has an Induction Session at Prison A and, after release, re-offends and enters Prison B. At Prison B the Prisoner has a Review Session as there is already an Induction Session recorded on the Authority ICT System.</i>
Prisoners with less than six (6) Months' time to serve	<p>Must receive a Review Session (referred to as a Pre-Release Session) within the period:</p> <ul style="list-style-type: none"> <li>(a) at least one (1) Month after their Previous CIAG Session; but</li> <li>(b) not more than three (3) Months after their Previous CIAG Session.</li> </ul> <p>PROVIDED THAT if the Prisoner's date for release is within this period, the Pre-Release Session shall be held at least seven (7) calendar days prior to release.</p>	<p><i>If Prisoner A is due to be released in less than six (6) Months and attended an Induction Session or Review Session on 6 May 2025 their Pre-Release Session shall:</i></p> <ul style="list-style-type: none"> <li>(a) <i>not be <b>before</b> the 6 June 2025; but</i></li> <li>(b) <i>not <b>later than</b> the 6 August 2025.</i></li> </ul> <p><i>However, if the Prisoner A is due to be released on 6 July 2025, then the Pre-Release Session shall be no later than seven (7) calendar days before this, i.e., on or before the 29 June 2025.</i></p>

<sup>1</sup> A Prisoner's time left to serve is the length of time a Prisoner has left within custody before release at the point of a Review Session.

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Prisoner Time left to serve <sup>1</sup>	Review Session Deadline	Worked Examples
<p>Prisoners with less than twelve (12) Months' time but more than six (6) Months to serve</p> <p>OR</p> <p>Prisoners on remand or unsentenced</p>	<p>Must receive a Review Session within the period:</p> <p>(a) at least two (2) Months after their Previous CIAG Session; but</p> <p>(b) not more than three (3) Months after their Previous CIAG Session.</p>	<p><i>If Prisoner A is due to be released in less than twelve (12) Months (but more than six (6) Months) and attended an Induction Session or Review Session on 6 May 2025 their next Review Session shall:</i></p> <p>a) not be <b>before</b> the 6 July 2025; but</p> <p>b) not <b>later than</b> the 6 August 2025.</p>
<p>Prisoners with more than twelve (12) Months' time but less than sixty (60) Months to serve</p>	<p>Must receive a Review Session within the period:</p> <p>(a) at least four (4) Months after their Previous CIAG Session; but</p> <p>(b) not more than six (6) Months after their Previous CIAG Session.</p>	<p><i>If Prisoner A is due to be released in in more than twelve (12) Months (but less than sixty (60) Months) and attended an Induction Session or Review Session on 6 May 2025 their next Review Session shall:</i></p> <p>a) not be <b>before</b> the 6 September 2025; but</p> <p>b) not <b>later than</b> 6 November 2025.</p>



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Prisoner Time left to serve <sup>1</sup>	Review Session Deadline	Worked Examples
Prisoners with greater than sixty (60) Months' time left to serve and Prisoners with indeterminate Prison sentences	Must receive a Review Session within the period:  (a) at least ten (10) Months after their Previous CIAG Session; but  (b) not more than twelve (12) Months after their Previous CIAG Session.	<i>If Prisoner A is due to be released in in over sixty (60) Months or has an indeterminate sentence and attended an Induction Session or Review Session on 6 May 2025 their next Review Session shall:</i>  a) not be <b>before</b> the 6 March 2026; but  b) not <b>later</b> than 6 May 2027.

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****5.5.3 Work in partnership with Key Stakeholders**

The Contractor shall:

- (a) work in partnership with Prisons to ensure Review In-Scope Prisoners can access Review Sessions at the appropriate frequency. The Contractor must ensure Review Sessions are appropriately staffed;
- (b) set out a process for collaborating with the Prison to follow up on Prisoners who do not attend their allocated Review Session;
- (c) refer and signpost Prisoners to other relevant employment agencies, including (but not limited to) NSM, DWP Work Coaches, NFN and PE;
- (d) support and promote the delivery of career conversations within the Prison Employment Hub in partnership with the PEL where this is required locally;
- (e) promote and deliver activity that facilitates Prisoner engagement with employers, either digitally or face-to-face. This should include a programme of activity to ensure that Prisoners are exposed to the job market; and
- (f) undertake activity with other stakeholders in the prison employability space, such as NFN.

**5.5.4 Provide a high-quality service**

The Contractor shall:

- (a) provide Prisoners with consolidated information, advice and guidance that is informed by taking into consideration labour market information relevant to the Prisoner's release area and the curriculum available at the Prison;
- (b) ensure that information, advice and guidance provided takes into consideration time left to serve, sentence length, and offence type to ensure it is realistic and supportive;
- (c) provide information, advice, and guidance to support Prisoners to identify their aspirations on release, addressing additional needs in discussion with the NSM and to help Prisoners to understand how the Prison curriculum can support them to achieve these aspirations;
- (d) plan how the Review Sessions will be delivered, and how they will deliver provision across a range of Prison settings to meet Prisoner need; and



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- (e) promote higher education and distance learning where a Prisoner is capable and interested.

### 5.5.5 Review Pathways

The Contractor shall:

- (a) review Prisoner Pathways to ensure that they continue to be relevant and suitable;
- (b) signpost to new Pathways that align with Prisoner skills, aspirations, and individual needs where changes are required;
- (c) ensure that Pathways are aligned to Prison priorities, considering the Prison's vision for ESW, and should be achievable within both the curriculum offered by the Prison and the Prisoner's remaining sentence; and
- (d) recommended Pathways shall be used to inform Prisoner allocations. The Contractor must work with the Prison allocations teams and activities hubs.

### 5.5.6 Review SMART goals

The Contractor shall:

- (a) review progress against SMART goals and make amendments where necessary. Where SMART goals are completed, the Contractor should work with the Prisoner to set new SMART goals in line with Prison and Prisoner capability; and
- (b) update SMART goals to align to changes in Prisoner learning, development and/or employment Pathways.

### 5.5.7 Record key information

The Contractor shall:

- (a) update the Prisoner's digital PLP on the Authority's ICT System by the Review Session Deadline; and
  - (i) If the Authority's ICT System is unavailable, the Contractor must instead complete paper records downloaded from the Authority's ICT System for the Review Session to be considered complete.
  - (ii) Paper records should be uploaded to the Authority's ICT System within five (5) calendar days of the Authority's ICT System being available.
  - (iii) The Authority may request copies of these paper records at any time in the period of 30 days following the upload to the Authority's ICT System.





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- (iv) The Contractor shall be responsible for the safe storage and destruction of the paper records.
- (b) ensure that any information gathered during a Review Session that could support other Prison processes such as sentence planning and enrolment on resettlement programmes is recorded on the Authority's ICT System. This will be accessible to other relevant Prison staff such as the Offender Management Unit which includes the Prison Offender Manager, Probation Practitioner and Key Worker.



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### 6 PRE-RELEASE SESSIONS

#### 6.1 PRE-RELEASE SESSIONS - PURPOSE

- 6.1.1 The Pre-Release Session is a form of Review Session held in the six (6) Months prior to the Prisoner being released.
- 6.1.2 The Contractor shall support all Review In-Scope Prisoners as they near the end of their sentence, to ensure that, as far as practical, they are equipped to secure positive outcomes on release and are, where appropriate, 'job ready'.
- 6.1.3 For Prisoners with six (6) Months or less time left to serve, the Contractor shall focus the Pre-Release Session on preparing the Review In-Scope Prisoner for release.
- 6.1.4 The Prisoner will be supported by Interpretation Services at the Pre-Release Session if required.
- 6.1.5 KPI 2 will be in place to measure the Contractor's performance in relation to Review Sessions including Pre-Release Sessions. Further details are set out in Schedule 14 (*Key Performance Indicators and Performance Management*).

#### 6.2 PRE-RELEASE SESSIONS – OUTCOME

The Contractor shall ensure that the Pre-Release Session enables Prisoners to:

- (a) reflect on their aspirations on release and the progress they have made during their Prison journey, utilising the information contained in their PLP;
- (b) ensure arrangements are in place to complete their Pathway prior to release; and
- (c) access the relevant parts of the Authority's ICT System to assess job readiness where appropriate against the Employment Readiness Checklist to identify a Prisoner's release date and type, job ready status and summary.

#### 6.3 PRE-RELEASE SESSIONS - SERVICE ELEMENTS IN-SCOPE

- 6.3.1 The Contractor shall provide Face to Face Pre-Release Sessions to all Review In-Scope Prisoners with less than six (6) Months to serve (unless they are an Excluded Prisoner or an Exemption applies) who shall be "**Pre-Release In-Scope Prisoners.**" All Pre-Release Session In-Scope Prisons shall have completed an Induction Session.
- 6.3.2 The Contractor shall:
  - (a) provide a Pre-Release Session for all Pre-Release In-Scope Prisoners;



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- (b) ensure that the Pre-Release Session covers the scope of the Review Session as set out in Paragraph 5.3 above and, in addition, covers the pre released focused activity in (c)(g) to (g) below;
- (c) review and update the Prisoner's PLPs in preparation for release;
- (d) recommend arrangements for completing Pathways prior to release;
- (e) review SMART goals and associated actions and provide an update on progress made against achieving those goals/actions and set goals/actions that will support the Prisoner to engage in pre-release activity;
- (f) refer and signpost Prisoners to other stakeholders in the Prison employment sector to ensure that, as far as practical, they are 'job ready' where appropriate; and
- (g) assist Prisoners where required to complete CVs using CV Builder, prepare application letters and prepare for interviews.

### **6.4 PRE-RELEASE SESSIONS - SERVICE ELEMENTS OUT OF SCOPE**

The following services are excluded from the scope of Pre-Release Sessions:

- (a) the delivery of the Prison curriculum, which will be managed by Authority via others including the Core Education Providers;
- (b) benefit support for Prisoners, which will be managed by the DWP Prison Work Coaches;
- (c) job search and matching, which will be managed by DWP Prison Work Coaches and PEL;
- (d) employment brokerage, which will be managed by the New Futures Network; and
- (e) resettlement services, which will be managed by Probation Services.

### **6.5 PRE-RELEASE SESSIONS - OPERATIONAL REQUIREMENTS**

#### **6.5.1 Deliver a Pre-Release Session for all Pre-Release In-Scope Prisoners**

The Contractor shall:

- (a) complete Pre-Release Sessions with all Pre-Release In-Scope Prisoners with less than six (6) Months to serve and update information on the Authority's ICT System;
- (b) ensure that the Pre-Release Session follows a Previous CIAG Session;

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- (c) ensure the Pre-Release Session is conducted Face to Face for a minimum of twenty-five (25) minutes;
- (d) ensure that SMART goals and associated actions are reviewed and updated;
- (e) work with Prisons to ensure Prisoners can access the Pre-Release Session;
- (f) ensure Pre-Release Sessions are appropriately staffed by Staff qualified to at least a Level 3 Qualification in Information Advice and Guidance (or equivalent); and
- (g) set out a process for collaborating with the Prison to follow up on Prisoners who do not attend their Pre-Release Session.

**6.5.2 Key Stakeholders**

To ensure that Pre-Release Sessions are focused on helping Prisoners on release, the Contractor shall:

- (a) refer and signpost Prisoners to other relevant employment Agencies, including (but not limited to) DWP Prison Work Coaches, NFN and PELs;
- (b) work in partnership with other stakeholders to ensure that Prisoners are, as far as practical, effectively prepared for release using planned release dates; and
- (c) ensure effective handover with the Probation Practitioner takes place so all supporting documents such as certificates, CVs, and cover letters are electronically transferred.

**6.5.3 Provide a high-quality service**

The Contractor shall:

- (a) provide Prisoners with information, advice and guidance that is informed by screening and assessment outcomes, additional needs and disabilities, local labour market information and the curriculum offer available at the Prison;
- (b) ensure that the information, advice and guidance is realistic and supportive taking into consideration the offence type;
- (c) deliver provision across a range of Prison settings to meet Prisoner need;
- (d) work with Prisoners to get them work ready, in line with the Authority provided Employment Readiness Checklist. This will ensure relevant Prisoners have the tools needed to secure employment on release. This includes:
  - (i) checking a prisoner's right to work;



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- (ii) identifying if an ID and bank account is required;
  - (iii) listing any training completed in prison and any certificates obtained;
  - (iv) assistance with preparing a CV using CV Builder; and
  - (v) support with interview preparation and disclosure letters;
- (e) provide Prisoners with information regarding access to CIAG support services in their release area; and
- (f) where a Prisoner has a disability which may impact their ability to gain or maintain employment, advise them on their rights at work and relevant sources of support or advice such as 'Access to Work.'

### **6.5.4 Review and update PLPs**

The Contractor shall:

- (a) provide Prisoners with consolidated information, advice and guidance that is informed by taking into consideration labour market information relevant to the Prisoner's release area and the curriculum available at the Prison;
- (b) ensure that information, advice and guidance provided takes into consideration time left to serve, sentence length, and offence type to ensure it is realistic and supportive;
- (c) provide information, advice, and guidance to support Prisoners to identify their aspirations on release, addressing additional needs in discussion with the NSM and to help Prisoners to understand how the Prison curriculum can support them to achieve these aspirations;
- (d) promote higher education and distance learning where a Prisoner is capable and interested; and
- (e) ensure that the Prisoner is provided with all the information needed (in either a digital or paper-based format) for a smooth handover to the relevant stakeholder for final pre-release support.

### **6.5.5 Review Pathways**

The Contractor shall review Prisoner Pathways to ensure that all learning is completed or on track to be completed prior to release. The Contractor should make appropriate recommendations to the Prisoner and refer to CRS and the relevant ESW stakeholder to complete learning where this is not the case.



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### 6.5.6 Review SMART goals

The Contractor shall:

- (a) review progress against SMART goals and support the Prisoner to complete these prior to release where appropriate; and
- (b) make all relevant referrals to CRS or community organisations where there is a data sharing agreement in place, to support a Prisoner to achieve career goals (subject to confirmation from the Authority that there is an appropriate data sharing agreement in place).

### 6.5.7 Record key information

The Contractor shall:

- (a) update the Prisoner's digital PLP on the Authority's ICT System by the Review Session Deadline; and
  - (i) If the Authority's ICT System is unavailable, the Contractor must instead complete paper records downloaded from the Authority's ICT System for the Review Session to be considered complete.
  - (ii) Paper records should be uploaded to the Authority's ICT System within five (5) calendar days of the Authority's ICT System being available.
  - (iii) The Authority may request copies of these paper records at any time in the period of 30 days following the upload to the Authority's ICT System.
  - (iv) The Contractor shall be responsible for the safe storage and destruction of the paper records.
- (b) ensure that any information gathered during a Review Session that could support other Prison processes, such as sentence planning and enrolment on resettlement programmes, is recorded on the Authority's ICT System. This will be accessible to other relevant staff such as the Offender Management Unit which includes the Prison Offender Manager, Probation Practitioner and Key Worker.

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****7 EMPLOYER EVENTS****7.1 EMPLOYER EVENTS – PURPOSE**

Employer Events shall aim to provide:

- (a) Prisoners with a better understanding of the job market both nationally and in their local area;
- (b) inspiration to Prisoners, particularly those without a history of working, that there are jobs they can apply for on release and to encourage them to take this into account when setting their SMART goals and Pathway; and
- (c) Prisoners interested in self-employment to have a better understanding of the practicality of being self-employed.

**7.2 EMPLOYER EVENTS – OUTCOME**

The Contractor shall ensure that Employer Events:

- (a) increase Prisoner awareness of work opportunities;
- (b) increase Prisoner motivation in preparing for employment/self-employment on release; and
- (c) create additional contacts for Prisoners, particularly for those prisoners with a limited time left to serve prior to release, in relation to work opportunities.

**7.3 EMPLOYER EVENTS - SERVICE ELEMENTS IN-SCOPE**

The Contractor shall (as a minimum):

- (a) organise at least three (3) Face to Face events each Quarter in each Prison where Prisoners can meet employers; and
- (b) dependent on Prisoners expressing an interest in self-employment, organise at least one event each Quarter in each Prison with relevant advisers to share information on topics such as finance, risks, marketing, and organisation structure.

**7.4 EMPLOYER EVENTS – SERVICE ELEMENTS OUT OF SCOPE**

The Contractor shall not be responsible for:

- (a) any aspect of the security vetting of the employers / advisers attending Prison; and

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- (b) escorting the employers / advisers and Prisoners to any event.

**7.5 EMPLOYER EVENTS – OPERATIONAL REQUIREMENTS**

The Contractor shall:

- (a) propose such events to the Key Stakeholders so the Authority can consider if they are appropriate and if they can be reasonably accommodated in the Prison;
- (b) liaise with Key Stakeholders in advance of any such event so that practical arrangements (such as security vetting and room reservations) can be put into place, including providing the Authority with the relevant details of attendees to allow for relevant security vetting processes to be carried out; and
- (c) provide the Authority with a written report each Quarter with a summary of all interaction with employers / advisers in each Prison including the number of Prisoners attending.



**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****8 PEER MENTORING****8.1 PEER MENTORING - PURPOSE**

- 8.1.1 Prisoners can be trained as Peer Mentors within Prisons to support the delivery of the Services. This supports, not only the Contractor in delivering the service, but also the Peer Mentor as it enables them to obtain key work experience, skills and training that can supplement their Pathway.
- 8.1.2 These arrangements are at the discretion of the Prison and the Contractor delivering the service. Where Peer Mentors are utilised to support the Services, the Contractor will be expected to manage and supervise these Peer Mentors in relation to the delivery of the Services.

**8.2 PEER MENTORING - OUTCOME**

The Contractor will ensure that their management of Peer Mentors facilitates Prisoners to:

- (a) develop their skills and experience for outcomes on release; and
- (b) increase pro-social attitudes and behaviours linked to reducing reoffending.

**8.3 PEER MENTORING - SERVICE ELEMENTS IN-SCOPE**

The Contractor will be responsible for the following services in relation to Peer Mentor management:

- (a) providing an appropriately defined role and job description, to be agreed with the Prison, outlining the necessary criteria to be a Peer Mentor to support prison allocations;
- (b) managing Peer Mentors, implementing formal support mechanisms and ensuring effective supervision on a day-to-day basis in relation to the Services;
- (c) developing Peer Mentors, providing training that equips Prisoners with the tools and knowledge to carry out the role effectively; and
- (d) seek feedback, where requested by the Authority, from the Peer Mentors on their role and provide this feedback to the Authority in the format stipulated by the Authority.

**8.4 PEER MENTORING - SERVICE ELEMENTS OUT OF SCOPE**

The following services are excluded from the scope of Peer Mentor management:



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- (a) the management and training of Peer Mentors that are utilised for services outside of the Services;
- (b) Peer Mentors pay, which is managed locally via the Prisons' Purposeful Activity and Pay Policy. Being a Peer Mentor is considered work for the Prisoner and so Prisoner pay would fall under this policy and be the responsibility of the Authority;
- (c) reviews of the Prisoner's Incentive and Earned Privileges (**IEP**) if removed from the Peer Mentor role; and
- (d) reviewing the risk assessments for Peer Mentors prior to entering the role provided.

### **8.5 PEER MENTORING - OPERATIONAL REQUIREMENTS**

#### **8.5.1 Clearly define the role of the Peer Mentor**

The Contractor shall provide a clearly defined role for the Peer Mentor in supporting service delivery to be agreed with the Prison. This will be made clear via a job description that outlines the necessary criteria required to be a Peer Mentor that will help inform prison allocations.

#### **8.5.2 Effectively manage the Peer Mentor**

The Contractor shall:

- (a) manage Peer Mentors supporting the Services. This will include task allocation, day-to-day supervision and performance management; and
- (b) ensure, so far as is practical, Peer Mentors can access the support needed to perform in the role.

#### **8.5.3 Develop and train the Peer Mentor**

The Contractor shall:

- (a) provide development and training opportunities for Peer Mentors, to ensure they have the tools and knowledge to effectively support the delivery of the Services. The Contractor shall set out a Peer Mentor development and training plan to support effective service delivery; and
- (b) provide locally agreed acknowledgement of the development of skills for which Peer Mentors may not necessarily receive formal accreditation. Where the Contractor is approved to provide accreditation, a peer mentoring qualification at level 2 and level 3 will be delivered as required within the Prison.

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****9 DIGITAL SUPPORT****[Note to Bidders:**

*(1) Whilst it is the intention of the Authority that digital services will be available to the Contractor by the Services Commencement Date, if there are any changes in timelines that means this is not possible, the Authority will inform the Contractor and discuss any alternative arrangements.*

*(2) The Authority reserves the right to update any part of the Authority's ICT System.*

*(3) The Authority's ICT System will be deployed in learning environments such as classrooms, exams rooms, education workshops (where agreed and subject to network availability) and Libraries for Prisoners and Staff, as well as in offices designated for the use by the Contractor, including CIAG Space; and will consist of the following:*

- *digital Wi-Fi network;*
- *End-User Devices including monitor, keyboard, mouse and system box (desktop or laptops as determined as appropriate by the Authority);*
- *operating system and standard software. For clarity, the software provided will not include content creation software, or any non-standard software offerings.]*

**9.1 DIGITAL SUPPORT – PURPOSE**

9.1.1 The Services will be supported by the Authority's ICT System. This is to ensure that there is consistency across the Prisons in each of the Lots and the data uploaded is in a standard format and accessible to a wide range of Key Stakeholders.

9.1.2 The use of the Authority's ICT System will be key to the effective and efficient delivery of the Service.

**9.2 DIGITAL SUPPORT - OUTCOME**

The Contractor shall use the digital systems as provided to support the aims of the Authority to:

- (a) have a consistent approach to data entry and recording across the Prisons in the Lots;
- (b) where practical assist the Authority to improve information security, cyber-security and usability;



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- (c) have information available to support the collating and reporting of the KPIs;
- (d) have information available and shared across Key Stakeholders; and
- (e) improve information sharing between all PES Providers particularly upon Prisoner transfer.

### **9.3 DIGITAL SUPPORT - SERVICE ELEMENTS IN-SCOPE**

The Contractor shall:

- (a) use the Authority's ICT System as directed and in accordance with any guidance manuals and instructions provided;
- (b) immediately advise the Authority if there is any default or error in the Authority's ICT System or if any maintenance / replacement consumables are required; and
- (c) ensure all Staff accessing the Authority's ICT System are aware of all guidance and instructions and are adequately trained.

### **9.4 DIGITAL SUPPORT – SERVICE ELEMENTS OUT OF SCOPE**

The Contractor shall not be required to provide any hardware or digital systems directly related to the delivery of the Services. The Contractor may use their own systems used outside the Authority Premises for their own administrative purposes such as staff management, resource planning and accounts.

### **9.5 DIGITAL SUPPORT – OPERATIONAL REQUIREMENTS**

#### **9.5.1 Utilise the Authority's ICT System**

The Contractor shall utilise the Authority's ICT System to deliver the Services. The Contractor will be responsible for the following in relation to the Authority's ICT System and Authority Software:

- a) compliance with Law (including but not limited to, Data Protection Legislation) and the Mandatory Guidelines;
- b) immediately reporting system faults and /or failures to the network, hardware, and software solution;
- c) monitoring and immediately reporting any issues in relation to the wi-fi coverage & network connectivity which impacts on the delivery of the Services;

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- d) immediately reporting of any system security breaches and/ or incidents within the timeframes outlined by the Authority;
- e) working with the Authority on first line fixes;
- f) ensuring Staff do not share, or allow access to, accounts or passwords with any other persons including other Staff, Prisoners or Peer Mentors. If this does occur, or where this is suspected, the Contractor shall notify the Authority and work with the Authority to investigate such matters in line with Mandatory Guidelines;
- g) ensuring Staff will only attempt to access websites on the Allow List provided by the Authority and adhere to the controls of these sites. URLs restrictions will be in place within sites. The Contractor will prevent, where possible, and report any unauthorised access to any other sites other than those granted by the Authority;
- h) carrying out any instruction to immediately deal with any issue affecting the Authority's ICT System, including where directed to provide supporting material;
- i) ensuring that Staff utilising the Authority's ICT System are appropriately trained; and
- j) informing the Authority of starters, leavers, movers, or system access level requirement changes in a time frame outlined by the Authority.

**9.5.2 Transmission and storing of Authority Data (including Prisoner data)**

The Contractor shall:

- (a) enter data on the Authority's ICT System in relation to the Services as requested by the Authority and ensure such data is stored in the locations directed by the Authority; and
- (b) undertake a Data Protection Impact Assessment in conjunction with the Authority if required.

**9.5.3 IT Hardware**

The Contractor shall:

- (a) ensure unauthorised access to IT hardware is prevented as outlined in Mandatory Guidelines;
- (b) have access to IT hardware and shall use IT hardware only for the delivery of the Services;

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- (c) ensure the IT hardware used by Staff and/or Prisoners is not used inappropriately, and to take care when using IT hardware so as not to cause damage; and
- (d) not remove the IT hardware from its location within the Premises.

**9.5.4 Operating System**

The Contractor shall:

- (a) immediately report all issues, such as where applications are not working, constantly crashing, or are otherwise not enabling the delivery of the Services; and
- (b) where access is prohibited, or suspicious activity taking place following this is reported immediately, and all Mandatory Guidelines are followed.

**9.5.5 Software**

The Contractor shall:

- (a) follow the process to request new software and avoid any security breaches by staff or Prisoners by complying with Mandatory Guidelines; and
- (b) immediately report on any suspected security breaches and any software that may be out of date or not updated proficiently on the system.

9.5.6 The Contractor may request additional software be added to the Authority's ICT System, however approval with only be granted where the Authority is content this complies with Mandatory Guidelines. The Authority will prioritise approvals to the use of web-based applications.

9.5.7 The Authority will supply a core software build on the end-user devices and be responsible for software version control. Any additional software requests will be subject to review to confirm that all software is compliant with the Mandatory Guidelines. Contractors will bear any costs in relation to additional software. Additional software requests usually take three to six (3 to 6) Months.

**9.5.8 System Security**

The Contractor shall:

- (a) comply with all security, data protection and system operating requirements as outlined by the Authority;
- (b) provide safeguarding by monitoring the CIAG Space and following Mandatory Guidelines;



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- (c) use best endeavours to ensure that no attempt is made by Staff or Prisoners to access unauthorised internet sites;
- (d) respond to any security breaches immediately by meeting security management requirements to ensure the system is secure; and
- (e) provide evidence of security vetting of all Staff using the Authority's ICT System.

### **9.5.9 Allow listings & Web Management**

The Contractor shall:

- (a) only attempt to access websites on the Allow List, and do not attempt to access links within these sites to any site that has not been on the Allow List;
- (b) conform to the account status given to Staff by the Authority where differing level of internet access exists;
- (c) prevent, where possible, and report any unauthorised access to any other sites other than those granted by the Authority;
- (d) be responsible for the appropriate use of the Authority's ICT System by Staff;
- (e) ensure the Staff and Prisoners do not try to enter the internet using any other method than those provided by the Authority; and
- (f) access the HMPPS intranet via the Authority's ICT System, however the Authority may limit the Contractor's access to only certain pages of the HMPPS intranet.

9.5.10 Requests for new sites to be added to the Allow List will need to meet all Authority cyber and information security requirements, including compliance with Mandatory Guidelines, and the Authority will only add these once it is content that all requirements are met. The Authority reserves the right to remove access to these sites also, including immediately where this is determined as required by the Authority.

### **9.5.11 Maintenance and support**

The Contractor shall:

- (a) immediately report any incidents through the support service provided by the Authority; and
- (b) manage any replacement goods required through the process provided by the Authority.

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9.5.12 The Authority will provide, potentially through third parties, technical and maintenance support during Working Days for the Authority's ICT System. The Authority will have in place a replacement process for any faulty equipment which will aim to minimise downtime. The Contractor will bear the cost of replacement to any part of the Authority's ICT System, only where it is determined as at fault for such damage.

**9.5.13 Mobilisation**

During Mobilisation, the Contractor shall:

- (a) support the Authority by providing details of the number of Staff they intend to deploy in each Prison so that the number of end user devices and peripherals required can be assessed. The Contractor shall also provide details of any reasonable adjustments required in line with the Equality Act 2010; and
- (b) obtain the correct level of security vetting for all Staff before access will be granted to the Authority's ICT System.



**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****10 QUALITY DELIVERY****10.1 QUALITY DELIVERY - PURPOSE**

- (a) CIAG services are crucial to ensuring that Prisoners are set on an appropriate Pathway that will support them towards positive and sustainable outcomes on release.
- (b) The Contractor shall ensure quality improvement and assurance processes are maintained as set out by the Authority.
- (c) The Contractor shall implement a quality improvement cycle that establishes a commitment to continuous delivery improvement, improved employment outcomes for Prisoners, and the effective leadership and management of education.
- (d) The Contractor shall fully engage with, deliver elements of, and contribute towards the quality assurance and improvement processes of the Authority as well as other mandated requirements and inspectorates, such as HMIP and OFSTED.

**10.2 QUALITY DELIVERY – OUTCOME**

The Contractor will ensure that quality Services enable Prisoners to:

- (a) realise their aspirations on release by having the confidence and skills necessary to secure employment and to achieve successful outcomes; and
- (b) benefit from employment support that meets the standards set by the Authority, and other inspectorates, such as HMIP and OFSTED.

**10.3 QUALITY DELIVERY - SERVICE ELEMENTS IN-SCOPE**

The Contractor will be responsible for the following services in relation to quality delivery:

- (a) ensuring the quality of all Services delivered, meets or exceeds the expected standard as set out by the Authority;
- (b) developing a responsive quality assurance systems that support planning and delivery of services and continual improvement;
- (c) capturing robust information, sharing this with the Authority as requested and required;
- (d) undertaking planning that identifies knowledge, skills, values, attitudes, behaviours, and progression opportunities that meet Prisoners needs;

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- (e) providing a self-assessment report to the Governor and reviewing the document quarterly;
- (f) contributing to the education, skills, and work quality improvement group meetings as set out in Schedule 13 (*Governance*);
- (g) providing a specific quality improvement action plan that drives up standards, submitted to the Governor, and updated monthly;
- (h) providing and adhering to the annual quality calendar;
- (i) collect Prisoner feedback information regularly;
- (j) contribute towards quality assurance processes including (but not limited to) the education, skills and work strategy and peer mentoring; and
- (k) create and update the internal quality assurance and assessment policy and adhere to the Gatsby Benchmarks framework.

**10.4 QUALITY DELIVERY – SERVICE ELEMENTS OUT OF SCOPE**

The following services are excluded from the scope of quality delivery:

- (a) any provision delivered by a third party (i.e., not the Contractor or any organization in its supply chain);
- (b) the design and amendment of any quality-related materials used by inspectorates such as HMIP or OFSTED;
- (c) the design and amendment of any quality-related materials provided by the Authority; and
- (d) the design and amendment of the PLP question set, which will be set by the Authority.

**10.5 QUALITY DELIVERY – OPERATIONAL REQUIREMENTS****10.5.1 Meet or exceed expected service standards**

The Contractor shall:

- (a) meet standards as set out by the Authority, and within OFSTED's Inspection Framework (currently the Education Inspection Framework (“**EIF**”));



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- (b) ensure all organisations delivering the Services (the Contractor and any Sub-Contractors) shall be accredited to the matrix Standard within six (6) Months from the Effective Date if they are not already accredited and maintain this accreditation for the Term (the Authority considers this an essential aspect of quality services and, if the Contractor does not achieve accreditation within six (6) Months of the Effective Date the Authority reserves the right to issue an Improvement Notice in accordance with Schedule 14 (*Key Performance Indicators and Performance Management*));
- (c) ensure all organisations delivering the Services (the Contractor and any Sub-Contractors) implement evidence-informed and practical standards as outlined by the framework of the eight (8) Gatsby Benchmarks; and
- (d) provide the Authority with reports on the status of the matrix Standard accreditation received from the matrix Standard accreditors following the "Initial Assessment", "Review Assessment" and "Continuous Improvement Checks" (forming part of the accreditation), including changes in or the removal of the accreditation status.

### 10.5.2 Comply with inspection requirements

The Contractor shall:

- (a) be subject to and shall comply in full with any relevant inspection requirements relating to the Prison in so far as these relate the delivery of the Services. This will include OSAG, HMIP and OFSTED inspections; and
- (b) align and update quality processes as soon as practical to reflect any changes in OFSTED and HMIP inspection frameworks, national guidance, guidance issued by the Authority and quality frameworks and processes issued by the Authority.

### 10.5.3 Key Performance Indicators ("KPIs")

The Contractor shall:

- (a) be subject to KPIs to enable the Authority to assess performance. These are set out in Schedule 14 (*Key Performance Indicators and Performance Management*);
- (b) be required to provide such information as requested by the Authority, and in the format specified by the Authority, to enable performance against these Key Performance Indicators to be assessed; and
- (c) endeavour to, as a minimum, achieve any targets set in relation to such Key Performance Indicators.

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****10.5.4 Adhere to Quality Improvement (“QI”) processes**

The Contractor shall:

- (a) at a minimum, monitor and track quality on a quarterly basis in accordance with the policies and procedures set out by the Authority;
- (b) conduct an annual evidence-based self-assessment review that will be submitted to the Authority;
- (c) work with the Authority to conduct quarterly review of the self-assessment report;
- (d) be required to complete QI Templates and Quality Assurance (“QA”) documentation and follow guidance as prepared and provided by the Authority;
- (e) provide a specific quality improvement action plan that drives up standards, submitted to the Governor, and updated monthly;
- (f) contribute to the education, skills, and work quality improvement group meetings as set out in Schedule 13 (*Governance*);
- (g) providing and adhering to the annual quality calendar that includes selection of observations, learning walks and other quality processes, including Prisoner starting points and data assurance processes to ensure the maintenance of accurate and current records. The Contractor shall submit the quality calendar to the Governor for approval and updated/reviewed through the Quality Improvement Groups, as set out in Schedule 13 (*Governance*), once agreed;
- (h) collect Prisoner feedback information regularly to ensure the services provided meet Prisoner needs, which will contribute to deep dives and further inform quality assurance and improvement activities, as part of the cycle of continuous quality improvement; and
- (i) ensure that there is continuous improvement in the following six core professional delivery activities:
  - (i) Prisoner interviewing and diagnostic skills;
  - (ii) utilisation of labour market information;
  - (iii) Prisoner support and motivation towards goals;
  - (iv) effective partnership working and referral activities;
  - (v) effective caseload management and follow up;



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- (vi) utilisation of digital resources effectively.

**10.5.5 Adhere to the Principles of a Collaborative Contract**

The Contractor shall:

- (a) fully comply with the Schedule 24 (*Collaboration*) and the obligations in the Collaboration Agreement; and
- (b) collaborate with the Authority's qualified representatives and protocols to assess and evidence observations and judgements of CIAG service delivery.

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****11 STAFF****11.1 STAFF – PURPOSE**

- (a) An expert, qualified and resilient workforce is key to ensuring high-quality services that support Prisoners towards positive and sustainable outcomes on release.
- (b) The Contractor shall recruit, train and manage a workforce capable of delivering high quality services to Prisoners.

**11.2 STAFF – OUTCOME**

The Contractor shall ensure that the Staff enable Prisoners to realise their aspirations in preparation for, and on, release.

**11.3 STAFF – SERVICE ELEMENTS IN-SCOPE**

The Contractor shall be responsible for the following services in relation to the Staff:

- (a) the provision of sufficient, high-quality suitable staff to deliver a high quality and impartial service to Prisoners;
- (b) the provision of sufficient high quality suitable staff to liaise with the Prison and Key Stakeholders;
- (c) the selection, recruitment, induction, and mandatory training or qualifying of Staff. All members of Staff will also take part in a Prison-level induction which will be organised locally;
- (d) the continuous professional development (“CPD”) (of all Staff), ensuring knowledge and skills are up to date;
- (e) the supervision and performance management of all Staff, including ensuring Staff are adhering to Prison policies; and
- (f) managing Staff levels, including staff absences, to ensure all commitments under the contract are met in full.

**11.4 STAFF - SERVICE ELEMENTS OUT OF SCOPE**

The following services are excluded from the scope of Staff requirements:

- (a) staff resources required to deliver services outside of the Services, such as education services or Prison industries; and

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- (b) staff employed to support employment services outside of the Services, such as DWP Prison Work Coaches and PELs.

**11.5 STAFF - OPERATIONAL REQUIREMENTS****11.5.1 Meet Prison Recruitment Standards**

The Contractor shall;

- (a) ensure there are robust pre-employment checks in place, including vetting in line with Schedule 8 (*Access to Prisons*) at the Contractor's cost. It is a prerequisite to undertake vetting checks for those employed in a Prison or those with professional relationship with Prisoners;
- (b) advise the Prison as soon as practical, and in any event no later than twenty-four (24) hours of becoming aware, of any change in the circumstances of an employee which – if known about prior to the checks taking place – would have resulted in that individual failing a pre-employment check; and
- (c) comply with the Equality Act 2010 or any amendment or re-enactment of the same.

**11.5.2 Comply with mandatory training requirements**

The Contractor shall:

- (a) ensure that Staff working in the Prison undertake mandatory training requirements associated with working in a custodial environment, such as security and data protection, health and safety, safeguarding and other training requirements as set by the Authority and update these at the frequency required by the Authority;
- (b) ensure that appropriate time is allocated for the training referred to in (a) above and all other learning and development needs for Staff will be determined and funded by the Contractor; and
- (c) ensure that all members of Staff are appropriately qualified, as set out by the Authority:
  - (i) A Level 3 Qualification in CIAG is the minimum acceptable qualification for staff delivering services.
  - (ii) The Contractor shall commit to ensuring that all Staff hold at least a Level 4 Qualification in CIAG within a target of twelve (12) Months (and in any event no more than eighteen (18) Months) of the Effective Date, or the Staff start date (whichever is the latest). If the Level 4 Qualification in CIAG is not achieved by the target date, the Contractor shall provide such evidence

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as is reasonably required by the Authority to show that it is using all reasonable efforts to secure this qualification as soon as practical.

- (iii) The Contractor shall ensure that at least one member of Staff in each Prison holds a Level 6 Qualification in CIAG, or that Staff have access to support from a practitioner with a Level 6 Qualification within the Contractor's organisation.

**11.5.3 Staff planning**

The Contractor shall:

- (a) ensure sufficient Staff planning is in place to cover Staff absences. The Contractor shall employ robust measures to manage potential disruptions to staffing, such as sickness, annual leave and vacancies;
- (b) bear the cost of any cover arrangements necessary to manage Staff absence. If agency, contract and sessional individuals are utilised such appointments should be compliant with all applicable Law regarding employment;
- (c) ensure that Staff is working in accordance with all applicable Law regarding employment and best practice, such as working time regulations and employment rights; and
- (d) ensure that an appropriate manager contributes to overall activities function to enable the provision to meet the Prisoner needs, standards, measurements, and benchmarks in compliance with Schedule 13 (*Governance*).

**11.5.4 Implement a Staff development strategy**

The Contractor shall:

- (a) develop Staff strategy. This should include a Staff competency framework in line with the standards set by the Career Development Institute; and
- (b) develop a programme of Staff training and CPD. The Contractor will provide the Authority with information on Staff training and development as required.

**11.5.5 Performance manage and supervise the Staff**

The Contractor shall:

- (a) supervise Staff on a day-to-day basis to ensure quality delivery;
- (b) ensure Staff understand and model the values of the Authority and support the rehabilitative vision of the Prison;



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- (c) ensure that Staff are working in accordance with standards set out by the Authority, including matrix Standards and Gatsby Benchmarks; and
- (d) ensure Staff adhere to the following principles:
  - i) **Accessible and visible:** Staff should be recognised and trusted by Prisoners, and be available at the appropriate time and place to meet Prisoner need;
  - ii) **Professional and knowledgeable:** Staff should identify, and address Prisoner need quickly and effectively, signposting them to the appropriate ESW services;
  - iii) **Connected:** Staff should clarify links between services and Prisoner ambition, with Prisoners supported in their transition between services;
  - iv) **Responsive:** Staff should focus on meeting Prisoner need, and be informed by social and economic priorities at local, regional and national level;
  - v) **Diverse and impartial:** Staff should deliver services that reflect the diversity of Prisoner need and the diversity of the region; and
  - vi) **Ethical:** Staff should respect Prisoner confidentiality.

**11.5.6 Personnel Vetting and Security**

The Contractor shall:

- (a) ensure all Staff engaged by the Contractor (other than Staff transferred as part of a TUPE transfer) shall be subject to pre-employment checks that include, as a minimum, their employment history for at least the last three (3) years, identity, unspent criminal convictions and right to work (including nationality and immigration status) and shall be vetted in accordance with;
  - (i) the BPSS or BS7858:2019 or equivalent; and
  - (ii) PSI 07/2014, if applicable, based on their level of access to Information Assets and/or Authority Data.
- (b) if the Authority agrees that it is necessary for any Staff to have logical and physical access to Information Assets and/or Authority Data classified at a higher level than OFFICIAL (such as that requiring 'SC' clearance), the Contractor shall obtain the specific Government clearances that are required for access to such Information Assets and/or Authority Data prior to access being granted;

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- (c) prevent Staff who are unable to obtain the required security clearances from accessing Information Assets and/or Authority Data and/or the Authority's ICT Environment used to store, process and/or manage such Information Assets or Authority Data;
- (d) ensure that Staff comply with the Security Policy Framework and principles, obligations and policy priorities stated therein, including requirements to manage and report all security risks in relation to the provision of the Services;
- (e) ensure Staff who can access Information Assets and/or Authority Data and/or the Authority's ICT Environment are aware of their responsibilities when handling such information and data and undergo regular training on secure information management principles. Unless otherwise Approved, this training must be undertaken annually. A report including new starters and leavers must be provided to the Authority for review; and
- (f) grant Staff access to Information Assets and/or Authority Data, those individuals shall be granted only such levels of access and permissions that are necessary for them to carry out their duties. Once Staff no longer require such levels of access or permissions or leave the organisation, their access rights shall be changed or revoked (as applicable) within one (1) Working Day.



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### 12 DATA MANAGEMENT

**[Note to Bidders:** *Subject to reasonable notice the Authority shall be entitled to ask the Contractor to collect new and different data as requirements change throughout the life of the Contract. If there is a cost in such requirement, then this request shall be subject to approval in accordance with the Change Control Procedure.*]

#### 12.1 DATA AND MANAGEMENT - PURPOSE

- (a) CIAG services will be supported by robust data that will enable consistency, timely intervention, and quality assurance.
- (b) The Contractor will be required to ensure that data is accessible by the appropriate agencies and transferable across the estate and into the community subject to necessary data management controls, in accordance with Schedule 10 (*Data Processing*).

#### 12.2 DATA AND MANAGEMENT - OUTCOME

The Contractor shall ensure that data collection and management enables:

- (a) Prisoners to track their progress toward their aspirations, supporting outcomes on release;
- (b) Prison and ESW staff to support release outcomes;
- (c) Staff to monitor performance; and
- (d) the Authority to evidence service delivery requirements, enabling data to be used to support contractual payment mechanisms. (for the purpose of KPI's, payment mechanism and Management Information).

#### 12.3 DATA AND MANAGEMENT - SERVICE ELEMENTS IN-SCOPE

The Contractor will be responsible for the following services:

- (a) the collection and management of data in accordance with GDPR;
- (b) the implementation of security and data management procedures to enable the Contractor to store and process personal data securely, in accordance with Schedule 10 (*Data Processing*);
- (c) the collection of Management Information to be available to the Authority to quality assure the Services;



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- (d) the utilisation of Personal Learning Plans to record the Prisoners aspirations, SMART Goals and Pathway; and
- (e) the entry of Prisoner data, into the Authority's ICT System by the Contractor is so far as they can ascertain accurate and complete.

### **12.4 DATA AND MANAGEMENT - SERVICE ELEMENTS OUT OF SCOPE**

The following services are excluded from the scope of Contractor data requirements:

- (a) Initial training on the use of the Authority Systems which will generally be provided by the Authority. The Authority proposes to train a selected group of Staff to enable safe /appropriate use of the Authority supplied network, end-user devices, and software solutions. Once this has been done the Contractor shall be responsible for cascading the training to all Staff utilising the Authority supplied network, end-user devices, and software solution.
- (b) the collection and management of any data outside of the Services.

### **12.5 DATA AND MANAGEMENT - OPERATIONAL REQUIREMENTS**

#### **12.5.1 Data Collection and Management**

The Contractor shall:

- (a) use the Authority's ICT System to collect data as required. The Contractor shall use templates provided by the Authority to collate data needed for reporting; and
- (b) collect new and different data as requirements change during the Term.

#### **12.5.2 Data security**

The Contractor shall:

- (a) carry out a secure electronic transfer of PLPs (using the Authority's ICT System) to the Probation Service, and/or Education, Training and Employment Resettlement Services, subject to the Authority confirming that appropriate data sharing agreements are in place. The Contractor will securely and electronically transfer PLPs as required in an appropriate file format. If a Prisoner transfers across the adult Prison estate, the PLP does not need transferring as it is attached to the Prisoner's Prison Number and so will be automatically accessible to the new prison upon transfer;
- (b) share information as required and where relevant to other Prisoner processes, such as managing self-harm (ACCT), safety risks, (SIR and incident management)



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and the wider behaviour management (IEP and adjudications), and case management (such as attending sentence planning and review meetings); and

- (c) comply with all the Authority requirements in relation to the storage and destruction of the paper copy of any Prisoner data. In no circumstances should Authority Data relating to Prisoners be removed from the Prison.

### **12.5.3 Management Information**

The Contractor shall provide Management Information as referred to in Schedule 22 (*Reporting Requirements*).

### **12.5.4 Staff and Prisoners**

The Contractor shall:

- (a) comply with the Authority's rules on individual and shared file storage, using best endeavour to ensure no unauthorised access of files or storage areas by other Staff or Prisoners. The Contractor shall, where provided access by the Authority to a secure area to store data required to deliver the Services, adhere to any reasonable requirements in relation to file structures and storage capacity. Data storage via on-site servers is not encouraged and will only be accommodated in exceptional circumstances; and
- (b) follow the individual and shared file storage rules in the Authority's DPIA or such other document as provided to the Contractor.

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****13 CIAG SPACE**

**[Note to Bidders:** *CIAG Space will be allocated at each individual Prison.*]

**13.1 CIAG SPACE - PURPOSE**

- 13.1.1 An engaging environment is key to ensuring Prisoners feel comfortable, safe and motivated during Induction and Review Sessions.
- 13.1.2 An environment that conveys a culture of support towards positive and sustainable outcomes and meet Prisoner need where the constraint of the building allows.
- 13.1.3 The exact location of the CIAG Space provided by the Authority may vary from time to time due to operational changes within the Prison.

**13.2 CIAG SPACE - OUTCOME**

The Contractor will ensure that the CIAG Space:

- (a) enables Prisoners to engage with the Services, feeling supported and encouraged, regardless of their background or neurodivergent need; and
- (b) complies with the security and operational requirements of the Prison.

**13.3 CIAG SPACE - SERVICE ELEMENTS IN-SCOPE**

The Contractor will be responsible for the following services in relation to the CIAG Space:

- (a) ensuring the CIAG Space is engaging and inspiring, as far as the setting allows;
- (b) making appropriate adaptations to support neurodivergent Prisoners; and
- (c) ensuring that the model of delivery can adapt to other locations where circumstances require, such as on wing or in-cell.

**13.4 CIAG SPACE - SERVICE ELEMENTS OUT OF SCOPE**

The following services are excluded from the scope of Contractor's requirements in relation to the CIAG Space:

- (a) any local space outside the CIAG Space (If the Contractor wishes to make use of or influence other spaces, this will need to be agreed locally); and
- (b) any structural changes, maintenance or repairs to the CIAG Space, which is the responsibility of the Authority and local Prison.

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****13.5 CIAG SPACE - OPERATIONAL REQUIREMENTS****13.5.1 Create an engaging and accessible CIAG Space**

The Contractor shall:

- (a) ensure, so far as is practical, that the CIAG Space is, and continues to be, engaging for Prisoners. This could include materials on the walls, more comfortable furniture as deemed appropriate and risk assessed by the Prison, and access to relevant brochures on educational courses and careers; and
- (b) ensure, so far as is practical, the CIAG Space has the necessary adaptations, for example for any neurodivergent Prisoners. This could include availability of key information in easy read formats, other languages, braille, the use of coloured or off-white paper where possible, and ensuring the environment is as ordered as possible and 'visual clutter' is avoided.

**13.5.2 Adapt delivery to location**

The Contractor shall adapt delivery to the allocated CIAG Space. For example, this may be on-wing or in-cell, depending on Prisoner need and individual circumstances.

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****14 EQUALITIES****14.1 EQUALITIES - PURPOSE**

It is important to:

- (a) Provide a service which meets the need of a diverse Prison population with a wide range of needs.
- (b) Demonstrate we value diversity, championing all aspects of equality and afford Prisoners from all demographics the opportunity to access services and make progress.

**14.2 EQUALITIES - OUTCOME**

The Contractor will ensure that an equality focused Services enables Prisoners to:

- (a) identify career goals and make progress regardless of demographic or background. No Prisoner with protected characteristics should be disadvantaged; and
- (b) feel respected, and always treated with decency by Staff.

**14.3 EQUALITIES - SERVICE ELEMENTS IN-SCOPE**

The Contractor shall:

- (a) provide a service that can be accessed by Prisoners of all demographics;
- (b) engage Staff that will ensure that all Prisoners can make progress;
- (c) collect data to demonstrate Prisoners from a range of backgrounds make appropriate progress and are not disadvantaged; and
- (d) train Peer Mentors to understand and respect equal opportunity.

**14.4 EQUALITIES - SERVICE ELEMENTS OUT OF SCOPE**

The following services are excluded from the scope of Contractor equalities requirements advice in relation to managing health conditions, which is the responsibility of Prison health services. The Contractor will, however, be required to take individual additional needs into account when signposting to learning, development and/or employment pathways and opportunities on release.



**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****14.5 EQUALITIES - OPERATIONAL REQUIREMENTS****14.5.1 Adhere to the Equalities Act 2010 and any subsequent re-enactment or amendment of the same.**

The Contractor shall:

- (a) uphold the statutory duties under the Equalities Act 2010 (the **Equalities Act**) at all times; and
- (b) keep under review the reasonable adjustments they make under the Equalities Act and to be able to demonstrate that they have taken all reasonable steps to remove relevant barriers for Staff and Prisoners. This includes not disadvantaging any Prisoner due to their background and applying the very best continual improvement practice with respect to equality, diversity and inclusion principles, such as:
  - (i) recruiting Staff from a range of backgrounds, and ensuring they are trained in equality, diversity and inclusion with appropriate CPD provided;
  - (ii) collecting and acting on feedback from a diverse group of Prisoners when, for example, evaluating teaching and learning; and
  - (iii) ensuring careers resources are fully inclusive. This will include embracing opportunities to challenge outdated, unhelpful common stereotyping in the world of work and promoting the principle that, in general, everyone has the potential to progress in learning and enter the world of work in the future, irrespective of (for example) age, ethnicity, gender, sexuality, disability or previous background prior to custody.

**14.5.2 Adapt delivery**

The Contractor shall:

- (a) deliver the Services the Services in a suitable place in the Prison outside the CIAG Space (as agreed with the Authority) where required if Prisoners are unable to access the CIAG Space due to a disability, physical needs, neurodiversity, or mental health needs; and
- (b) consider any adjustments or support that may be needed for Prisoners accessing the Services who have been identified as having an educational learning need through screening or teacher assessment. Any additional support provided should be aimed at promoting independence and enabling the Prisoner to make good progress towards employment, further education and rehabilitating into the community.

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****14.5.3 Record equalities data**

- (a) The Contractor shall provide data that highlights those Prisoners from a range of different backgrounds are accessing the service to show that no groups are disadvantaged. The exact nature of this data will be determined by the Authority.
- (b) If any Authority Data is printed the Contractor shall comply with all the Authority requirements in relation to the storage and destruction of such paper copy. In no circumstances should Authority Data relating to Prisoners be removed from the Prison.

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****Appendix A: Mandatory Guidelines**

- 1 The Contractor will comply with all Mandatory Guidelines as set out below, and as replaced from time to time,
- 2 All Legislation, including:
  - Data Protection Act (2018); and
  - Equality Act (2010).
- 3 All Policy Frameworks (“**PFs**”) currently available online here:  
<https://www.gov.uk/government/collections/prison-probation-policy-frameworks>
- 4 Some key PFs include:
  - Equality Analysis Policy Framework;
  - Counter Corruption and Reporting Wrongdoing Policy Framework;
  - Searching Policy Framework; and
  - Information Security Policy Framework.
- 5 All Prison Service Orders (“**PSOs**”) are currently available here:  
<https://www.gov.uk/guidance/prison-service-orders-psos>
- 6 Some key PSOs include:
  - PSO 1215 Professional Standards – Preventing and Handling Staff Wrongdoing; and
  - PSO 4460 Paying Prisoners for work and other activities.
- 7 All Prison Service Instructions (“**PSIs**”) are currently available here:  
<https://www.gov.uk/guidance/prison-service-instructions-psis>
- 8 Some key PSIs include:
  - PSI 02/2015 Prison Library Service;
  - PSI 02/2016 Health and safety arrangements for the management of accident reporting, recording and investigation;
  - PSI 03/2012 Activity Allocation;

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- PSI 04/2012 Enablers of Health, Library Education and Jobcentre Plus Services in Prisons;
- PSI 06/2012 Prisoner Employment, Training and Skills;
- PSI 06/2015 Policy Organisation and Summary Arrangements for the Management of Health and Safety;
- PSI 07/2014 Security Vetting;
- PSI 09/2014 Incident Management;
- PSI 10/2012 Conveyance and Possession of Prohibitive Items and Other Related Offences;
- PSI 11/2011 Incentives and Earned Privileges;
- PSI 11/2012 Incident Reporting System;
- PSI 11/2015 Fire Safety in Prison Establishments;
- PSI 12/2014 Government Security Classification Policy;
- PSI 16/2012 Information Risk Management Policy;
- PSI 22/2012 Intelligence Regulation of Investigatory Powers Act: Covert Surveillance;
- PSI 24/2014 Information Assurance Policy;
- PSI 25/2014 IT Security Policy;
- PSI 29/2015 First Aid;
- PSI 30/2013 Incentives and Earned Privileges;
- PSI 32/2011 Ensuring Equality;
- PSI 32/2012 Open University, Higher Education and Distance Learning Courses;
- PSI 36/2015 Health and Safety Workplace Inspection;
- PSI 38/2010 Activities in Prisons;
- PSI 42/2010 Health and Safety Policy Statement;

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- PSI 49/2011 – Prisoner Communication Services;
- PSI 55/2011 Security Management Function – Management and Security of Keys and Locks;
- PSI 64/2011 – Safer Custody: Management of Prisoners at Risk of Harm to Self, to Others and from Others;
- PSI 04/2018 Records, Information Management and Retention Policy (for the avoidance of doubt, Prisoner information would count as part of the "offender record" and contractual performance information would count as a "corporate record");
- PSI 73/2011 Prison P-NOMIS; and
- PSI 74/2011 Early Days in Custody.

9 Any other guidance as reasonably directed by the Authority, including:

- Ministry of Justice Equality and Diversity Policy (<https://www.gov.uk/government/organisations/ministry-of-justice/about/equality-and-diversity>);
- Information Security and ISO/IEC 27001:2022;
- Cyber Security Guidelines;
- BS 7858 (Best practice when screening security personnel);
- BS 8555 (helps organisations improve their environmental performance);
- Local Security Strategies set by individual Governors for their Prisons in compliance with the National Security Framework, as set out in Authority Policies; and
- Positive Practice Positive Outcomes: A Handbook for Professionals in the Criminal Justice System working with Offenders with Learning Disabilities.

10 Where Mandatory Guidelines (other than Change in Law which shall be treated in accordance with Clause I10 (*Change in Law*)) is published after contract signature date, and this significantly affects delivery of the Services and the Contractor incurs additional costs, the Contractor may trigger change protocols as set out in Schedule 4 (*Change Control Procedure*). Without prejudice to the Contractor's obligation to comply with Mandatory Guidelines and Schedule 2 (*Specification*), Schedule 28 (*Policies and*

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*Procedures*) is intended to provide useful links for the Contractor to a non-exhaustive indicative list of policies and procedures.

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****Appendix B: Excluded Prisoners and Exemptions****1 Excluded Prisoners**

- 1.1 The Authority shall notify the Contractor if a Prisoner is an Excluded Prisoner.
- 1.2 Reasons for exclusion include, but are not limited to:
  - (a) Drug/alcohol dependency/and/or recovery/Health Concern/assessment/treatment;
  - (b) Prisoner safety (e.g. where outreach work cannot be facilitated);
  - (c) Security issue that poses a risk to Staff; or
  - (d) Prison regime circumstances outside of the Contractor's control.
- 1.3 The Prisoner shall be an Excluded Prisoner from the date that the Authority notifies the Contractor that the Prisoner is an Excluded Prisoner until the date that the Authority informs the Contractor that the Prisoner is an In-Scope Prisoner. The notification may be by direct communication or, subject to the development of the Authority's ICT System, be an update of the records that the Contractor can access.
- 1.4 The Induction Session Deadline for any Prisoner who has been excluded shall be 10 calendar days from the date on which the Authority notifies the Contractor that the Prisoner should be an In-Scope Prisoner.
- 1.5 The Review Session Deadline for any Prisoner who has been excluded shall be the later of: (a) the Review Session Deadline that would apply to the Prisoner in accordance with the time remaining on their sentence as stated in Table 1 (*Review Session Deadlines*) at Paragraph 5.5.2; and (b) ten (10) calendar days from the date on which the Authority notifies the Contractor that the Prisoner should be an In-Scope Prisoner.

**2 Exemptions**

- 2.1 A Contractor shall be exempt from the requirement to deliver an Induction Session/Review Session by the Relevant Deadline if the Authority advises that one of the following events listed in Paragraph 1.4 of Part 2 of this Appendix B occurs which prevents the Contractor from completing an Induction Session/ Review Session by the Relevant Deadline.
- 2.2 The Exemption shall apply solely for the period that the event applies. Within five (5) calendar days of the Authority informing the Contractor that the Exemption no longer applies the Contractor shall no longer be able to rely on the Exemption.



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- 2.3 If the Exemption has delayed the delivery of an Induction Session or a Review Session the Contractor should deliver the Induction Session or Review Session within five (5) calendar days of the Authority advising the Contractor that the exemption no longer applies.
- 2.4 Exemptions shall include:
- (a) **Prison staff redeployment** – Where the Authority is unable to take any steps necessary to facilitate the Contractor's completion of the Prisoner's Induction Session / Review Session by the Relevant Deadline due to staff deployment elsewhere.
  - (b) **Prison operational/security reasons** – Where the Authority is unable to facilitate the Contractor's completion of the Induction Session/ Review Session by the Relevant Deadline due to extended operational or security factors, such as the Authority ICT system being unavailable for a period in excess of 24 hours, Prison staff training or a Prison security incident.
  - (c) **Prisoner death:** The Prisoner will be excluded from reporting with effect from the date of death.
  - (d) **Prisoner escape or abscond:** The Contractor will be exempt from completion of the Prisoner's Induction Session / Review Session with effect from a Prisoner's date of escape or abscond. If the Prisoner is returned to the Prison and has completed the required Screening and Assessment Process, the Relevant Deadline will be agreed by the Authority and Contractor. If the Prisoner has not completed the required Screening and Assessment Process, the Screening and Assessment Process should be completed which will then be used to define the Induction Session Deadline.
  - (e) **Prisoner transfer to another Prison:** The Contractor will be exempt from completion of the Prisoner's Induction Session / Review Session if the Prisoner is transferred to another prison which prevents the completion of the Induction Session or Review Session before the Relevant Deadline. The exemption shall apply from the date of transfer. On arrival at the new prison, if the Prisoner has had an Induction Session previously the incumbent contractor for that prison will be responsible for conducting a Review Session within 10 days of the Prisoner entering the Prison. The Review Session at the new Prison should highlight opportunities within the new Prison.
  - (f) **Prisoner failure to engage or co-operate for a reason outside of the Contractor's control:** The Contractor will be exempt from completion of the Prisoner's Induction Session / Review Session where the Authority advises the Contractor that the Prisoner has refused to engage or co-operate and should be out of scope. The exemption will apply from the date that the Prisoner refuses to



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engage. If a Prisoner subsequently engages or co-operates, the Authority and Contractor will agree to include the Prisoner as an In-Scope Prisoner. If the Prisoner has completed the required Screening and Assessment Process, the Induction Session Deadline will be agreed by the Authority and Contractor. If the Prisoner has not completed the required Screening and Assessment Process, the Screening and Assessment Process should be completed first which will then be used to define the Induction Session Deadline.

- (g) **Prisoner release or failure to return to Prison:** The Contractor will be exempt from completion of the Prisoner's Induction Session / Review Session if the Prisoner is released or fails to return to Prison which prevents the completion of the Induction Session / Review Session before the Relevant Deadline.

During the Interim Period, the following additional exemptions shall apply in relation to Induction Sessions. In both the following scenarios the Exemption shall apply until such time as the Authority notifies the Contractor that the Screening and Assessment is complete:

- (h) **Ongoing Comprehensive Screening and Assessment underway** – Where the Authority notifies the Contractor that it is in the process of conducting a comprehensive Screening and Assessment indicating a Prisoner requires additional evaluation and support for an identified learning need, neurodivergence or health concern, and that there is benefit in postponing the Induction Session until this is completed.
- (i) **The Induction Session cannot be completed to a reasonable quality without information from the Screening and Assessment** - If the Contractor considers that the Induction Session cannot be completed to a reasonable quality due to lack of information from the Screening and Assessment it may request that the Authority grants an Exemption. Subject to the Authority agreeing with such assessment, and notifying the Contractor to this effect, an Exemption will apply.



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## **SCHEDULE 3 – CHARGES**



## Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

### 1 DEFINITIONS

1.1 In this Schedule 3, the following words shall have the following meanings and they shall supplement Schedule 1 (*Definitions*):

"Annual Charge"	means:
	(a) in the Contract Year starting on 1 April 2025, the Base Annual Charge; and
	(b) in subsequent Contract Years, the Annual Charge as calculated in accordance with Paragraph 6 ( <i>Indexation</i> );
"Base Annual Charge"	means the amount of [REDACTED Section 43 of the FOIA: Commercial Interests];
"Baseline Payment"	means the baseline amount in respect of a Service Month which is calculated in accordance with Paragraph 3.1;
"Charges"	means the aggregate of the Monthly Payment and the Withheld Performance Incentive Payment;
"CPI"	means the consumer prices index as published by the Office for National Statistics;
"Financial Response Template"	means the financial response template included within Schedule 27 ( <i>Contractor's Tender</i> );
"Improvement Withholding"	<b>Notice</b> has the meaning given in Paragraph 4.1;
"Mobilisation Payment"	means the amount of [REDACTED Section 43 of the FOIA: Commercial Interests] payable in accordance with Paragraph 10;
"Monthly Payment"	means the payment calculated in accordance with Paragraph 3;



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<b>"Monthly Retained Performance Incentive Amount"</b>	has the meaning given in Paragraph 3.3;
<b>"Quarterly Retained Performance Incentive Amount"</b>	means in respect of a Performance Period, the sum of the Monthly Retained Performance Incentive Amounts for the Service Months in that Performance Period;
<b>"Rectification"</b>	has the meaning given in Paragraph 4.3;
<b>"Service Month"</b>	means each Month (or part of a Month at the start and end of the Term where applicable) during the Term when the Contractor provides Services (with the first Service Month of the Term commencing on 1 April 2025); and
<b>"Withheld Performance Incentive Payment"</b>	means the sum calculated in accordance with Paragraph 5 ( <i>Withheld Performance Incentive Payment</i> ).

## 2 CHARGES

- 2.1 The Charges shall be the only payment payable by the Authority in respect of the Services.
- 2.2 Subject to Paragraph 2.3, in a Service Month the Contractor will be entitled to be paid (in accordance with Paragraph 7) the following:
- (a) the Monthly Payment payable in respect of that Service Month; plus
  - (b) following completion of the calculation of the Withheld Performance Incentive Payment, the Withheld Performance Incentive Payment for the preceding Performance Period which has become due and payable under Paragraph 4 (*Withheld Performance Incentive Payment*).
- 2.3 The Parties acknowledge and agree that the Charges payable by the Authority in a Contract Year are capped at the amounts stated in this Schedule 3 (the "**Cap**") subject only to the indexation provisions in Paragraph 6. The Authority shall not be obliged to pay any Charges in a Contract Year for provision of the Services in excess of the Cap, other than as expressly provided for in this Contract.

## 3 MONTHLY PAYMENT

- 3.1 The Annual Charge for a relevant Contract Year will be divided into twelve (12) equal monthly amounts (the "**Baseline Payment**").



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- 3.2 Subject to the exception in Paragraph 4, the Monthly Payment due and payable in a Service Month shall be equal to 90% of the Baseline Payment for that Service Month.
- 3.3 Each Service Month the Authority will retain the remaining 10% of the Baseline Payment under this Paragraph 3, (the "**Monthly Retained Performance Incentive Amount**").

#### 4 REMEDIES FOR IMPROVEMENT NOTICE

- 4.1 Where the Authority has served an Improvement Notice the Authority will be entitled (but not obliged) to notify the Contractor that the Authority will withhold an additional 10% of the Baseline Payment from each Monthly Payment (after operation of Paragraph 3) (the "**Improvement Notice Withholding**").
- 4.2 This Paragraph 4 applies in addition to and independently of Paragraphs 3 and 5.
- 4.3 The Authority will be entitled to retain the Improvement Notice Withholding amount(s) until the earlier of:
- (a) the date on which the Authority confirms that it is satisfied that the Contractor has addressed the issues in the relevant Improvement Notice ("**Rectification**"), in which case the Contractor will be entitled to add the Improvement Notice Withholding amount(s) to its next monthly invoice; or
  - (b) the date 6 months after service of the Improvement Notice, if Rectification has not occurred, in which case the Authority will be entitled (but not obliged) to notify the Contractor that the Authority intends to retain the Improvement Notice Withholding amount(s), in which case the Contractor will be deemed to have forfeited its right to receive any of the Improvement Notice Withholding amounts.
- 4.4 Notwithstanding the Authority issuing a forfeiture notice under Paragraph 4.3(b), the Authority will be entitled to continue making Improvement Notice Withholdings until Rectification occurs. Each of those further Improvement Notice Withholdings subsequently made by the Authority will be deemed to have been forfeited by the Contractor when withheld by the Authority.
- 4.5 This Paragraph 4 will apply to each Improvement Notice, provided that where more than one Improvement Notice is outstanding at the same time, the withholding under this Paragraph 4 shall only apply in respect of one outstanding Improvement Notice at any one time.

#### 5 WITHHELD PERFORMANCE INCENTIVE PAYMENT

- 5.1 The Authority will calculate the Withheld Performance Incentive Payment (if any) due to the Contractor in respect of that Performance Period by applying the result of



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assessment of whether the Contractor has Passed the KPIs in accordance with Schedule 14 (*Key Performance Indicators and Performance Management*).

- 5.2 If the Contractor Passes both KPIs the Withheld Performance Incentive Payment will equal the whole of the relevant Quarterly Retained Performance Incentive Amount.
- 5.3 If the Contractor Passes one of the two KPIs the Withheld Performance Incentive Payment will equal half of the relevant Quarterly Retained Performance Incentive Amount.
- 5.4 If the Contractor does not Pass either KPI the Withheld Performance Incentive Payment will be nil.

## 6 INDEXATION

- 6.1 The Annual Charge shall be calculated for each relevant Contract Year (Contract Year<sub>n</sub>) in accordance with the provisions of this Paragraph 6.

- (a) The Base Annual Charge will apply to the Contract Year commencing on 1 April 2025.
- (b) The adjustments under this Paragraph 6 will first take place on 1 April 2026 and then on 1 April in each subsequent Contract Year in the Term.
- (c) The Authority will calculate:

The Indexation Factor ("IF") for Contract Year<sub>n</sub> using the following formula:

$$IF \text{ (as \%)} = \left( \left( \left( \frac{CPI \text{ (Current)}}{CPI \text{ (Preceding)}} \right) - 1 \right) \times 100 \right)$$

where:

*CPI (Current)* means CPI for the February immediately preceding the start of Contract Year<sub>n</sub>;

*CPI (Preceding)* means CPI for the February immediately preceding the start of Contract Year<sub>n-1</sub>;

Provided that if IF is less than 0% it will be deemed to be 0% and if IF is higher than 5% it will be capped at 5% unless the Authority in its absolute discretion agrees to accept a higher percentage than 5%, provided that the Authority will not in any circumstances accept a percentage higher than the IF calculated under this Paragraph 6.1.



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- 6.2 Once the IF calculation in Paragraph 6.1 has been completed, the Authority will provisionally apply the IF to the Annual Charge for Contract Year<sub>n-1</sub> to calculate the Annual Charge for Contract Year<sub>n</sub>.
- 6.3 The Authority and the Contractor have agreed that the Annual Charge will not be reduced as a result of the indexation mechanism in this Paragraph 6 from one Contract Year to the next. Therefore if the Annual Charge following provisional recalculation under Paragraph 6.2 for Contract Year<sub>n</sub> would be lower than the equivalent amount for Contract Year<sub>n-1</sub> (including by operation of the floor of 0% under the IF calculation in Paragraph 6.1), the Annual Charge from Contract Year<sub>n-1</sub> will instead be carried over into Contract Year<sub>n</sub>.
- 6.4 Where, by operation of Paragraph 6.3, in Contract Year<sub>n</sub> the Annual Charge from Contract Year<sub>n-1</sub> has been carried over into Contract Year<sub>n</sub>, when the indexation provisions are applied in Contract Year<sub>n+1</sub>, the value for the Annual Charge to which IF will be applied will be the value calculated for Contract Year<sub>n</sub> under Paragraph 6.2 prior to and ignoring the operation of Paragraph 6.3.
- 6.5 Except as set out in this Paragraph 6, neither the Charges nor any other costs, expenses, fees or charges shall be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Contractor or Sub-Contractors of the performance of their obligations.
- 6.6 If CPI has not been published for the relevant month as required for this calculation, then the last published value of the index available at the adjustment date shall be used.
- 6.7 Where CPI is no longer published, the Authority and the Contractor shall agree a fair and reasonable replacement that will have substantially the same effect.

## 7 INVOICING AND PAYMENT

The Contractor shall issue invoices to the Authority monthly or (in respect of the Withheld Performance Incentive Payment) Quarterly in each case in arrears. The Contractor may submit its invoice to the Authority no earlier than 5 Working Days after the end of the Service Month or after the Performance Period calculation under Paragraph 4 (as relevant) to which it relates.

## 8 FINANCIAL INFORMATION

- 8.1 The Authority shall be entitled to request that the Contractor updates the information provided in the Financial Response Template from time to time during the Term and the Contractor shall comply with such request within twenty (20) Working Days following the request.



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- 8.2 The Contractor shall ensure that any update to the information provided under Paragraph 8.1 includes sufficient detail for the Authority to have visibility of all costs (including staff costs) to be incurred by the Contractor and of the Charges to be paid in respect of provision of the Services.

### 9 REPORTING

The Contractor shall, as soon as possible, provide any additional reports that the Authority may reasonably request in connection with the Authority's exercise of its rights and obligations under this Schedule 3, including but not limited to:

- (a) Service level monitoring; and
- (b) Withheld Performance Incentive Payment, Improvement Notice Withholding and any review/reconciliation calculations which may be carried out.

### 10 MOBILISATION PAYMENT

The Authority will pay the Mobilisation Payment to the Contractor in three (3) equal monthly instalments during the Mobilisation Phase, subject to the right of the Authority to withhold all or part of the Mobilisation Payment under Paragraph 9 of Schedule 21 (*Mobilisation*).

### 11 PAYMENT FOR TERMINATION SERVICES

If it is agreed pursuant to Paragraph 6.4 of Schedule 20 (*Exit Management*) that the Contractor is entitled to recover additional costs from the Authority, the Contractor will be entitled to invoice the Authority for the agreed costs monthly in arrears or otherwise as agreed in writing by the Authority and the Contractor.





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## **SCHEDULE 4 – CHANGE CONTROL PROCEDURE**



## Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

### 1 DEFINITIONS

1.1 In this Schedule 4, the following words shall have the following meanings and they shall supplement Schedule 1 (*Definitions*):

<b>"Change Communication"</b>	means any Change Request Form, Impact Assessment, Contract Change Notice or other communication sent or required to be sent pursuant to this Schedule 4;
<b>"Change Request Form"</b>	means a written request for a Change which shall be substantially in the form of Appendix 1 of this Schedule 4;
<b>"Contract Change Notice" or "CCN"</b>	means a contract change notice in the form set out in Appendix 2 of this Schedule 4;
<b>"Impact Assessment"</b>	means an assessment of a Change Request Form in accordance with Paragraph 5 of this Schedule 4;
<b>"Impact Assessment Estimate"</b>	has the meaning given in Paragraph 4.3 of this Schedule 4;
<b>"Operational Change"</b>	<p>means any change in the Contractor's operational procedures which in all respects, when implemented:</p> <ul style="list-style-type: none"><li>(a) will not affect the Charges and will not result in any other costs to the Authority;</li><li>(b) may change the way in which the Services are delivered but will not adversely affect the output of the Services or increase the risks in performing or receiving the Services;</li><li>(c) will not adversely affect the interfaces or interoperability of the Services with any of the Authority System; and</li><li>(d) will not require a change to this Contract;</li></ul>



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<b>“Receiving Party”</b>	means the Party which receives a proposed Change Request Form; and
<b>“RFOC”</b>	has the meaning given in Paragraph 8.2 of this Schedule 4.

**2 GENERAL PRINCIPLES OF CHANGE CONTROL PROCEDURE**

2.1 This Schedule 4 sets out the procedure for dealing with Changes.

2.2 The Parties shall deal with Change as follows:

- (a) either Party may request a Change which they shall initiate by issuing a Change Request Form in accordance with Paragraph 4;
- (b) unless this Contract otherwise requires, the Contractor shall assess and document the potential impact of a proposed Change in accordance with Paragraph 5 before the Change can be either approved or implemented;
- (c) the Authority shall have the right to request amendments to a Change Request Form, approve it or reject it in the manner set out in Paragraph 6;
- (d) the Contractor shall have the right to reject a Change Request Form solely in the manner set out in Paragraph 7; and
- (e) save as otherwise provided in this Contract, no proposed Change shall be implemented by the Contractor until a Contract Change Notice has been signed and issued by the Authority in accordance with Paragraph 6.2.

2.3 Until a Contract Change Notice has been signed and issued by the Authority in accordance with Paragraph 6.2, then:

- (a) unless the Authority expressly agrees (or requires) otherwise in writing, the Contractor shall continue to supply the Services in accordance with the existing terms of this Contract as if the proposed Change did not apply; and
- (b) any discussions, negotiations or other communications which may take place between the Authority and the Contractor in connection with any proposed Change, including the submission of any Change Communications, shall be without prejudice to each Party's other rights under this Contract.

2.4 The Contractor shall:

- (a) within ten (10) Working Days of the Authority's signature and issue of a Contract Change Notice, deliver to the Authority a copy of this Contract updated to reflect all Changes agreed in the relevant Contract Change Notice and annotated with a reference to the Contract Change Notice pursuant to which the relevant Changes were agreed; and
- (b) thereafter provide to the Authority such further copies of the updated Contract as the Authority may from time to time request.



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### 3 COSTS

#### 3.1 Subject to Paragraph 3.3:

- (a) the costs of preparing each Change Request Form shall be borne by the Party making the Change Request Form; and
- (b) the costs incurred by the Contractor in undertaking an Impact Assessment shall be borne by the Party making the Change Request Form provided that the Authority shall not be required to pay any such costs if:
  - (i) such costs are below five thousand pounds sterling (£5,000);
  - (ii) the Contractor is able to undertake the Impact Assessment by using resources already deployed in the provision of the Services; or
  - (iii) such costs exceed those in the accepted Impact Assessment Estimate.

#### 3.2 The cost of any Change shall be calculated and charged by way of adjustment to the Charges in accordance with the principles set out in Schedule 3 (*Charges*). The Contractor shall be entitled to increase the Charges only if it can demonstrate in the Impact Assessment that the proposed Change requires additional resources and, in any event, any change to the Charges resulting from a Change (whether the change will cause an increase or a decrease in the Charges) will be strictly proportionate to the increase or decrease in the level of resources required for the provision of the Services as amended by the Change.

#### 3.3 Both Parties' costs incurred in respect of any use of this Change Control Procedure as a result of any error or Default by the Contractor shall be paid for by the Contractor.

### 4 CHANGE REQUEST FORM

#### 4.1 Either Party may issue a Change Request Form to the other Party at any time during the Term. A Change Request Form shall be substantially in the form of Appendix 1 of this Schedule 4.

#### 4.2 If the Contractor issues the Change Request Form, then it shall also provide an Impact Assessment to the Authority as soon as is reasonably practicable but in any event within ten (10) Working Days of the date of issuing the Change Request Form.

#### 4.3 If the Authority issues the Change Request Form, then the Contractor shall provide as soon as reasonably practical and in any event within ten (10) Working Days of the date of receiving the Change Request Form an estimate ("**Impact Assessment Estimate**") of the cost of preparing an Impact Assessment and the timetable for preparing it. The timetable shall provide for the completed Impact Assessment to be received by the Authority within ten (10) Working Days of acceptance of the Impact Assessment Estimate or within any longer time period agreed by the Authority.

#### 4.4 If the Authority accepts an Impact Assessment Estimate then following receipt of notice of such acceptance the Contractor shall provide the completed Impact Assessment to the Authority as soon as is reasonably practicable and in any event within the period



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agreed in the Impact Assessment Estimate. If the Contractor requires any clarification in relation to the Change Request Form before it can deliver the Impact Assessment, then it shall promptly make a request for clarification to the Authority and provided that sufficient information is received by the Authority to fully understand:

- (a) the nature of the request for clarification; and
- (b) the reasonable justification for the request;

the time period to complete the Impact Assessment shall be extended by the time taken by the Authority to provide that clarification. The Authority shall respond to the request for clarification as soon as is reasonably practicable.

## **5 IMPACT ASSESSMENT**

5.1 Each Impact Assessment shall be completed in good faith and shall include:

- (a) details of the proposed Change including the reason for the Change;
- (b) details of the impact of the proposed Change on the Services and the Contractor's ability to meet its other obligations under this Contract;
- (c) any variation to the terms of this Contract that will be required as a result of that impact, including changes to:
  - (i) the Specification and/or the Key Performance Indicators;
  - (ii) the format of Authority Data, as set out in the Specification;
  - (iii) the Mobilisation Plan and any other timetable previously agreed by the Parties;
  - (iv) other services provided by third party contractors to the Authority, including any changes required by the proposed Change to the Authority's System;
- (d) details of the cost of implementing the proposed Change;
- (e) details of the ongoing costs required by the proposed Change when implemented, including any increase or decrease in the Charges, any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;
- (f) a timetable for the implementation, together with any proposals for the testing of the Change;
- (g) details of how the proposed Change will ensure compliance with any applicable Change in Law; and
- (h) such other information as the Authority may reasonably request in (or in response to) the Change Request Form.



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- 5.2 If the Change involves the processing or transfer of any Personal Data to a Restricted Country, the preparation of the Impact Assessment shall also be subject to Clause D2 (*Data Protection and Privacy*) and Schedule 10 (*Data Processing*).
- 5.3 Subject to the provisions of Paragraph 5.4, the Authority shall review the Impact Assessment and respond to the Contractor in accordance with Paragraph 6 within fifteen (15) Working Days of receiving the Impact Assessment.
- 5.4 If the Authority is the Receiving Party and the Authority reasonably considers that it requires further information regarding the proposed Change so that it may properly evaluate the Change Request Form and the Impact Assessment, then within five (5) Working Days of receiving the Impact Assessment, it shall notify the Contractor of this fact and detail the further information that it requires. The Contractor shall then re-issue the relevant Impact Assessment to the Authority within ten (10) Working Days of receiving such notification. At the Authority's discretion, the Parties may repeat the process described in this Paragraph 5.4 until the Authority is satisfied that it has sufficient information to properly evaluate the Change Request Form and Impact Assessment.
- 5.5 The calculation of costs for the purposes of Paragraphs 5.1(d) and (e) shall:
- (a) include sufficient information on an open book basis as reasonably required by the Authority;
  - (b) include estimated volumes of each type of resource to be employed and implications for the Charges using the principles adopted in Schedule 3 (*Charges*);
  - (c) include full disclosure of any assumptions underlying such Impact Assessment; include evidence of the cost of any assets required for the Change; and
  - (d) include details of any new Sub-contracts necessary to accomplish the Change.

## 6 AUTHORITY'S RIGHT OF APPROVAL

- 6.1 Within fifteen (15) Working Days of receiving the Impact Assessment from the Contractor or within ten (10) Working Days of receiving the further information that it may request pursuant to Paragraph 5.4, the Authority shall evaluate the Change Request Form and the Impact Assessment and shall do one of the following:
- (a) approve the proposed Change, in which case the Parties shall follow the procedure set out in Paragraph 6.2;
  - (b) in its absolute discretion reject the Change, in which case it shall notify the Contractor of the rejection. The Authority shall not reject any proposed Change to the extent that the Change is necessary for the Contractor or the Services to comply with any Changes in Law. If the Authority does reject a Change, then it shall explain its reasons in writing to the Contractor as soon as is reasonably practicable following such rejection; or
  - (c) in the event that it reasonably believes that a Change Request Form or Impact Assessment contains errors or omissions, require the Contractor to modify the



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relevant document accordingly, in which event the Contractor shall make such modifications within five (5) Working Days of such request. Subject to Paragraph 5.4, on receiving the modified Change Request Form and/or Impact Assessment, the Authority shall approve or reject the proposed Change within fifteen (10) Working Days.

- 6.2 If the Authority approves the proposed Change pursuant to Paragraph 6.1 and it has not been rejected by the Contractor in accordance with Paragraph 7, then it shall inform the Contractor and the Contractor shall prepare two copies of a Contract Change Notice which it shall sign and deliver to the Authority for its signature. Following receipt by the Authority of the Contract Change Notice, it shall sign both copies and return one copy to the Contractor. On the Authority's signature the Contract Change Notice shall constitute (or, where the Authority has agreed to or required the implementation of a Change prior to signature of a Contract Change Notice, shall constitute confirmation of) a binding variation to this Contract.
- 6.3 If the Authority does not sign the Contract Change Notice within ten (10) Working Days, then the Contractor shall have the right to notify the Authority and if the Authority does not sign the Contract Change Notice within five (5) Working Days of such notification, then the Contractor may refer the matter to the Dispute Resolution Procedure.

## **7 CONTRACTOR'S RIGHT OF APPROVAL**

- 7.1 Following an Impact Assessment, if:

- (a) the Contractor reasonably believes that any proposed Change which is requested by the Authority would:
  - (i) materially and adversely affect the risks to the health and safety of any person; and/or
  - (ii) require the Services to be performed in a way that infringes any Law; and/or
- (b) the Contractor demonstrates to the Authority's reasonable satisfaction that the proposed Change is technically impossible to implement and neither the Contractor's Tender nor the Specification state that the Contractor does have the technical capacity and flexibility required to implement the proposed Change,

then the Contractor shall be entitled to reject the proposed Change and shall notify the Authority of its reasons for doing so within five (5) Working Days after the date on which it is obliged to deliver the Impact Assessment pursuant to Paragraph 4.3.

## **8 OPERATIONAL CHANGES**

- 8.1 Any Operational Changes identified by the Contractor to improve operational efficiency of the Services may be implemented by the Contractor without following the Change Control Procedure for proposed Contract Changes provided they do not:
- (a) have an impact on the business of the Authority;



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- (b) require a change to this Contract;
  - (c) have a direct impact on use of the Services; or
  - (d) involve the Authority in paying any additional Charges or other costs.
- 8.2 The Authority may request an Operational Change by submitting a written request for Operational Change ("**RFOC**") to the Contractor's Representative.
- 8.3 The RFOC shall include the following details:
  - (a) the proposed Operational Change; and
  - (b) the time-scale for completion of the Operational Change.
- 8.4 The Contractor shall inform the Authority of any impact on the Services that may arise from the proposed Operational Change.
- 8.5 The Contractor shall complete the Operational Change by the timescale specified for completion of the Operational Change in the RFOC and shall promptly notify the Authority when the Operational Change is completed.

**9 COMMUNICATIONS**

For any Change Communication to be valid under this Schedule 4, it must be sent to either the Authority's Representative or the Contractor's Representative, as applicable. The provisions of Clause I3 (*Notices and Communications*) shall apply to a Change Communication as if it were a notice.





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**APPENDIX 1: CHANGE REQUEST FORM**

<b>Contract Title:</b>	<b>Party requesting Change:</b>
<b>Name of Contractor and Contractor Reference No.:</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 (including benefits and disadvantages):</b>	
<b>Area(s) impacted (OPTIONAL FIELD):</b>	
<b>Assumptions, dependencies, risks and mitigation (if any):</b>	
<b>Details of any proposed alternative scenarios:</b>	
<b>Change Request Form prepared by (name):</b>	
<b>Assigned for Impact Assessment by (name):</b>	
<b>Assigned for Impact Assessment to (name):</b>	
<b>Signature:</b>	
<b>Date of Change Request:</b>	



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## APPENDIX 2: CONTRACT CHANGE NOTICE

<b>Contract Title:</b>		<b>Party requesting Change:</b>	
<b>Name of Contractor and Contractor Reference No.:</b>			
<b>Change Request Number:</b>			
<b>Date on which Change takes effect:</b>			
<b>Contract between:</b> The Secretary of State for Justice and [insert name of Contractor]			
<b>Following the Impact Assessment, 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 Charges 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>			
<b>Proposed adjustment to the Charges resulting from the Change:</b>			
<b>Details of proposed one-off additional charges and means for determining these (e.g. fixed price basis):</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 Contractor]</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>	



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## **SCHEDULE 5 - COMMERCIALLY SENSITIVE INFORMATION**



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- 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 D4 (*Transparency, Open Book Data and Freedom of Information*).
- 2 In this Schedule 5, the Parties have sought to identify the Contractor's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIR.
- 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 5 applies in the table below (please see the column entitled, "Duration of Confidentiality").
- 4 Without prejudice to the Authority's obligation to disclose Information in accordance with the FOIA, the EIR, or Clause D3 (*Confidential Information*) the Authority will, acting reasonably but in its sole discretion, seek to apply the commercial interests exemption set out in section 43 of the FOIA to the following information.

No.	Date	Contractor's Commercially Sensitive Information	Duration of Confidentiality
1	15/12/2023	<p>Performance statistics set out in our proposal showing existing performance under analogous contracts:</p> <p>Our Proposal contains current statistics as to performance which are not public information and are not published by other procurers. This information is Commercially Sensitive Information (CSI), and disclosure of it could prejudice our legitimate commercial interests on existing contracts and as part of this procurement as other providers seek to replicate this performance. Further, the statistical information is subject to confidentiality restrictions in accordance with the terms of our contracts with other procurers (e.g. MoJ). This information should consequently be exempt from disclosure under either ss. 43 and 41 of the FOIA.</p>	Contract lifetime and indefinitely thereafter



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2	15/12/2023	<p>Information relating to our Pricing Rationale:</p> <p>Information relating to our Pricing Rationale is highly commercially sensitive (Commercially Sensitive Information [CSI]) as it is important for scoring of the tender proposal. It would prejudice us by negatively impacting our competitive market position if it were disclosed to other tenderers. We believe this information is exempt from disclosure pursuant to section 43 of the FOIA.</p>	Contract lifetime
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## **SCHEDULE 6 – IPR**



**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))**

**1 NEW IPR**

<b>Name of New IPR</b>	<b>Details</b>
None at Effective Date	



## APPENDIX 1: FORM OF CONFIDENTIALITY UNDERTAKING<sup>1</sup>

### CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made on **[date]**

#### BETWEEN:

- (1) **[insert name]** of **[insert address]** (the “**Sub-licensee**”); and
- (2) **[insert name]** of **[insert address]** (the “**Contractor**” and together with the Contractor, the “**Parties**”).

#### WHEREAS:

- (A) The Secretary of State for Justice (the “**Authority**”) and the Contractor are party to a contract dated **[insert date]** (the “**Contract**”) for the provision by the Contractor of careers information, advice and guidance services to the Authority.
- (B) The Authority wishes to grant a sub-licence to the Sub-licensee in respect of certain software and intellectual property rights licensed to the Authority pursuant to the Contract (the “**Sub-licence**”).
- (C) It is a requirement of the Contract that, before the Authority grants such sub-licence to the Sub-licensee, the Sub-licensee execute a confidentiality agreement in favour of the Contractor in or substantially in the form of this Agreement to protect the Confidential Information of the Contractor.

#### IT IS AGREED as follows:

### 1 INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires:

“**Confidential Information**”

means:

- (a) Information, including all personal data within the meaning of the Data Protection Act 2018, and however it is conveyed, provided by the Authority to the Sub-licensee pursuant to or in connection with the Sub-licence that relates to:
  - (i) the Contractor; or
  - (ii) the operations, business, affairs, developments, intellectual property

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<sup>1</sup> **Note to Bidders:** this is the Appendix 1 (*Form of Confidentiality Undertaking*) referred to in Clauses E2.3(b)(ii)(C)(A) and E2.3(b)(iii)(A).





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rights, trade secrets, know-how and/or personnel of the Contractor;

- (b) the source code and the object code of the software sub-licensed to the Sub-licensee pursuant to the Sub-licence together with build information, relevant design and development information, technical specifications of all functionality including those not included in standard manuals (such as those that modify system performance and access levels), configuration details, test scripts, user manuals, operating manuals, process definitions and procedures, and all such other documentation supplied by the Contractor to the Authority pursuant to or in connection with the Sub-licence;
  - (c) other Information provided by the Authority pursuant to this Agreement to the Sub-licensee that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential which comes (or has come) to the Sub-licensee's attention or into the Sub-licensee's possession in connection with the Sub-licence; and
  - (d) Information derived from any of the above,
- but not including any Information that:
- (a) was in the possession of the Sub-licensee without obligation of confidentiality prior to its disclosure by the Authority;
  - (b) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Agreement or breach of a duty of confidentiality; or
  - (c) was independently developed without access to the Information;

### **“Information”**

means all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible,



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visual or machine-readable medium (including CD-ROM, magnetic and digital form); and

**“Sub-licence”**

has the meaning given to that expression in recital (B) to this Agreement.

1.2 In this Agreement:

- (a) a reference to any gender includes a reference to other genders;
- (b) the singular includes the plural and vice versa;
- (c) the words “include” and cognate expressions shall be construed as if they were immediately followed by the words “without limitation”;
- (d) references to any statutory provision include a reference to that provision as modified, replaced, amended and/or re-enacted from time to time (before or after the date of this Agreement) and any prior or subsequent subordinate legislation made under it;
- (e) headings are included for ease of reference only and shall not affect the interpretation or construction of this Agreement; and
- (f) references to Clauses are to Clauses of this Agreement.

## 2 CONFIDENTIALITY OBLIGATIONS

2.1 In consideration of the Authority entering into the Sub-licence, the Sub-licensee shall:

- (a) treat all Confidential Information as secret and confidential;
- (b) have in place and maintain proper security measures and procedures to protect the confidentiality of the Confidential Information (having regard to its form and nature);
- (c) not disclose or permit the disclosure of any of the Confidential Information to any other person without obtaining the prior written consent of the Contractor or except as expressly set out in this Agreement;
- (d) not transfer any of the Confidential Information outside the United Kingdom;
- (e) not use or exploit any of the Confidential Information for any purpose whatsoever other than as permitted under the Sub-licence;
- (f) immediately notify the Contractor in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Confidential Information; and
- (g) upon the expiry or termination of the Sub-licence:



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- (i) destroy or return to the Contractor all documents and other tangible materials that contain any of the Confidential Information;
- (ii) ensure, so far as reasonably practicable, that all Confidential Information held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Sub-licensee) from any computer, word processor, voicemail system or any other device; and
- (iii) make no further use of any Confidential Information.

### **3 PERMITTED DISCLOSURES**

- 3.1 The Sub-licensee may disclose Confidential Information to those of its directors, officers, employees, consultants and professional advisers who:
- (a) reasonably need to receive the Confidential Information in connection with the Sub-licence; and
  - (b) have been informed by the Sub-licensee of the confidential nature of the Confidential Information; and
  - (c) have agreed to terms similar to those in this Agreement.
- 3.2 The Sub-licensee shall be entitled to disclose Confidential Information to the extent that it is required to do so by applicable law or by order of a court or other public body that has jurisdiction over the Sub-licensee.
- 3.3 Before making a disclosure pursuant to Clause 3.2, the Sub-licensee shall, if the circumstances permit:
- (a) notify the Contractor in writing of the proposed disclosure as soon as possible (and if possible before the court or other public body orders the disclosure of the Confidential Information); and
  - (b) ask the court or other public body to treat the Confidential Information as confidential.

### **4 GENERAL**

- 4.1 The Sub-licensee acknowledges and agrees that all property, including intellectual property rights, in Confidential Information disclosed to it by the Contractor shall remain with and be vested in the Contractor.
- 4.2 This Agreement does not include, expressly or by implication, any representations, warranties or other obligations:
- (a) to grant the Sub-licensee any licence or rights other than as may be expressly stated in the Sub-licence;



## Contract for the Provision of CIAG Services

- (b) to require the Contractor to disclose, continue disclosing or update any Confidential Information; or
  - (c) as to the accuracy, efficacy, completeness, capabilities, safety or any other qualities whatsoever of any Information or materials provided pursuant to or in anticipation of the Sub-licence.
- 4.3 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers or remedies provided by law. No failure or delay by either Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.
- 4.4 Without prejudice to any other rights or remedies that the Contractor may have, the Sub- licensee acknowledges and agrees that damages alone may not be an adequate remedy for any breach by the Sub- licensee of any of the provisions of this Agreement. Accordingly, the Sub- licensee acknowledges that the Contractor shall be entitled to the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this Agreement and/or breach of confidence and that no proof of special damages shall be necessary for the enforcement of such remedies.
- 4.5 The maximum liability of the Sub- licensee to the Contractor for any breach of this Agreement shall be limited to ten million pounds sterling (£10,000,000).
- 4.6 For the purposes of the Contracts (Rights of Third Parties) Act 1999 no one other than the Parties has the right to enforce the terms of this Agreement.
- 4.7 Each Party shall be responsible for all costs incurred by it or on its behalf in connection with this Agreement.
- 4.8 This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

## 5 NOTICES

- 5.1 Any notice to be given under this Agreement (each a “**Notice**”) shall be given in writing and shall be delivered by hand and shall be deemed to have been duly given at the time of delivery provided that such Notice is sent to the relevant physical address, and expressly marked for the attention of the relevant individual, set out in Clause 5.2.
- 5.2 Any Notice:
- (a) if to be given to the Contractor shall be sent to:

[Address]

Attention: [Contact name and/or position, e.g. “The Finance Director”]



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(b) if to be given to the Sub-licensee shall be sent to:

[Name of Organisation]  
[Address]

Attention: [ ]

### 6 GOVERNING LAW

6.1 This Agreement shall be governed by, and construed in accordance with, English law and any matter claim or dispute arising out of or in connection with this Agreement whether contractual or non-contractual, shall be governed by and determined in accordance with English law.

6.2 Each Party hereby irrevocably submits to the exclusive jurisdiction of the English courts in respect of any claim or dispute arising out of or in connection with this Agreement.

**IN WITNESS** of the above this Agreement has been signed by the duly authorised representatives of the Parties on the date which appears at the head of page 1.

**For and on behalf of [name of Contractor]**

Signature:

Date:

\_\_\_\_\_

Name:

Position:

**For and on behalf of [name of Sub-licensee]**

Signature:

Date:

\_\_\_\_\_

Name:

Position:



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# **SCHEDULE 7 – BASELINE SECURITY REQUIREMENTS**



## Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

### 1 DEFINITIONS

In this Schedule 7, the following words shall have the following meanings and they shall supplement Schedule 1 (*Definitions*):

"CPA"	has the meaning given to it in Paragraph 2.3(b) of Appendix 1 to this Schedule 7;
"DHCP"	means a network server that automatically provides and assigns IP addresses, default gateways and other network parameters to client devices;
"Government Security Classifications Scheme"	means the system through which the government classifies information assets to ensure they are appropriately protected;
"Information Security Policy Framework"	means the Policy Framework published on 29 January 2020 relating to information assurance as amended from time to time and available at: <a href="https://www.gov.uk/government/publications/information-security-policy-framework">https://www.gov.uk/government/publications/information-security-policy-framework</a> ;
"NCSC"	has the meaning given to it in Paragraph 2 of Appendix 1 to this Schedule 7; and
"NCSC Guidance"	has the meaning given to it in Paragraph 2.3(e) of Appendix 1 to this Schedule 7.

### 2 GENERAL

- 2.1 This Schedule 7 sets out the obligations of the Parties in relation to information assurance and cyber security, including those which the Contractor must comply with in delivering the Services under the Contract. Appendix 1 to this Schedule 7 sets out the additional security requirements which will apply if at any time a situation arises where the Contractor holds any Authority Data on Contractor System and in which case Clause D1.2 (*Authority Data*) shall also apply.
- 2.2 The Parties shall each appoint and/or identify a board level individual or equivalent who has overall responsibility for information assurance and cyber security, including personnel security and information risk. The individual appointed by the Contractor, who is the Chief Security Officer, Chief Information Officer, Chief Technical Officer or is identified as Key Personnel and the provisions of Clause B5 (*Key Personnel*) apply in relation to that person.
- 2.3 The Contractor shall act in accordance with Good Industry Practice in the day-to-day operation of any system which is used for the storage of Information Assets and/or the



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storage, processing or management of Authority Data and/or that could directly or indirectly affect Information Assets and/or Authority Data.

- 2.4 The Contractor acknowledges that a compromise of Information Assets and/or Authority Data represents an unacceptable risk to the Authority requiring immediate communication and co-operation between the Parties.

### **3 SECURITY RISKS AND BREACHES**

- 3.1 The Contractor shall use its reasonable endeavours to prevent any Breach of Security for any reason, including as a result of malicious, accidental or inadvertent behaviour.

- 3.2 Upon becoming aware of any Breach of Security or attempted Breach of Security, the Contractor shall:

- (a) immediately notify the Authority and take all reasonable steps (which shall include any action or changes reasonably required by the Authority) that are necessary to:
  - (i) minimise the extent of actual or potential harm caused by any Breach of Security;
  - (ii) remedy any Breach of Security to the extent that is possible;
  - (iii) mitigate against a Breach of Security or attempted Breach of Security; and
  - (iv) prevent a further Breach of Security or attempted Breach of Security in the future resulting from the same root cause failure;
- (b) provide to the Authority and/or the NCSC or equivalent any data that is requested relating to the Breach of Security or attempted Breach of Security within 2 Working Days of such request; and
- (c) as soon as reasonably practicable and, in any event, within 2 Working Days following the Breach of Security or attempted Breach of Security, provide to the Authority full details of the Breach of Security or attempted Breach of Security, including a root cause analysis if required by the Authority and the Contractor recognises that the Authority may report significant actual or potential losses of Personal Data to the Information Commissioner or equivalent and to the Cabinet Office.

### **4 IDENTITY, AUTHENTICATION AND ACCESS CONTROL**

The Contractor shall ensure that Staff who use the Authority System actively confirm annually their acceptance of the Authority's acceptable use policy.





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## **5 PHYSICAL MEDIA**

5.1 The Contractor shall ensure that all:

- (a) physical media holding OFFICIAL information is handled in accordance with the Information Security Policy Framework and NCSC standards and guidance or equivalent; and
- (b) Information Assets and Authority Data held on paper are:
  - (i) kept secure at all times, locked away when not in use on the premises on which they are held and secured and are segregated if the Contractor is co-locating with the Authority; and
  - (ii) only transferred by an approved secure form of transfer with confirmation of receipt obtained.

## **6 SUB-CONTRACTS**

The Contractor shall ensure that all Sub-Contracts with Sub-Contractors who have access to Information Assets and/or Authority Data contain equivalent provisions in relation to information assurance and security that are no less onerous than those imposed on the Contractor under the Contract.



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## **Appendix 1: ADDITIONAL SECURITY REQUIREMENTS**

### **1 SECURITY CLASSIFICATIONS AND CONTROLS**

- 1.1 The Contractor shall, unless otherwise Approved by the Authority in writing, only have access to and handle Information Assets and Authority Data that are classified under the Government Security Classifications Scheme as OFFICIAL.
- 1.2 There may be a specific requirement for the Contractor in some instances on a limited 'need to know basis' to have access to and handle Information Assets and Authority Data that are classified as 'OFFICIAL-SENSITIVE'.
- 1.3 The Contractor shall apply the minimum security controls required for OFFICIAL information and OFFICIAL-SENSITIVE information as described in Cabinet Office guidance, currently at: [Government Security Classifications Policy June 2023.docx](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/115441/government-security-classifications-policy-june-2023.docx) ([publishing.service.gov.uk](https://www.publishing.service.gov.uk)).
- 1.4 The Contractor shall be able to demonstrate to the Authority and any assurer that it has taken into account the "Technical Controls Summary" for OFFICIAL (in the above guidance) in designing and implementing the security controls in the Contractor System, which shall be subject to assurance to Government standards.
- 1.5 Additional controls may be required by the Authority and any assurer where there are aspects of data aggregation.

### **2 END USER DEVICES**

- 2.1 Authority Data shall, wherever possible, be held and accessed on paper or in the ICT Environment on secure premises and not on removable media (including laptops, removable discs, CD-ROMs, USB memory sticks, PDAs and media card formats) without Approval. If Approval is sought to hold and access data by other means, the Contractor shall consider the second-best option and third best option below and record the reasons why a particular approach should be adopted when seeking Approval:
  - (a) second best option means: secure remote access so that data can be viewed or amended over the internet without being permanently stored on the remote device, using products meeting the FIPS 140-2 standard or equivalent, unless Approved;
  - (b) third best option means: secure transfer of Authority Data to a remote device at a secure site on which it will be permanently stored, in which case the Authority Data and any links to it shall be protected at least to the FIPS 140-2 standard or equivalent, unless otherwise Approved, and noting that protectively marked Authority Data must not be stored on privately owned devices unless they are protected in this way.



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- 2.2 The right to transfer Authority Data to a remote device should be carefully considered and strictly limited to ensure that it is only provided where absolutely necessary and shall be subject to monitoring by the Contractor and Authority.
- 2.3 Unless otherwise Approved, when Authority Data resides on a mobile, removable or physically uncontrolled device, it shall be:
- (a) the minimum amount that is necessary to achieve the intended purpose and should be anonymised if possible;
  - (b) stored in an encrypted form meeting the FIPS 140-2 standard or equivalent and using a product or system component which has been formally assured through a recognised certification process of NCSC to at least Foundation Grade, for example, under the NCSC Commercial Product Assurance scheme ("**CPA**") or equivalent, unless otherwise Approved;
  - (c) protected by an authentication mechanism such as a password; and where possible, Multi-Factor Authentication ("**MFA**");
  - (d) have up to date software patches, anti-virus software and other applicable security controls to meet the requirements of this Schedule 7; and
  - (e) Devices used to access or manage Authority Data shall be under the management authority of the Contractor and have a minimum set of security policy configurations enforced. Unless otherwise Approved, all Contractor devices shall satisfy the security requirements set out in the NCSC End User Devices Platform Security Guidance ("**NCSC Guidance**") (<https://www.gov.uk/government/collections/end-user-devices-security-guidance--2>) or equivalent.
- 2.4 Where the NCSC Guidance highlights shortcomings in a particular platform the Contractor may wish to use, then these should be discussed with the Authority and a joint decision shall be taken on whether the residual risks are acceptable. If the Contractor wishes to deviate from the NCSC Guidance, this should be agreed in writing with the Authority on a case-by-case basis.

### **3 DATA STORAGE, PROCESSING, MANAGEMENT, TRANSFER AND DESTRUCTION**

- 3.1 The Parties recognise the need for Authority Data to be safeguarded and for compliance with the Data Protection Legislation. To that end, the Contractor shall inform the Authority the location within the United Kingdom where Authority Data is stored, processed and managed. The import and export of Authority Data from the Contractor System must be strictly controlled and recorded.
- 3.2 The Contractor shall inform the Authority of any changes to the location within the United Kingdom where Authority Data is stored, processed and managed and shall not transmit, store, process or manage Authority Data outside of the United Kingdom without Approval from the Authority.



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- 3.3 The Contractor shall ensure that the Contractor System provides internal processing controls between security domains to prevent the unauthorised high domain exporting of Authority Data to the low domain if there is a requirement to pass data between different security domains.
- 3.4 The Contractor shall ensure that any electronic transfer of Authority Data:
- (a) protects the confidentiality of the Authority during transfer through encryption suitable for the impact level of the data; this must be a minimum of Transport Layer Security ("TLS") 1.2 or higher;
  - (b) maintains the integrity of the Authority Data during both transfer and loading into the receiving system through suitable technical controls for the impact level of the data; and
  - (c) prevents the repudiation of receipt through accounting and auditing.
- 3.5 The Contractor shall:
- (a) protect Authority Data, including Personal Data, whose release or loss could cause harm or distress to individuals and ensure that this is handled as if it were confidential while it is stored and/or processed;
  - (b) ensure that all OFFICIAL-SENSITIVE information, including Personal Data is encrypted in transit and when at rest when stored away from the Contractor's controlled environment;
  - (c) on demand, provide the Authority with all Authority Data in an agreed open format;
  - (d) have documented processes to guarantee availability of Authority Data if it ceases to trade;
  - (e) securely destroy all media that has held Authority Data at the end of life of that media in accordance with any requirements in the Contract and, in the absence of any such requirements, in accordance with Good Industry Practice;
  - (f) securely erase any or all Authority Data held by the Contractor when requested to do so by the Authority;
  - (g) ensure that all material used for storage of Confidential Information is subject to controlled disposal and the Contractor shall:
    - (i) destroy paper records containing Personal Data by incineration, pulping or shredding so that reconstruction is unlikely; and
    - (ii) dispose of electronic media that was used for the processing or storage of Personal Data through secure destruction, overwriting, erasure or degaussing for re-use to comply with NCSC Guidance.



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### **4 NETWORKING**

- 4.1 Any Authority Data transmitted over any public network (including the internet, mobile networks or un-protected enterprise network) or to a mobile device shall be encrypted using a product or system component which has been formally assured through a certification process recognised by NCSC, to at least Foundation Grade, for example, under CPA or compliant encrypted networking services or equivalent unless none are available in which case the Contractor shall agree the solution with the Authority.
- 4.2 The Contractor shall ensure that the configuration and use of all networking equipment in relation to the provision of the Services, including equipment that is located in secure physical locations, shall be at least compliant with Good Industry Practice.

### **5 SECURITY ARCHITECTURES**

- 5.1 When designing and configuring the ICT Environment (to the extent that this is within the control of the Contractor) the Contractor shall follow Good Industry Practice and seek guidance from recognised security professionals with the appropriate skills for all bespoke or complex components.
- 5.2 The Contractor shall provide to the Authority and any assurer sufficient design documentation detailing the security architecture of the ICT Environment and data transfer mechanism to support the Authority's and any assurer's assurance that this is appropriate, secure and compliant with the Authority's requirements.
- 5.3 The Contractor shall apply the 'principle of least privilege' (the practice of limiting systems, processes and user access to the minimum possible level) to the design and configuration of the ICT Environment used for the storage, processing and management of Authority Data. Users should only be granted the minimum necessary permissions to access Information Assets and Authority Data and must be automatically logged out of the Contractor System if an account or session is inactive for more than fifteen (15) minutes.

### **6 DIGITAL CONTINUITY**

The Contractor shall ensure that each Information Asset is held in an appropriate format that is capable of being updated from time to time to enable the Information Asset to be retrieved, accessed, used and transferred to the Authority, including in accordance with any information handling procedures set out in the Information Security Policy Framework if applicable.

### **7 IDENTITY, AUTHENTICATION AND ACCESS CONTROL**

The Contractor shall operate a robust role-based access control regime, including network controls, to ensure all users and administrators of and those maintaining the ICT Environment are uniquely identified and authenticated when accessing or administering the ICT Environment to prevent unauthorised users from gaining access to Information Assets and/or Authority Data. Applying the 'principle of least privilege', users and administrators and those responsible for maintenance shall be allowed



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access only to those parts of the ICT Environment they require. The Contractor shall retain an audit record of accesses and users and disclose this to the Authority upon request.

### 8 PHYSICAL MEDIA

The Contractor shall ensure that all:

- (a) OFFICIAL information is afforded physical protection from internal, external and environmental threats commensurate with the value to the Authority of that information; and
- (b) physical components of the Contractor System are kept in secure accommodation which conforms to the Information Security Policy Framework and NCSC standards and guidance or equivalent.

### 9 AUDIT AND MONITORING

- 9.1 The Contractor shall implement effective monitoring of its information assurance and security obligations in accordance with Government standards and where appropriate, in accordance with NCSC Guidance.
- 9.2 The Contractor shall collect audit records which relate to security events in the ICT Environment (where this is within the control of the Contractor), including those that would support the analysis of potential and actual compromises. To facilitate effective monitoring and forensic readiness, such Contractor audit records shall include:
  - (a) logs to facilitate the identification of the specific asset which makes every outbound request external to the ICT Environment (to the extent it is within the control of the Contractor). To the extent, the design of the ICT Environment allows, such logs shall include those from DHCP servers, HTTP/HTTPS proxy servers, firewalls and routers;
  - (b) regular reports and alerts giving details of access by users of the ICT Environment (to the extent that it is within the control of the Contractor) to enable the identification of changing access trends any unusual patterns of usage and/or accounts accessing higher than average amounts of Authority Data; and
  - (c) security events generated in the ICT Environment (to the extent it is within the control of the Contractor) including account logon and logoff events, start and end of remote access sessions, security alerts from desktops and server operating systems and security alerts from third party security software.
- 9.3 The Parties shall work together to establish any additional audit and monitoring requirements for the ICT Environment.
- 9.4 The Contractor shall retain audit records collected in compliance with Paragraph 9.1 for at least 12 months.



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## **SCHEDULE 8 – ACCESS TO PRISONS**



## Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

### 1 DEFINITIONS

- 1.1 In this Schedule 8, the following words shall have the following meanings and they shall supplement Schedule 1 (*Definitions*):

**"ID"** has the meaning given to it in Paragraph 2.1 of this Schedule 8;

**"Local Security Strategy" or "LSS"** means the strategy created and owned by the prison establishment and outlines security procedures and processes within that prison. A prison's LSS is specific to the risks identified in that establishment whilst aligning to the National Security Framework; and

**"Prison Rules"** has the meaning given to it in Paragraph 3.3 of this Schedule 8.

### 2 ACCESS TO THE PRISON

- 2.1 Prison establishments (including all Prisons) adhere to the requirements set out in [Security vetting: PSI 07/2014](#) and [Security vetting: additional risk criteria for ex-offenders, PSI 27/2014](#). All persons (including the Contractor and Staff) working at a Prison are required to be vetted and, subject to satisfactory completion of approval procedures, will be issued with a prison Security Pass ("**ID**") by the Authority.
- 2.2 The Contractor, and Staff issued with an ID by the Authority shall promptly return such ID to the Prison if:
- (a) at any time the Authority so requires;
  - (b) any person to whom an ID was issued ceases to be involved in the performance of the Services; and/or
  - (c) on expiry or termination of the Contract.
- 2.3 The level of security clearance varies according to the security category of the Prison. Prisons will ensure that before being allowed access to the Prison, the Contractor and Staff have acquired the security competences appropriate to the environment in which they are to be employed.
- 2.4 Visitors to the Prison must provide appropriate identification and follow local procedures for approval of the visit. Day passes will be issued to visitors who will then be escorted by a member of staff whilst in the Prison. Day passes must be returned on leaving the Prison.
- 2.5 Day passes and security ID remain the responsibility of the individual. These must be visibly worn whilst in the Prison. Any Staff/visitor who contravene any of the conditions





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on the basis of which a pass was issued, may be refused admission to the Prison or be required to leave the Prison if already there.

- 2.6 All persons working within a Prison must adhere to the requirements set out in the Counter Corruption and Reporting Wrongdoing Policy Framework. This policy framework applies to all HMPPS staff and non-directly employed persons and outlines the responsibility to report suspicions of wrongdoing and corruption at the earliest opportunity through the appropriate channels. HMPPS defines corruption as a person in a position of authority or trust who abuses their position for benefit or gain for themselves or for another person.
- 2.7 The Prison will be responsible for providing a local induction to all Staff which will include all security procedures. Whilst at the Prison, Staff must comply with all security measures and the PSI 06/2021 Conduct and Discipline as amended from time to time. The Authority shall provide/make available copies of its local security procedures to the Contractor on the Authority's ICT System.
- 2.8 The Contractor and Staff are prohibited from taking any photographs at Prisons unless they have Approval and the Governor (or such person to whom the Governor may delegate responsibility to) is present so far as to have full control over the subject matter of each photograph to be taken. No such photograph shall be published or otherwise circulated without Approval.
- 2.9 The Contractor and Staff shall co-operate with any investigation relating to security which is carried out by any person at the Prison responsible for security matters on the Prison's behalf. If required, the Contractor shall take all reasonable measures to make any person required by the Prison available for interview.
- 2.10 During any investigation carried out by HMPPS staff, individuals may be accompanied by and be advised or represented by another person whose attendance at the interview is acceptable to the Authority; and subject to any legal restriction on their disclosure, provide all documents, records or other material of any kind and in whatever form which may be reasonably required by the Authority for the purposes of investigation as long as the provision of that material does not prevent the Contractor from performing the services. The Authority may retain any such material for use in connection with the investigation and, as far as possible, may provide the Contractor with a copy of any material retained.

### **3 SEARCHING PROCEDURES**

- 3.1 All physical searching of individuals, vehicles or materials will be carried out by the Authority in accordance with the Searching Policy Framework.
- 3.2 The Contractor and Staff shall be aware of and comply with the Laws and Prison Rules referred to in Paragraph 3.3 to 3.4 below.
- 3.3 Prison Rule 71 of Part IV of the Prison Rules 1999 as amended by the Prison (Amendment) Rules 2005 (the Prison Rules) are the main statutory provision



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governing when and how any person entering or leaving a prison may be searched. It provides that:

- (a) any person or vehicle entering or leaving a Prison may be stopped, examined and searched;
  - (b) any such search of a person shall be carried out in as seemly a manner as is consistent with discovering anything concealed about the person or their belongings;
  - (c) the Governor may direct the removal from a Prison of any person who does not leave on being required to do so.
- 3.4 Section 86 of the Criminal Justice Act 1991 (as varied, extended or replaced from time to time) extends search powers to Prison Custody Officers (equivalent of Prison Officers in public sector prisons) at private prisons.
- 3.5 Depending on the category of the Prison, searching procedures may include any or all of the following:
- (a) Staff/all Visitors (to include the Contractor, Staff and day visitors) must empty their pockets, remove outer clothing, and empty food, drink, and keys from their bag into the tray provided at the gate;
  - (b) A member of Staff may pass the tray through an x-ray baggage scanner;
  - (c) A member of Staff may examine the contents emptied into the tray and provide an examination of the items remaining in the bag. This examination will involve checking all areas of the bag, including pockets, for non-authorized items. To ensure an efficient search process, the Prison may mandate that type of bag used by visitors carry their belongings into the prison. This should be recorded in the Local Security Strategy;
  - (d) Staff may/visitors may be required to walk through an archway metal detector. If the warning light or alarm sounds, Prison staff will undertake a further search using a hand-held metal detector wand. All alarms must be explored, and the source of the alarm must be identified wherever possible.

## 4 FULL SEARCH STAFF AND VISITORS

- 4.1 All visitors attending a Prison may be subject to search at any time.
- 4.2 Full searches of both Staff and visitors can be carried out under Prison Rule 64 of the Prison Rules or Prison Rule 71 of the Prison Rules provided that the condition(s) set out in one of the statutory powers (all as varied, extended or replaced from time to time) below is fulfilled:
- (a) [section 47 of the Firearms Act 1968;](#)



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- (b) [section 23 of the Misuse of Drugs Act 1971](#); and/or
- (c) [section 32 of the Police and Criminal Evidence Act 1984](#).

## **5 CONVEYANCE OF ITEMS INTO AND OUT OF PRISON ESTABLISHMENTS**

- 5.1 Searches, including rub down searches, shall be conducted only on the specific authority of the Authority under the same rules and conditions applying to the Authority's staff and/or visitors. The Contractor, as such, is required to comply with section 8 of the Prison Act 1952 (which sets out a Prison Officers powers of a constable) and the Searching Policy Framework.
- 5.2 Where the conveyance of an item does not form part of a person's normal duties (and therefore Crown immunity would not be available), there must be specific authorisation under the terms of section 40B (for list A items) or 40E (for other authorisations) of the Prison Act 1952 (as varied, extended or replaced from time to time).
- 5.3 Any item being taken into or out of a Prison and their use must be locally approved. This includes the following:
  - (a) Laptops and any IT components (MiFi, USB etc);
  - (b) Prisoner records;
  - (c) Cameras;
  - (d) Mobile phones; and
  - (e) Recording devices.

## **6 OFFENCES AND AUTHORISATION**

- 6.1 In providing the Services, the Contractor shall comply with PSI 10/2012 (Conveyance and Possession of Prohibited Items and Other Related Offences), PSI 06/2010 Conduct and Discipline and other applicable provisions relating to security as published, varied, extended or replaced by the Authority from time to time.
- 6.2 Nothing in the Contract is deemed to provide any "authorisation" to the Contractor in respect of any provision of the Prison Act 1952, Offender Management Act 2007, Crime and Security Act 2010, Serious Crime Act 2015 (all as varied, extended or replaced from time to time) or any other relevant legislation.



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# **SCHEDULE 9 – STATUTORY OBLIGATIONS AND CORPORATE SOCIAL RESPONSIBILITY**



**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))**

## 1 DEFINITIONS

1.1 In this Schedule 9, the following words shall have the following meanings and they shall supplement Schedule 1 (*Definitions*):

**“Anti-Slavery Policy”** has the meaning given to it in Paragraph 1.1(b) of this Schedule 9;

**"Associated Person(s)"** has the meaning given to in section 44(4) of the Criminal Finances Act 2017;

**“Code”** has the meaning given to it in Paragraph 2.1 of this Schedule 9;

**“Environmental Policy”** means the policy to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Authority as detailed in [https://www.gov.uk/government/publications/environmental-principles-policy-statement#definitions](https://www.gov.uk/government/publications/environmental-principles-policy-statement/environmental-principles-policy-statement#definitions);

**“Health and Safety Policy”** means the health and safety policy of the Authority, Prison and/or other relevant Central Government Body as provided to the Contractor on or before the Effective Date and as subsequently provided to the Contractor from time to time except any provision of any such subsequently provided policy that cannot be reasonably reconciled to ensuring compliance with applicable Law regarding health and safety;

**“Modern Slavery Helpline”** means the point of contact for reporting suspicion, seeking help or advice and information on the subject of modern slavery available by telephone on 08000 121 700 or online at: <https://www.modernslaveryhelpline.org/report>;

**“MSA”** means the Modern Slavery Act 2015;

**“Prescribed Person”** a legal adviser, an MP, or an appropriate body which a whistleblower may make a disclosure to as detailed in ‘Whistleblowing: list of prescribed people and bodies’, available online at: <https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>, as updated from time to time;

**“Prohibited Act”** means:



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- (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 this Contract;
- (c) an offence:
  - (iii) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);
  - (iv) under legislation or common law concerning fraudulent acts; or
  - (v) the defrauding, attempting to defraud or conspiring to defraud the Authority (including offences by the Contractor under Part 3 of the Criminal Finances Act 2017);
- (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;

**“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;

**“Sustainability Reports”**

means the written reports to be completed by the Contractor containing the information outlined in Table A in Paragraph 15 of this Schedule 9; and

**“Waste Hierarchy”**

means prioritisation of waste management in the following order of preference as set out in the Waste (England and Wales) Regulation 2011:

- (a) Prevention;
- (b) Preparing for re-use;
- (c) Recycling.



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**2 WHAT THE AUTHORITY EXPECTS FROM THE CONTRACTOR**

- 2.1 In February 2019, His Majesty's Government published a Supplier Code of Conduct (the "**Code**") setting out the standards and behaviours expected of Contractor and its Sub-Contractors who work with government. The Code can be accessed via the link set out in Schedule 28 (*Policies and Procedures*), as amended from time to time.
- 2.2 The Authority expects the Contractor and its Sub-Contractors to comply with their legal obligations, in particular those set out in Part 1 of this Schedule 9, and to meet the standards set out in the Code as a minimum. The Authority also expects the Contractor and its Sub-Contractors to use reasonable endeavours to comply with the standards set out in Part 2 of this Schedule 9.



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**Part 1 - STATUTORY OBLIGATIONS**

**3 EQUALITY AND ACCESSIBILITY**

3.1 In addition to legal obligations, where the Contractor is providing a Service to which the Public Sector Equality duty applies, the Contractor shall support the Authority in fulfilling its Public Sector Equality duty under section 149 of the Equality Act 2010 by ensuring that it fulfils its obligations under each Contract in a way that seeks to:

- (a) eliminate discrimination, harassment or victimisation of any kind and any other conduct prohibited by the Equality Act 2010; and
- (b) advance;
  - (i) equality of opportunity; and
  - (ii) good relations;

between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

3.2 The Contractor shall

- (a) perform its obligations under this Contract (including those in relation to the Services) 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, to be provided to the Contractor by the Authority 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).

3.3 The Contractor shall ensure that it fulfils its obligations under this Contract in a way that does not discriminate against individuals because of socio-economic background, working pattern or having parental or other caring responsibilities.





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### 4 MODERN SLAVERY

4.1 The Contractor shall, and procure that each of its Sub-Contractors shall, comply with:

- (a) the MSA; and
- (b) the Authority's anti-slavery policy as provided to the Contractor from time to time ("**Anti-Slavery Policy**").

4.2 The Contractor shall:

- (a) not use, nor allow its sub-contractors to use forced, bonded or involuntary prison labour;
- (b) not require any Staff or the personnel of any sub-contractors to lodge deposits or identity papers with their employer and shall be free to leave their employer after reasonable notice;
- (c) make reasonable enquires to ensure that its officers, employees and sub-contractor have not been convicted of slavery or human trafficking offences anywhere around the world;
- (d) have and maintain throughout the Term its own policies and procedures to ensure its compliance with the MSA and include in its contracts with its sub-contractors anti-slavery and human-trafficking provisions;
- (e) not use, nor allow its employees or sub-contractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or sub-contractors;
- (f) not use or allow child or slave labour to be used by its sub-contractors;
- (g) implement due diligence procedures for its Sub-Contractors and other participants in its supply chain, to ensure that there is no slavery or trafficking in its supply chains;
- (h) 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;
- (i) 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;
- (j) maintain a complete set of records to trace the supply chain of all Services provided to the Authority regarding the Contract;
- (k) report the discovery or suspicion of any slavery or trafficking by it or its Sub-Contractors to the Authority and to the Modern Slavery Helpline; and



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- (l) implement a system of training for its employees to ensure compliance with the MSA.

4.3 The Contractor 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 MSA 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 Contractor nor any of its Sub-Contractors, nor any other persons associated with it:
  - (i) has been convicted of any offence involving slavery and human trafficking anywhere in the world;
  - (ii) has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body in relation to any allegation of slavery or human trafficking offences anywhere in the world; and/or
  - (iii) 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.

4.4 The Contractor 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.

4.5 If the Contractor notifies the Authority pursuant to Paragraph 4.4 of this Schedule 9, 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.

4.6 If the Contractor is in Default under Paragraphs 4.2 or 4.3 of this Schedule 9 the Authority may by notice:

- (a) require the Contractor to remove from performance of this Contract any Sub-Contractor, Staff or other persons associated with it whose acts or omissions have caused the Default; or
- (b) immediately terminate this Contract.



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## **5 INCOME SECURITY**

The Contractor 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.

## **6 WORKING HOURS**

The Contractor 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 forty-eight (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 (7) day period shall not exceed sixty (60) hours, except where covered by Paragraph 1.1(e);
- (e) working hours do not exceed sixty (60) hours in any seven (7) 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;



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- (iii) appropriate safeguards are taken to protect the workers' health and safety; and
- (iv) the Contractor can demonstrate that exceptional circumstances apply such as during unexpected production peaks, accidents or emergencies;
- (f) all Staff are provided with at least:
  - (i) one (1) day off in every seven (7) day period; or
  - (ii) where allowed by Law, two (2) days off in every fourteen (14) day period.

## 7 RIGHT TO WORK

The Contractor 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.

## 8 HEALTH AND SAFETY

- 8.1 The Contractor shall perform its obligations under the Contract in accordance with:
- (a) all applicable Law regarding health and safety; and
  - (b) the Authority's or the Prison's Health and Safety Policy (as may be provided to the Contractor from time to time) while at the Authority's Premises.
- 8.2 Each Party shall notify the other (and the Prison) 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 Contractor shall instruct Staff to adopt any necessary safety measures in order to manage the risk.

## 9 WELSH LANGUAGE REQUIREMENTS

The Contractor 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.

## 10 FRAUD AND BRIBERY

- 10.1 The Contractor represents and warrants that neither it, nor to the best of its knowledge any Staff, have at any time prior to the Effective Date:



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- (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.

**10.2 The Contractor 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.

**10.3 The Contractor 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;
- (b) have in place reasonable prevention measures (as defined in section 45(3) and 46(4) of the Criminal Finance Act 2017) to ensure that Associated Persons of the Contractor do not commit tax evasion facilitation offences as defined under that Act;
- (c) keep appropriate records of its compliance with its obligations under Paragraph 10.3(a) and make such records available to the Authority on request; and
- (d) take account of any guidance about preventing facilitation of tax evasion offences which may be published and updated in accordance with section 47 of the Criminal Finances Act 2017.

**10.4 The Contractor shall immediately notify the Authority in writing if it becomes aware of any breach of Paragraphs 10.1 and/or 10.2, 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



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suspects that any person directly or indirectly connected with the Contract has committed or attempted to commit a Prohibited Act.

- 10.5 If the Contractor notifies the Authority pursuant to Paragraph 10.4, the Contractor 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.
- 10.6 If the Contractor is in Default under Paragraphs 10.1 and/or 10.2, the Authority may by notice:
- (a) require the Contractor to remove from performance of the Contract any Staff whose acts or omissions have caused the Default; or
  - (b) immediately terminate the Contract.
- 10.7 Any notice served by the Authority under Paragraph 10.6 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).

## 11 WHISTLEBLOWING

- 11.1 As soon as it is aware of it the Contractor and Staff must report to the Authority any actual or suspected breach of:
- (a) Law;
  - (b) Paragraphs 3 (*Equality and Accessibility*), 4 (*Modern Slavery*), 8 (*Health and Safety*), 10 (*Fraud and Bribery*), 11.2 and 12 (*Official Secrets Act and Finance Act*) of this Schedule 9;
  - (c) B12 (*Employment*); or
  - (d) I4 (*Conflicts of Interest*).
- 11.2 The Contractor must not retaliate against any of the Staff who in good faith reports a breach listed in this Paragraph 11 to the Authority or the Prescribed Person.

## 12 OFFICIAL SECRETS ACT AND FINANCE ACT

The Contractor shall comply with the provisions of:

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



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### Part 2 - CORPORATE SOCIAL RESPONSIBILITY

#### 13 ZERO HOURS CONTRACTS

- 13.1 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.
- 13.2 When offering zero hours contracts, the Contractor 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 or with notice given by either party.

#### 14 ENVIRONMENTAL REQUIREMENTS

- 14.1 The Contractor must perform its obligations meeting in all material respects the requirements of all applicable Laws regarding the environment.
- 14.2 In performing its obligations under the Contract, the Contractor shall, where applicable to this Contract, to the reasonable satisfaction of the Authority:
- (a) demonstrate low carbon resource efficiency, including minimising the use of resources and responding promptly to the Authority's reasonable questions;
  - (b) prioritise waste management in accordance with the Waste Hierarchy as set out in Law;
  - (c) be responsible for ensuring that any waste generated by the Contractor and sent for recycling, disposal or other recovery as a consequence of this Contract is taken by a licensed waste carrier to an authorised site for treatment or disposal and that the disposal or treatment of waste complies with the Law;
  - (d) ensure that it and any third parties used to undertake recycling disposal or other recovery as a consequence of this Contract do so in a legally compliant way, and can demonstrate that reasonable checks are undertaken to ensure this on a regular basis and provide relevant data and evidence of recycling, recovery and disposal;
  - (e) in circumstances that a permit, licence or exemption to carry or send waste generated under this Contract is revoked, the Contractor shall cease to carry or send waste or allow waste to be carried by any Sub-Contractor until authorisation is obtained from an environment agency; minimise the release of



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greenhouse gases (including carbon dioxide emissions), air pollutants, volatile organic compounds and other substances damaging to health and the environment; and

- (f) reduce and minimise carbon emissions by taking into account factors including, but not limited to, the locations from which materials are sourced, the transport of materials, the locations from which the work force are recruited and emissions from offices and on-site equipment.

14.3 The Contractor shall meet the applicable Government Buying Standards applicable to Services which can be found via the link in Schedule 28 (*Policies and Procedures*).

14.4 The Contractor shall:

- (a) perform its obligations under the Contract in a way that:
  - (i) supports the Authority's achievement of the Greening Government Commitments;
  - (ii) conserves energy, water, wood, paper and other resources; and
  - (iii) reduces waste and avoids the use of ozone depleting substances;
- (b) minimises the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment when working on the Authority Premises, perform its obligations in accordance with the Environmental Policy of the Authority (as provided to the Contractor from time to time); and
- (c) ensure that Staff are aware of the Authority's environmental policies.

## 15 REPORTING REQUIREMENTS

15.1 The Contractor shall comply with reasonable requests by the Authority for information evidencing compliance:

- (a) with Paragraphs 2, 3.1, 14.1 to 14.4 to this Schedule 9 within fourteen (14) days of such request; and
- (b) with Paragraphs 3.2 and 3.3 of this Schedule 9 within thirty (30) days of such request,

provided that such requests are limited to two per Contract Year, other than in consultation with the Contractor, in exceptional circumstances, the Authority may from time to time reasonably request more frequent reporting (and the Contractor shall comply with such requests).

15.2 The Contractor shall complete the Sustainability Report in relation its provision of the Services under this Contract and provide the Sustainability Report to the Authority on the date and frequency outlined in Table A of this Schedule 9.





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**Table A - SUSTAINABILITY REPORTS**

<b>Sustainability Report Name</b>	<b>Content of Report</b>	<b>Frequency of Report</b>
<b>Sustainability General</b>	- As proportionate and relevant to the Contract: <ul style="list-style-type: none"><li>• the key sustainability impacts identified; and</li><li>• the sustainability improvements planned or delivered.</li></ul>	On the anniversary of the Effective Date



**Ministry of  
JUSTICE**

**OFFICIAL SENSITIVE**

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# **SCHEDULE 10 – DATA PROCESSING**



## OFFICIAL SENSITIVE

### Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

#### 1. DEFINITIONS

- 1.1 In this Schedule 10, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

**"Data Map"** means the data map as set out in Appendix 2 to this Schedule 10;

**"Data Mapping"** means documenting data flows amongst the parties and associated personal data processing activities undertaken by the Parties, as applicable, which would enable and facilitate the provision of the Services, including without limitation carrying out a Data Protection Impact Assessment;

**"Data Protection Officer"** means the designated individual under Article 37 UK GDPR who is responsible for data protection compliance, including informing and advising on UK GDPR, monitoring compliance, advising on data protection impact assessments and cooperating with the Information Commissioner's Office;

**"Data Subject 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;

**"Data Protection Legislation"** means the Data Protection Act 2018, the General Data Protection Regulation (2016/279) ("**GDPR**") as it forms part of the laws of the United Kingdom by virtue of the Data Protection Act 2018 and the European Union (Withdrawal) Act 2018 ("**UK GDPR**"), the Privacy and Electronic Communications Regulations 2003 and all applicable laws and regulations relating to the processing of Personal Data and privacy, including any legislation and regulations that replaces, repeals and/or supersedes any of the foregoing;

**"Originating Controller"** means as it is defined in Paragraph 3.2 of this Schedule 10;

**"Permitted Purpose(s)"** are as specified in Part 1 of Appendix 1 to this Schedule 10;



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**"Processor Personnel"** means all directors, officers, employees, agents, consultants and suppliers of the Processor and/or Sub processor engaged in the performance of its obligations under a Contract;

**"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; and

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

The terms **"Controller"**, **"Data Subject"**, **"Data Protection Impact Assessment"**, **"Joint Controller"**, **"Personal Data"**, **"Personal Data Breach"**, **"Processing"** and **"Processor"** shall have the meanings as in the UK GDPR; and their cognate terms shall be construed accordingly and **"Processed"** and **"Process"** shall be construed with the Contractor's provision of the Services and undertaking its obligations under this Contract.

## 2. STATUS OF THE PARTIES

- 2.1 For the purpose of this Contract the Authority is appointed to act for and on behalf of itself and the Related Third Parties to provide instructions and to manage the relationship with the Contractor in relation to the provision of the Services.
- 2.2 Without prejudice to any other term of this Contract, the Related Third Party(s) shall, to the extent applicable, take the benefit of this Schedule 10 and the Contractor acknowledges and agrees that it shall comply with its obligations set out in this Schedule 10 for the benefit of the Authority and each Related Third Party. In respect of any obligation(s) which are required to be performed by the Authority, the Authority shall ensure that the Authority or as applicable the Related Third Party performs such obligation(s). Any Loss suffered or incurred by a Related Third Party due to a breach of this Schedule 10 shall be considered a direct Loss of the Authority and the Authority shall be able to recover the same under and in accordance with the terms of this Contract.
- 2.3 Each of the Parties including the personnel of each Party (personnel shall include the Processor's Personnel) will comply with all applicable requirements of the Data Protection Legislation and shall not knowingly or negligently by any act or omission, place the other Party in breach, or potential breach of Data Protection Legislation. This Paragraph 2.3 is in addition to and does not relieve, remove, or replace a Party's obligations under the Data Protection Legislation.
- 2.4 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under this Contract, will determine the status of each Party under the Data Protection Legislation. The



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Parties acknowledge and agree that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under this Contract, will determine the status of each Party in respect of the Data Protection Legislation. A Party may act as:

- (a) a Controller (acting independently of the other Party (or the Related Third Parties), by way of processing the Personal Data obtained in the course of this Contract for its own purpose, and determining itself the means and manner of such processing);
- (b) a Processor acting for and on behalf of the other Party; and/ or
- (c) a Joint Controller (processing the same Personal Data as the other Party (or the Related Third Party) and determining together with the other Party (or the Related Third Party) the means and manner of such processing).

- 2.5 The roles of each Party in relation to the Personal Data being processed under and in accordance with this Contract and in respect of certain categories of Personal Data is as set out at Appendix 1.
- 2.6 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Authority may on not less than thirty (30) Working Days' notice to the Contractor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 2.7 The Parties agree to take account of any data sharing agreement, protocol or Authority policy (including without limitation [Information Sharing Policy Framework - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policies/information-sharing-policy-framework), [the Security Policy Framework](https://www.gov.uk/government/policies/the-security-policy-framework) (as referred to in Schedule 28 (*Policies and Procedures*))), issued by the Authority or any Related Third Party or Government Department which provides for the processing and sharing of Personal Data between the Authority, a Related Third Party and each other. The Contractor agrees, where required, that the Authority may, at any time on not less than thirty (30) Working Days' written notice to the Contractor, amend this Schedule 10 to ensure that it complies with any terms of such data sharing agreement, protocol or Authority Policy.
- 2.8 The Contractor shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, include:
- (a) a systematic description of the envisaged processing and the purpose of the processing;
  - (b) an assessment of the necessity and proportionality of the processing in relation to the Services;
  - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
- 2.9 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal DataOne (1) month prior to the Services



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Commencement Date, the Contractor shall provide to the Authority details of how it plans to comply with its obligations under this Schedule 10 and its obligations under Data Protection Legislation, including:

- (a) copies of data sharing agreements and all necessary agreements and arrangements (including with any Sub Processor engaged) and an update as to the status of such agreements and arrangements;
- (b) comments and any suggested revisions to the Data Map; and
- (c) a copy of the fair processing notices the Contractor may be mandated to provide pursuant to Data Protection Legislation and this Schedule 10,

(together referred to as the "**Data Protection Roadmap**").

- 2.10 Within thirty (30) Working Days, or such other period as notified by the Authority, of receipt of the Data Protection Roadmap, the Authority shall either confirm its acceptance of the Data Protection Roadmap, or mandate amendments to the Data Protection Roadmap, to the extent required to ensure compliance with the Data Protection Legislation and this Schedule 10. In mandating such changes to the Data Protection Roadmap, the Authority shall act reasonably and in good faith.
- 2.11 The Contractor will keep the Data Protection Roadmap updated for the duration of the Contract and will notify the Authority of any proposed changes to the Data Protection Roadmap within five (5) Working Days of proposing such change, following which the process in Paragraph 2.9 shall apply. Regardless of any changes to the Data Protection Roadmap, the Contractor shall be subject to, comply with and give full attention and support to an annual compliance and assurance process, carried out by the Authority. To the extent the Authority is not satisfied with the outcome of such, the Contractor shall allow for audit by the Authority and/or its designated auditor, in respect of compliance with Data Protection Legislation and this Schedule 10.
- 2.12 The Parties each acknowledge and agree that they may need to process Personal Data relating to each Party's representatives (in their respective capacities as Controllers) in order to (as appropriate): (a) administer and provide the Services; (b) request and receive the Services; (c) compile, dispatch and manage the payment of invoices relating to the Services; (d) manage the Contract and resolve any disputes relating to it; (e) respond and/or raise general queries relating to the Service; (f) confirm identification and security for systems access and (g) comply with their respective obligations. The Parties shall process this Personal Data as independent Controllers.
- 2.13 Each Party shall process such Personal Data relating to each Party's representatives for the purposes set out in Paragraph 2.12 in accordance with their own privacy policies. The Parties acknowledge that they may be required to share Personal Data with their Affiliates, group companies and other relevant parties, in order to carry out the activities listed in Paragraph 2.12, and in doing so each Party will ensure that the sharing and use of this Personal Data complies with applicable Data Protection Legislation. No data by either Party shall be transferred to or shared with a party located outside the UK.



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### **3. INDEPENDENT CONTROLLERS OF PERSONAL DATA**

3.1 Save in relation to contact Personal Data processed by the Parties in accordance with Paragraph 2.12, where and to the extent the Contractor is acting as an independent Controller (except in limited circumstances as a Joint Controller, in which case Paragraph 4 shall apply), and processing Personal Data in its provision of the Services and compliance with its obligations under this Contract the conditions set out in this Paragraph 3.2 shall apply. For the purpose of this Paragraph 3.2, the Party from whom the Personal Data originates shall also be referred to as the "**Originating Controller**".

- (a) The Contractor shall:
  - (i) only process the Personal Data for the Permitted Purpose (as defined in Part 1 of Appendix 1 to this Schedule 10);
  - (ii) ensure that it is registered with the Information Commissioner's Office or other such regulatory authority as required by Data Protection Legislation), and provides all due notifications including in relation to its use and processing of the Personal Data;
  - (iii) and comply at all times with the Data Protection Legislation;
  - (iv) ensure that all fair processing notices have been given to (and/or, as applicable, consents obtained and maintained from) the relevant Data Subjects, and are in accordance with the requirements of the Data Protection Legislation, Authority policies, and/or any templates, guidance, or instructions of the Authority and/or (where applicable) Originating Controller;
  - (v) maintain complete and accurate records and information to demonstrate its compliance with this Paragraph 3.1;
  - (vi) prepare and/or support the Authority and/or (where applicable) the Originating Controller in preparing, any Data Protection Impact Assessment prior to commencing any processing;
  - (vii) ensure that it has in place appropriate Protective Measures to protect against a Personal Data Breach, which the Authority and/or (where applicable) the Originating Controller may reasonably reject (but failure to reject shall not amount to approval by the Authority and/or (where applicable) the Originating Controller of the adequacy of the Protective Measures), having taken account of the:
    - (A) nature of the data to be protected;
    - (B) harm that might result from a Personal Data Breach;
    - (C) state of technological development; and
    - (D) cost of implementing any measures;



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- (viii) not transfer Personal Data outside the UK unless the prior written consent of the Authority and/or (where applicable) the Originating Controller has been obtained and the following conditions are fulfilled:
  - (A) the Contractor has implemented appropriate safeguards in relation to the transfer (in accordance with Article 46 of the UK GDPR)) as determined by the Authority and/or (where applicable) the Originating Controller, including where applicable the IDTA Addendum to the appropriate module of the SCCs and any other steps as are required to ensure such a transfer to outside the UK complies with Data Protection Legislation;
  - (B) the Data Subject has enforceable rights and effective legal remedies;
  - (C) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
  - (D) the Contractor complies with any reasonable instructions notified to it in advance by the Authority and/or (where applicable) the Originating Controller with respect to the processing of the Personal Data;
- (ix) subject to Paragraph 3.1(a)(x), notify the Authority and/or (where applicable) the Originating Controller immediately if it:
  - (A) receives a Data Subject Request (or purported Data Subject Request);
  - (B) receives a request to rectify, block or erase any Personal Data;
  - (C) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - (D) receives any communication from the Information Commissioner's Office or any other regulatory authority (including a supervisory authority as defined in the Data Protection Legislation) in connection with Personal Data processed under this Contract;
  - (E) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
  - (F) becomes aware of a Personal Data Breach;
- (x) following notification to the Authority and/or (where applicable) the Originating Controller pursuant to Paragraph 3.1(a)(ix) :
  - (A) the Contractor shall provide updates and further information to the Authority and/or (where applicable) the Originating Controller including





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(where directed by the Authority and/or (where applicable) the Originating Controller) allowing the Authority and/or (where applicable) the Originating Controller to have final oversight and approval of any response, prior to such response being released to the relevant Party;

- (B) the Contractor shall provide all support as necessary within the timescales directed by the Authority and/or (where applicable) the Originating Controller, including providing all Personal Data held by the Contractor in respect of the request, complaint or communication received to the Authority and/or (where applicable) the Originating Controller as soon as practicable and in any event within two (2) days, or as otherwise agreed by the Parties acting reasonably and in good faith;
- (xi) the Contractor's obligation to notify under Paragraph 3.1(a)(ix)(F) shall include the provision of further information to the Authority and/or (where applicable) the Originating Controller in phases, as details become available. The Contractor shall be the primary point of contact for any communication in respect of the Personal Data Breach and: (a) the Contractor shall act quickly to remedy a Personal Data Breach and minimise the impact(s) of a Personal Data Breach; and (b) the Contractor, the Authority and where relevant the Originating Controller shall work together (acting reasonably and in good faith) to formulate responses, notifications, and other communications in respect of the Personal Data Breach;
- (xii) take reasonable steps to ensure the reliability of and adequate training of any personnel who have access to the Personal Data;
- (xiii) hold the information contained in the Personal Data confidentially;
- (xiv) not do anything which shall damage the reputation of its (if applicable) or the Originating Controller's (or the Authority, where the Authority is not the Originating Controller) relationship with the Data Subjects; and
- (b) Where acting as a Controller for the purposes of the Personal Data, the Originating Controller shall:
  - (i) ensure that all fair processing notices have been given (and/or, as applicable, consents obtained), and are sufficient in scope to allow the Originating Controller to disclose the Personal Data to the Contractor in accordance with the Data Protection Legislation and for the purposes set out in the Contract; and
  - (ii) ensure that all Personal Data disclosed or transferred to, or accessed by, the Contractor is accurate and up to date, as well as adequate, relevant, and not excessive to enable the Contractor to process the Personal Data, for the Permitted Purpose.



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- (iii) at the discretion and instruction of the Authority and/or (where applicable) the Originating Controller, the Contractor shall support the Originating Controller and/or provide on the Originating Controller's behalf, all fair processing notices to the relevant Data Subjects (and/or as applicable, obtain the necessary consents of such Data Subjects), within a reasonable time frame to be determined and provided by the Authority and/or (where applicable) the Originating Controller.

3.2 Each Party warrants, represents and undertakes that it is not subject to any prohibition or restriction which would prevent or restrict it from disclosing or transferring the relevant Personal Data (as applicable) to the other Party in accordance with the terms of this Contract.

#### **4. Where the Parties are Joint Controllers of Personal Data**

4.1 To the extent that the Parties are acting as Joint Controllers in respect of Personal Data under the Contract, the parties shall implement an agreement as necessary to comply with UK GDPR Article 26 based on the terms set out in Appendix 3 of this Schedule 10 and the Parties shall comply with paragraph 4.2 below.

4.2 Each Party shall:

- (a) collaboratively ensure that all fair processing notices have been given (and/or, as applicable, consents obtained), and are sufficient in scope to allow the envisaged processing in accordance with the Data Protection Legislation and for the purposes set out in the Contract. For the purposes of this Paragraph 4.2(a) the Authority and/or Related Third Party shall have the final approval and oversight as to whether it or the Contractor is to provide any relevant fair processing notice and/or as applicable, obtain necessary consents, on behalf of both Parties;
- (b) make due notification of payment and registration to the Information Commissioner's Office (or other such regulatory authority as required by Data Protection Legislation), including in relation to its use and processing of the Personal Data and comply at all times with the Data Protection Legislation;
- (c) maintain complete and accurate records and information to demonstrate its compliance with this Paragraph 4.2 ;
- (d) work together (acting reasonably and in good faith) in the preparation of any Data Protection Impact Assessment prior to commencing any processing;
- (e) where the Personal Data has been transmitted by it, or is in its possession or control, ensure that it has in place appropriate Protective Measures including in the case of the Contractor the measures set out in Schedule 7 (*Baseline Security Requirements*) to protect against a Personal Data Breach, having taken account of the:



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- (i) nature of the data to be protected;
  - (ii) harm that might result from a Personal Data Breach;
  - (iii) state of technological development; and
  - (iv) cost of implementing any measures;
- (f) not transfer Personal Data outside the UK unless the prior written consent of the Authority and/or (as applicable) the Related Third Party has been obtained and the following conditions are fulfilled:
- (i) the Contractor has implemented appropriate safeguards in relation to the transfer (in accordance with Article 46 of UK GDPR) as determined by the Authority and/or (where applicable) the Related Third Party, including the IDTA Addendum to the appropriate module of the SCCs and any other steps as are required to ensure such a transfer outside the UK complies with Data Protection Legislation;
  - (ii) the Data Subject has enforceable rights and effective legal remedies;
  - (iii) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
  - (iv) the Contractor complies with any reasonable instructions notified to it in advance by the Authority and/or (as applicable) the Related Third party with respect to the processing of the Personal Data;
- (g) subject to Paragraph 4.3 notify the other Party and/or (where applicable) the Related Third Party promptly (and in any event within 24 hours) if it:
- (i) receives a Data Subject Request (or purported Data Subject Request);
  - (ii) receives a request to rectify, block or erase any 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's Office or any other regulatory authority (including a supervisory authority as defined in the Data Protection Legislation) in connection with Personal Data processed under this Contract;
  - (v) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or



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(vi) becomes aware of a Personal Data Breach.

4.3 Each Party's obligation to notify under Paragraph 4.2(f) shall include the provision of further information in phases, as details become available. Except as set out below in relation to a Personal Data Breach the Authority and/or Related Third Party shall determine and confirm to the Contractor whether it or the Contractor shall be the primary point of contact and responder to the request, complaint or communication received pursuant to Paragraph 4.2(f) and the Parties shall ensure this is reflected within the relevant fair processing notices provided to Data Subjects. Where the Authority and/or Related Third Party:

- (i) designates the Contractor as the primary point of contact, the Contractor shall provide updates and further information to the Authority and/or Related Third Party, including (where directed by the Authority and/ or Related Third Party) allowing the Authority and/or Related Third Party to have final oversight and approval of any response, prior to such response being released to the relevant Party;
  - (ii) designates itself as the primary point of contact, the Contractor shall provide all support as necessary within the timescales directed by the Authority and/or Related Third Party, including providing all Personal Data held by the Contractor in respect of the request, complaint or communication received to the Authority and/or Related Third Party as soon as practicable and in any event within five (5) days, or as otherwise agreed by the Parties acting reasonably and in good faith.
- (b) The Party who suffered the Personal Data Breach shall be the primary point of contact for any communication in respect of the Personal Data Breach and: (a) the Contractor shall act quickly to remedy a Personal Data Breach (to the extent within its or its Sub-processor's control) and minimise the impact(s) of a Personal Data Breach; and (b) the Contractor, the Authority and where relevant the Related Third Party shall work together (acting reasonably and in good faith) to formulate responses, notifications and other communications in respect of the Personal Data Breach.
- (c) Before further sharing the Personal Data with a third party (including using a Processor or any Sub-processor to process any Personal Data related to this Contract), the Contractor must:
- (i) notify the Authority and/ or (where applicable) the Related Third Party in writing of the intended third party (including any Processor and/or Sub-processor) and processing;
  - (ii) obtain the written consent of the Authority and/ or (where applicable) the Related Third Party;



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- (iii) enter into a written contract with the third party (including any Processor and/or Sub-processor) which give effect to the terms set out in this Schedule 10 (as applicable); and
- (iv) provide the Authority and the Related Third Party with such information regarding the third party as the Authority and the Related Third Party may reasonably require.
- (d) The Contractor shall remain fully liable for all acts or omissions of any third party to which it transfers the relevant Personal Data.

## 5. PROCESSOR OBLIGATIONS

- 5.1 For the purposes of this Paragraph 4 (*Processor Obligations*), a reference to the "Controller" shall be a reference to the Authority and a reference to the "Processor" shall be a reference to the Contractor.
- 5.2 Where and to the extent the Contractor is acting as a Processor, the conditions set out in this Paragraph 5 (*Processor Obligations*) shall apply.
- 5.3 The only processing that the Processor is authorised to do is listed in Part 2 of Appendix 1 to this Schedule 10.
- 5.4 The Processor may only process Personal Data on the Controller's documented instructions.
- 5.5 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 5.6 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:
  - (a) a systematic description of the envisaged processing operations and the purpose of the processing;
  - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
  - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 5.7 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Contract shall:
  - (a) process that Personal Data only in accordance with Part 2 of Appendix 1 to this Schedule 10 unless the Processor is required to do otherwise by Law. If it is so



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required, the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;

- (b) ensure that it has in place appropriate Protective Measures to protect against a Personal Data Breach, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
  - (i) nature of the data to be protected;
  - (ii) harm that might result from a Personal Data Breach;
  - (iii) state of technological development; and
  - (iv) cost of implementing any measures;
  - (v) ensure that:
    - (A) the Processor Personnel do not process Personal Data except in accordance with this Contract (and in particular Part 2 of Appendix 1 to this Schedule 10;
    - (B) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
      - 1) are aware of and comply with the Processor's duties under this Paragraph 4 (*Processor Obligations*), and Clause D3 (*Confidential Information*);
      - 2) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
      - 3) are informed of the confidential nature of the Personal Data and do not publish, disclose, or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by this Contract; and
      - 4) have undergone adequate training in the use, care, protection, and handling of Personal Data; and
    - (C) where the Personal Data is subject to UK GDPR, not transfer Personal Data out of the UK unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
      - 1) the transfer is in accordance with Article 45 of the UK GDPR;



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- 2) the Controller and the Processor have implemented appropriate safeguards in relation to the transfer (in accordance with Article 46 of the UK GDPR);
  - 3) the Data Subject has enforceable rights and effective legal remedies;
  - 4) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations);
  - 5) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data; and
  - 6) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.
- (c) the Processor shall notify the Controller immediately if it:
- (i) receives a Data Subject Request (or purported Data Subject Request);
  - (ii) receives a request to rectify, block or erase any 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's Office or any other regulatory authority (including a supervisory authority as defined in the Data Protection Legislation) in connection with Personal Data processed under this Contract;
  - (v) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
  - (vi) becomes aware of a Personal Data Breach.
- (d) The Processor's obligation to notify under Paragraph 5.7(c)(c) shall include the provision of further information to the Controller in phases, as details become available.
- (e) The Controller shall either, at its sole election: (a) assume full control of the responses to the events as set out in Paragraph 5.7(d); or (b) direct the Processor in its security response, save where the Processor is required to act quickly and solely within its internal business to minimise the impact(s) of a Personal Data Breach.



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- (f) Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Paragraph 5.7(c) (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
  - (i) the Controller with full details and copies of the complaint, communication, or request;
  - (ii) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
  - (iii) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
  - (iv) assistance as requested by the Controller following any Personal Data Breach; and
  - (v) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- (g) The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Paragraph 5. This requirement does not apply where the Processor employs fewer than two hundred and fifty (250) staff, unless:
  - (i) the Controller determines that the processing is not occasional;
  - (ii) the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
  - (iii) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- (h) The Processor shall allow for audits of its data processing activity by the Controller or the Controller's designated auditor.
- (i) Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.
- (j) Before allowing any Sub-processor to process any Personal Data related to this Contract, the Processor must:
  - (i) notify the Controller in writing of the intended Sub-processor and processing;
  - (ii) obtain the written consent of the Controller;





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- (iii) enter into a written contract with the Sub-processor which give effect to the terms set out in this Paragraph 5 such that they apply to the Sub-processor; and
- (iv) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
- (k) The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.
- (l) The Controller may, at any time on not less than thirty (30) Working Days' notice, revise this Paragraph 5 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (designated as such pursuant to Data Protection Legislation) (which shall apply when incorporated by attachment to this Contract).

## 6. INDEMNITY

- 6.1 Notwithstanding any other term of the Contract, the Contractor shall indemnify and keep indemnified and hold harmless the Authority or the Related Third Party (as applicable) and from and against all Losses suffered or incurred by the Authority or the Related Third Party (as applicable), including claims and proceedings, arising from any breach of the Contractor's obligations under this Schedule 10.

## 7. COMPENSATION

- 7.1 To the extent that the Contractor has an entitlement under Data Protection Legislation to claim from the Authority or a Related Third Party (as applicable) for amounts paid by the Contractor to a Data Subject or third party due to a breach of Data Protection Legislation caused, in full or in part, by the Authority or a Related Third Party (as applicable), the Authority or Related Third Party (as applicable) shall be liable only for the portion of such compensation that directly relates to their responsibility for the damage caused to the relevant Data Subject or third party. The Authority or Related Third Party (as applicable) shall only be liable to make payment to the Contractor under this Paragraph 7.1 upon receipt of evidence from the Contractor, which shall be to the Authority's or Related Third Party's (as applicable) reasonable satisfaction and that clearly demonstrates:
- (a) that the Authority or Related Third Party (as applicable) has breached Data Protection Legislation;
  - (b) that such breach contributed (in part or in full) to the harm caused entitling the relevant Data Subject or third party to receive compensation in accordance with Data Protection Legislation; and
  - (c) the proportion of responsibility for the harm caused to the relevant Data Subject or third party which is attributable to the Authority or Related Third Party (as applicable).



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## **APPENDIX 1: DATA PROTECTION PARTICULARS**

### **PART 1: SCHEDULE OF DATA SHARING PARTICULARS**

Part 1 of Appendix 1 sets out the data sharing particulars to be completed by the Parties, acting reasonably and in good faith.

Description	Details
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<p>Identity of Controller for each Category of Personal Data</p>	<p><b><i>The Parties are independent Controllers of Personal Data</i></b></p> <p><i>The Parties acknowledge that they are independent Controllers for the purposes of the Data Protection Legislation in respect of:</i></p> <p><b><i>Business contact details of Contractor's Personnel and of any Sub-Contractor engaged by the Contractor</i></b> (which may include name, date of birth, qualifications, number of hours of training / volunteering undertaken), financial details (which may include financial records, budget records, procurement records, payroll information) and performance related matters (which may include details connected with disciplinary matters, performance, grievance or health); and</p> <p><b><i>Business contact details of any directors, officers, employees, agents, consultants and contractors of the Authority</i></b> (excluding the Contractor's Personnel) engaged in the performance of the Authority's duties under this Contract (which may include name, title and business email addresses).</p>
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Duration of the processing	<i>For data relating to contact details of Contractor's Personnel, Authority Personnel, and Sub-Contractor's personnel this is likely to be the duration of the Contract together with any period in which the Contractor provides services under the Exit provisions (as set out in Schedule 20 (Exit Management))</i>
Nature and purposes of the processing	<p><i>The purposes of Processing relate to the following "<b>Permitted Purposes</b>":</i></p> <p><b><i>Managing staffing arrangements</i></b></p> <p><i>The purpose of Processing relates to administering personnel and ensuring that the Parties have the appropriate personnel engaged to coordinate, administer and provide the Services.</i></p> <p><i>This involves collection, recording, organisation, storage, use, analysis and sharing of reported information and destruction / deletion of Personal Data.</i></p> <p><b><i>Provision of the Services</i></b></p> <p><i>The purpose of Processing is to allow the facilitation of the provision of the Services, responding / resolving general queries related to the Services and confirming identification of appropriate personnel for security system access.</i></p> <p><i>This involves collection, recording, organisation, storage, use, aggregating, analysis and sharing of reported information, destruction / deletion of Personal Data.</i></p> <p><b><i>Usual business operations</i></b></p> <p><i>The purpose of Processing relates to ensuring the progression of usual business operation for the Parties, this includes payment for the provision of the Services, managing the payment of invoices and meeting statutory obligations.</i></p> <p><i>This involves collection, recording, organisation, storage, use, aggregating, analysis and sharing of reported information, destruction / deletion of Personal Data.</i></p> <p><b><i>Confirming compliance with the requirements of the Contract</i></b></p> <p><i>This Personal Data will be used by the Authority to verify compliance with the requirements of <b>Schedule 2</b> (Specification) and to confirm that Services are being delivered in accordance with the relevant Social Value commitments made by the Contractor, as set out in Schedule 27 (Contractor's Tender).</i></p> <p><i>This involves collection, recording, organisation, storage, use, aggregating, analysis and sharing of reported information, destruction / deletion of Personal Data.</i></p>



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Types of Personal Data	<p><i>The type of Personal Data which is Processed in relation to:</i></p> <p><b>Managing staffing arrangements</b></p> <p><i>Will include the Contractor personnel, Sub-Contractor personnel and Authority employee name and contact details (including work email address, telephone number, job role, title and any applicable work-related ID number) and employment history (including qualifications, numbers of hours of volunteering / training undertaken).</i></p> <p><b>Provision of the Services</b></p> <p><i>Includes the contact details associated with the facilitation of project management for the Services to ensure the appropriate management of any issues which arise during the provision of the Services (including any personal details obtained when managing disciplinary matters, performance and grievance matters).</i></p> <p><b>Usual business operations</b></p> <p><i>Includes the Contractor's and Subcontractor personnel financial details for payroll and billing purposes (including name, title, salary NI details) and maintaining procurement records.</i></p> <p><b>Confirming compliance with the requirements of the Contract</b></p> <p><i>Includes the Contractor's and Subcontractor personnel details including name, date of birth, qualifications, number of hours volunteering, number of hours of training undertaken.</i></p>
Categories of Data Subject	<p><i>The categories of Data Subjects include:</i></p> <p><b>Managing staffing arrangements</b></p> <p><i>Will include the Contractor personnel, Sub-Contractor personnel and Authority employee.</i></p> <p><b>Provision of the Services</b></p> <p><i>Will include the Contractor personnel, Sub-Contractor personnel, Authority employee and prisoners on remand / serving sentences and post custody as citizens.</i></p> <p><b>Usual business operations</b></p> <p><i>Will include the Contractor personnel, Sub-Contractor personnel and Authority employees.</i></p> <p><b>Confirming compliance with the requirements of the Contract</b></p>



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	<i>Includes the Contractor's and Subcontractor personnel.</i>
Plan for return and destruction of the data once the processing is completed unless there is a requirement under UK law to preserve that type of data	<i>All Personal Data will remain on the Authority's ICT system and will be retained in accordance with the Authority's: (i) Retention Policy and (ii) Records Information Management Policy.  [Personal Data will only be retained by the Contractor as long as necessary for the specified purpose/s.]</i>
Locations at which the Contractor and/or its Sub-Contractors process Personal Data under this Contract	<i>Held securely on secured and assured Authority and Contractor's ICT Systems within the UK.</i>
Protective Measures that the Contractor and, where applicable, its Sub-Contractors have implemented to protect Personal Data processed under this Contract against a breach of security (insofar as that breach of security relates to data)	<i>All Processor Personnel working for the Contractor will need to have security approval. The Contractor is required to provide training to all personnel accessing the Personal Data on data protection and security measures. The Contractor is not permitted to transfer any Personal Data to their own IT systems.</i>



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## PART 2: SCHEDULE OF DATA PROCESSING PARTICULARS

- 1.1 Part 2 of Appendix 1 sets out the data processing particulars to be completed by the Controller, who may take account of the view of the Processor(s), however the final decision as to the content of this Schedule 10 shall be with the Controller at its absolute discretion.
- 1.2 The Processor shall comply with any further written instructions with respect to processing by the Controller.
- 1.3 Any such further instructions shall be incorporated into this schedule of data processing particulars.

Description	Details
Identity of Controller for each Category of Personal Data	<b>The Authority is Controller and the Contractor is Processor</b>
	<p>The Parties acknowledge that in accordance with Paragraph 5 for the purposes of the Data Protection Legislation, the Authority is the Controller and the Contractor is the Processor of the following Personal Data:</p> <ul style="list-style-type: none"><li>• <b>Personal identification:</b> Name Prisoner ID number Age Gender Racial or ethnic origin Sexual orientation Citizen status Philosophical / religious beliefs Date of birth Nationality</li><li>• <b>Health data:</b> Disabilities (if any) Neurodiversity issues (if any) Addiction issues Personal data contained in health clearance forms for prisoner post custody employment Mental health information (including any information contained about potential self-harm)</li><li>• <b>Criminal offence data:</b> Offence length Length of sentence Anticipated release date Custodial behaviour Associations (internal and external) were there is a suspected risk to national security Details regarding court cases</li></ul>





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	<p><i>Offending history</i></p> <ul style="list-style-type: none"> <li>• <b>Sentence management information</b> <i>Name, address and contact details contained in pre-sentence reports, OASys, parole reports, HDC reports and ROTL in relation to offender, victims and third parties</i></li> <li>• <b>Employment Readiness Checklist</b> <i>Name</i> <i>Accommodation / address post release</i> <i>Copies of appropriate documentation (e.g. CVs)</i> <i>Bank account information</i></li> <li>• <b>Monitoring</b> <i>In limited circumstances, information regarding visitors / associates obtained during monitoring activity undertaken via phone calls, correspondence and visits including the name and contact number of such visitor / associate</i></li> <li>• <b>Education, employment and skills</b> <i>Education and training history</i> <i>Language/s spoken</i> <i>Employment history</i> <i>Training experience/s</i> <i>Previous course undertaken and completion record.</i></li> </ul>
Duration of the processing	<i>The duration of the Contract together with any period in which the Contractor provides services under the Exit provisions (as set out in Schedule 20 (Exit Management))</i>
Nature and purposes of the processing	<p><i>The purposes of Processing relate to performance of obligations under the Contract including performance of the Services to allow prisoners (on remand, serving sentences and post custody) to be supported in achieving employment on release from prison. In particular, these include, but are not limited to:</i></p> <p><b>Uploading Personal Data to the Authority's systems</b></p> <p><i>The purpose of Processing relates to the collection of data from prisoners (on remand, serving sentences and post custody) to allow it to be entered into the Authority's digital systems to be used as part of the rehabilitation and resettlement programme, such as to allow for the completion of the Personal Learning Plan developed by the Authority.</i></p> <p><i>This involves collection, recording, storage, use, aggregating, analysing and disclosure by transmission, destruction / deletion of Personal Data.</i></p> <p><b>Retrieval of data from the Authority's digital systems</b></p> <p><i>To allow the Authority and Contractor to retrieve information from the Authority's digital systems to obtain necessary data about the prisoner (on remand, serving sentences) and any, where applicable, relevant third parties.</i></p>



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	<p><i>This involves collection, use, aggregating, analysing and sharing of reported information, destruction / deletion of Personal Data.</i></p> <p><b>Completion of the Employment Readiness Checklist</b></p> <p><i>To allow the Contractor to complete the Employment Readiness Checklist as developed by the Authority to assist with resettlement and the Probation Services.</i></p> <p><i>This involves collection, recording, organisation, storage, use, aggregating, analysis and sharing of reported information, destruction / deletion of Personal Data.</i></p> <p><b>Advancement of opportunities following release</b></p> <p><i>To allow the personal data uploaded onto the Authority's systems to be shared with the relevant third parties as directed by the Authority to assist the prisoners (on remand, serving sentences and post custody) be supported in achieving employment on release. This includes for example, (i) to allow a prisoner to be considered for a place on training courses and (ii) obtaining information about the prisoner to understand previous employment history.</i></p> <p><i>This involves collection, sharing, recording, storage, use and review of Personal Data as well as destruction / deletion of Personal Data.</i></p> <p><b>Visitor data</b></p> <p><i>In limited circumstances, third party individuals (e.g. Processor Personnel, fellow prisoners on remand / serving sentence or public visitors) that visit the Authority premises to monitor their interactions and inform any appropriate security responses (e.g. suspected risk to national security from terrorism).</i></p> <p><i>This involves collection, recording, storage, use and review of Personal Data as well as destruction / deletion of Personal Data and sharing of Personal Data.</i></p> <p><b>Destroying paper records containing the data</b></p> <p><i>To allow for records (such as notes taken in relation to the Personal Learning Plans) are to be securely destroyed in the event that the Contractor cannot access the Authority's ICT System.</i></p> <p><i>This involves collection, recording, storage, use and review of Personal Data as well as destruction / deletion of Personal Data and sharing of Personal Data.</i></p> <p><b>Providing security clearance</b></p>
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	<p><i>To undertake suitable vetting and security clearance checks.</i></p> <p><i>This involves collection, recording, organisation, structuring, storage, retrieval, consultation, use, disclosure and obtaining and combining Personal Data sets with further Personal Data received from third parties, destruction / deletion of Personal Data.</i></p> <p><b>Case management</b></p> <p><i>To manage a prisoner's case management within the youth justice service (i.e. where they are transferred from a youth custody centre to an adult prison).</i></p> <p><i>This involves collection, recording, storage, use and review of Personal Data as well as destruction / deletion of Personal Data and sharing of Personal Data.</i></p>
Types of Personal Data	<p><i>The type of Personal Data which is Processed in relation to:</i></p> <p><b>Uploading Personal Data to the Authority's systems</b></p> <p><i>Personal details (name, prisoner ID number, age, date of birth, gender, ethnic origin, language/s spoken, sexual orientation, religious / philosophical beliefs), conviction details (offence type, length of sentence, anticipated date of release, court cases, custodial behaviour), health data (disability, neurodiversity issues, addiction history, ongoing treatment and support, healthcare clearance forms), employment details (employment history, tasks undertaken in previous employment) and sentence management information (pre-sentence reports, OASys Parole reports, HDC reports, ROTL and recategorization, offending history, contact details about third parties / victims).</i></p> <p><b>Retrieval of data from the Authority's digital systems</b></p> <p><i>Personal details (name, prisoner ID number, age, date of birth, gender, ethnic origin, language/s spoken, caring responsibilities), conviction details (offence type, length of sentence, anticipated date of release, court cases, custodial behaviour), health data (disability, neurodiversity issues, addiction history, ongoing treatment and support, healthcare clearance forms and self-harm risks), employment details (employment history, tasks undertaken in previous employment), sentence management information (pre-sentence reports, OASys Parole reports, HDC reports, ROTL and recategorization, offending history, contact details about third parties / victims).</i></p> <p><b>Completion of the Employment Readiness Checklist</b></p>



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	<p><i>Personal data collected on the Employment Readiness Checklist (name, personal home / accommodation address following release from prison, bank account details, copies of appropriate documentation e.g. certificates and CVs).</i></p> <p><b>Advancement of opportunities following release</b></p> <p><i>Personal details (name, prisoner ID number, age, date of birth, gender, ethnic origin, sexual orientation) health details (disability, neurodiversity issues, language/s spoken, addiction issues, information contained on health clearance forms, details about any risk of self-harm), conviction details (offence type, length of sentence, anticipated date of release, custodial behaviour, court dates), employment history (previous employment, educational activity, training experience), sentence management information (pre-sentence reports, OASys parole reports, report from HDC, ROTL and re-categorisation, offending history, where applicable third parties impacted).</i></p> <p><b>Visitor data</b></p> <p><i>Personal details about visitors / associates in the prison may include name and contact details (which would include obtaining photo ID, prisoner ID number, telephone number, information about third parties provided through monitoring to prevent risk to national security).</i></p> <p><b>Destroying paper records containing the data</b></p> <p><i>Personal details contained in paper records (which may include name, contact details, etc).</i></p> <p><b>Security clearance</b></p> <p><i>Personal details to undertake security clearance checks of prospective applicants to become a Processor Personnel (including names, date of birth, place of birth, previous employment convictions (spent and unspent) and national insurance numbers.</i></p> <p><b>Case management</b></p> <p><i>Personal details (name, prisoner ID number, age, date of birth, gender, ethnic origin, sexual orientation) health details (disability, neurodiversity issues, language/s spoken, addiction issues, information contained on health clearance forms, details about any risk of self-harm) and conviction details (offence type, length of sentence, anticipated date of release, custodial behaviour, court dates).</i></p>
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Categories of Data Subject	<p><i>The categories of Data Subject include:</i></p> <p><b>Uploading Personal Data to the Authority's systems</b></p> <p><i>Will include the prisoners (either on remand or serving custodial sentences), Authority employees, Processor Personnel and Sub-processor personnel, any third-party Data Subject associated with a conviction and / or sentence (e.g. victims) and prisoner's previous employers.</i></p> <p><b>Retrieval of data from the Authority's digital systems</b></p> <p><i>Will include the prisoners (either on remand or serving custodial sentences), Authority employees, Processor Personnel and Sub-processor personnel, any third-party Data Subject associated with a conviction and / or sentence (e.g. victims) and prisoner's previous employers.</i></p> <p><b>Completion of the Employment Readiness Checklist</b></p> <p><i>Will include the prisoners (either on remand or serving custodial sentences), Authority employees, Processor Personnel and Sub-processor personnel and any third-party Data Subject associated with a prisoner's residency after release (e.g. family members).</i></p> <p><b>Advancement of opportunities following release</b></p> <p><i>Will include the prisoners (on remand, serving sentences and post custody), Authority employees, Processor Personnel and Sub-processor personnel (e.g. CIAG employees engaged), any third-party Data Subject associated with a prisoner's residency after release (e.g. family members).</i></p> <p><b>Visitor data</b></p> <p><i>Will include the prisoners (either on remand or serving custodial sentences), Authority employees, Processor Personnel and Sub-processor personnel, members of the UK police (where relevant), prisoner associations within the prison and third-party visitors.</i></p> <p><b>Destroying paper records containing the data</b></p> <p><i>Will include the prisoners (either on remand or serving custodial sentences), Authority employees, Processor Personnel and Sub-processor personnel.</i></p> <p><b>Security clearance</b></p> <p><i>Will include individuals making an application to become a Processor Personnel.</i></p> <p><b>Case management</b></p>
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	<i>Will include the prisoners (either on remand or serving custodial sentences), Authority employees, Processor Personnel, Sub-processor personnel, members of the (applicable) UK court system and members of UK police, Crown Prosecution Service and health care workers (where relevant).</i>
Plan for return and destruction of the data once the processing is complete unless there is a requirement under UK law to preserve that type of data	<i>All Personal Data will remain on the Authority's ICT system and will be retained in accordance with the Authority's: (i) Retention Policy and (ii) Records Information Management Policy.</i>  <i>[Personal Data will only be retained by the Contractor as long as necessary for the specified purpose/s.]</i>
Locations at which the Contractor and/or its Sub-Contractors process Personal Data under this Contract	<i>Held securely on secured and assured Authority and Controller ICT Systems within the UK.</i>
Protective Measures that the Contractor and, where applicable, its Sub-contractors have implemented to protect Personal Data processed under this Contract against a breach of security (insofar as that breach of security relates to data)	<i>All Processor Personnel working for the Contractor will need to have security approval. The Contractor is required to provide training to all personnel accessing the Personal Data on data protection and security measures. The Contractor is not permitted to transfer any Personal Data to their own IT systems.</i>



## **APPENDIX 2: DATA MAP**

The Authority has, in its sole discretion, the option to revise the Data Map following the comments from the Bidder or to determine that the Data Map should remain as drafted.



## Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

### APPENDIX 3 – Joint Controller Agreement

*[Please note: to be completed in the future if a situation arises where the parties are Joint Controllers]*

This JOINT CONTROLLER AGREEMENT is made effective as of [date] between:

1. **The Secretary of State for Justice**, of 102 Petty France, London, SW1H 9AJ acting as part of the Crown (**Authority**); and
  2. **[Contractor]**, a company registered under the laws of [insert relevant jurisdiction] with company number [insert] with its registered office at [insert address] (**Contractor**),
- (each a **party** and together the **parties**).

### INTRODUCTION

- A. Reference is made to the Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG)) dated [date] (the **Contract**), entered into between the parties, which involves the parties processing certain Personal Data.
- B. The parties are joint Controllers as regards the processing of the Personal Data in connection with the Contract as set out below.
- C. Pursuant to Article 26 of the UK GDPR and GDPR, the parties wish to record their agreement as to their respective responsibilities for compliance with the obligations under Data Protection Legislation.

### THE PARTIES AGREE AS FOLLOWS:

1. Where the context so permits, terms defined in the Contract shall bear the same meanings in this agreement.
2. This agreement is entered into pursuant to Clause 4 of this Schedule 10.
3. The parties are joint Controllers of the processing operations mentioned in the table below, as regards the respective types of Personal Data mentioned in the table below. The parties agree that the relevant party identified in the table below shall be responsible for compliance with the respective obligations under Data Protection Legislation (as applicable) as regards such processing of Personal Data.

Personal Data	Processing operations	Transparency Obligations (GDPR / UK	Data Subject Rights (GDPR / UK GDPR	[Other, e.g. minimisation, security, retention





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		GDPR Articles 13 and 14)	Articles 15 and 22)	specify specific obligations]
[Insert personal data which the parties process as joint controllers]	[insert processing activity for which the parties act as joint controller]	[Authority] [Contractor]	[Authority] [Contractor]	[Authority] [Contractor]

4. The point of contact for the responsible party under paragraph 3 above is:

Name:

Position:

Telephone number(s):

Email:

Address:

5. Clause I12 (Governing Law) of the Contract applies to this agreement as if here set out.

This agreement is entered into between the parties on the date above written.

Signed by [name of signatory]

authorised for and on behalf of [Authority]

Signed by [name of signatory]

authorised for and on behalf of [Contractor]

# GUIDANCE

This document forms the **Data Protection Road Map** (Appendix 2 to Schedule 10 (Data Processing))

## Data Protection Road Map

The intention of the Data Protection Road Map is to set out the different types of Personal Data which the Authority envisages may flow during the course of the Contract (together with a high-level of overview of the source of the Personal Data). It is a high-level "view on a page" from the Authority's perspective. The Contractor is required to review this Data Protection Road Map and check: (a) it is accurate; and (b) consider whether any elements are missing. In the event that the Contractor highlights any inaccuracies or omissions these shall be notified to the Authority in writing. The Data Protection Road Map will be reviewed one (1) month prior to the Services Commencement Date by the Contractor to provide any comments and suggested revisions to the Data Map and at regular intervals throughout the Contract and updated as necessary. The CIAG contracts relate to the delivery of CIAG services in adult prisons and therefore there it is not necessary to consider the data protection relating to children in this Data Protection Road Map.

## Compliance and on-going actions

The Contractor shall:

- (1) Carry out the actions stated above;
- (2) Inform the Authority within 5 Working Days if any proposed changes to the Data Protection Road Map (as further detailed in Paragraph 2.9 of Schedule 10 (Data Processing)), including where any changes are proposed to Data Sharing Arrangements/ Agreements, or any changes are proposed in respect of privacy policies or notices (and work with the Authority to implement any suggested changes);
- (3) Support the Authority with the drafting, review and provision of any required new privacy policies/ notices to Data Subjects;
- (4) Assist the Authority with audits of the data processing in accordance with Paragraph 2.9 of Schedule 10 (Data Processing);
- (5) As further detailed in the Contract, inform the Authority immediately on receipt of a request from an individual, a regulator or a third party. This notification should be made to the team / address listed in the Information Requests Policy Framework and any response should be given as per the terms of the Contract;
- (6) Inform the Authority immediately of becoming aware of a data breach/ incident in accordance with the Information Security Policy Framework (with a target of under 1 hour). This allows for an operational incident to be managed. The incident is to be reported to the HMPPS InfoSec team on 0203 334 0324. This line is staffed 24/7/365. After the initial call, an incident form shall be completed and sent to: [incidentreporting@noms.gsi.gov.uk](mailto:incidentreporting@noms.gsi.gov.uk). The Authority emphasises that it expects the Contractor to advise of any issues by telephone first, and will provide advice and guidance in real time, and then make a decision on the significance and if it needs to be escalated.

## Private Prisons

At the time of preparing this Data Map the CIAG programme includes 3 privately managed prisons. The contracts between the Authority and the privately managed prisons contain provisions on data processing and therefore these have not been addressed separately in this Data Protection Road Map.

## Terms used

The terms used in this Data Protection Road Map are as defined in Schedule 1 (Definitions) to the Contract. In particular the term 'Prisoner' means any Remand Prisoner or Offender resident at a Prison. The term 'CIAG Contractor' as opposed to 'Contractor' (as used in the Contract) is used in this Data Protection Road Map to make the distinction with other contractors easier to identify.



This map is for the purposes of the contract only and is not intended to be a full data map of every type of personal data these organisations may ever hold during the life of the Contract.

[illegible]

Disclaimer: The map is not intended to be a full data map of every type of personal data these organisations may ever hold during the life of the Contract. Drafting notes are contained in green and are designed to support the parties complete this data map. Please note that this map is for the purposes of the contract only and is not intended to be a full data map of every type of personal data these organisations may ever hold during the life of the Contract.



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# **SCHEDULE 11 – BUSINESS CONTINUITY AND DISASTER RECOVERY**



## Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

### 1. DEFINITIONS

1.1. In this Schedule 11, the following words shall have the following meanings and they shall supplement Schedule 1 (*Definitions*):

"BCDR Plan"		has the meaning given to it in Paragraph 2.1 of this Schedule 11;
"Business Plan"	Continuity	has the meaning given to it in Paragraph 2.2(b) of this Schedule 11;
"Business Services"	Continuity	has the meaning given to it in Paragraph 4.2(b) of this Schedule 11;
"Contractor's Proposals"		has the meaning given to it in Paragraph 7.3(c) of this Schedule 11;
"Disaster"		means the occurrence of one (1) or more events which, either separately or cumulatively, mean that the Services, or a material part of the Services will be unavailable for a period of twenty-four (24) hours, or which is reasonably anticipated will mean that the Services or a material part of the Services will be unavailable for that period;
"Disaster Recovery Plan"		has the meaning given to it in Paragraph 2.2(c) of this Schedule 11;
"Disaster Services"	Recovery	the services embodied in the processes and procedures for restoring the provision of Services following the occurrence of a Disaster;
"Disaster System"	Recovery	the system embodied in the processes and procedures for restoring the provision of Services following the occurrence of a Disaster;
"Insolvency Plan"	Continuity	has the meaning given to it in Paragraph 2.2(d) of this Schedule 11;
"Related Contractor"		any person who provides services to the Authority which are related to the Services from time to time; and
"Review Report"		has the meaning given to it in Paragraph 7.3(c) of this Schedule 11.

### 2. BCDR PLAN

2.1 Within thirty (30) Working Days of the Effective Date the Contractor shall prepare and deliver to the Authority for Approval a plan, which shall detail the processes and arrangements that the Contractor shall follow to:





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- (a) ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Services (including where caused by an Insolvency Event of the Contractor, and/or any Sub-Contractor); and
  - (b) the recovery of the Services in the event of a Disaster ("**BCDR Plan**").
- 2.2 The BCDR Plan shall be divided into four sections:
  - (a) Section 1 which shall set out general principles applicable to the BCDR Plan;
  - (b) Section 2 which shall relate to business continuity (the "**Business Continuity Plan**");
  - (c) Section 3 which shall relate to disaster recovery (the "**Disaster Recovery Plan**"); and
  - (d) Section 4 which shall relate to an Insolvency Event of the Contractor, Guarantor and/or any Sub-Contractor (the "**Insolvency Continuity Plan**").
- 2.3 Following receipt of the draft BCDR Plan from the Contractor, the Authority shall review and comment on the BCDR Plan as soon as reasonably practicable and notify the Contractor in writing that it approves or rejects the BCDR Plan no later than twenty (20) Working Days after the date on which they were first delivered to the Authority.
- 2.4 If the Authority rejects the BCDR Plan, the Authority shall inform the Contractor in writing of its reasons for its rejection and the Contractor shall revise the BCDR Plan (taking reasonable account of the Authority's comments and carrying out any necessary actions in connection with the revision) and shall re-submit a revised BCDR Plan for the Authority's approval within twenty (20) Working Days of the date of the Authority's notice of rejection. The provisions of Paragraph 2.3 and this Paragraph 2.4 shall apply again to any resubmitted BCDR Plan provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.
- 2.5 If the Authority rejects the BCDR Plan two (2) times (not including the initial submission under Paragraph 2.1), in accordance with Paragraph 2.4 and/or the Contractor fails to submit an initial or subsequent draft BCDR Plan, this shall be a Default and the Authority may terminate this Contract in accordance with Clause H3 (*Default*).



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### **3. SECTION 1 OF THE BCDR PLAN - GENERAL PRINCIPLES**

**3.1 Section 1 of the BCDR Plan shall:**

- (a) set out how the business continuity, disaster recovery and insolvency continuity elements of the BCDR Plan link to each other;
- (b) provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Services and any goods and/or services provided to the Authority by a Related Contractor;
- (c) contain an obligation upon the Contractor to liaise with the Authority and any Related Contractors with respect to business continuity, disaster recovery and insolvency continuity where applicable;
- (d) detail how the BCDR Plan interoperates with any overarching and/or connected disaster recovery, business continuity, and/or insolvency continuity plan of the Authority and any of its other Related Contractors in each case as notified to the Contractor by the Authority from time to time;
- (e) contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels (including but without limitation a website (with FAQs), e-mail and phone) for both portable and desk top configurations, where required by the Authority;
- (f) contain a risk analysis, including:
  - (i) failure or disruption scenarios and assessments of likely frequency of occurrence;
  - (ii) identification of any single points of failure within the provision of Services and processes for managing those risks;
  - (iii) identification of risks arising from the interaction of the provision of Services with the services provided by a Related Contractor;
  - (iv) identification of risks arising from an Insolvency Event of the Contractor and/or any Sub-Contractor; and
  - (v) a business impact analysis of different anticipated failures or disruptions;
- (g) provide for documentation of processes, including business processes, and procedures;
- (h) set out key contact details for the Contractor (and any Sub-Contractors) and for the Authority;



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- (i) identify the procedures for reverting to "normal service";
- (j) set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
- (k) identify the responsibilities (if any) that the Authority has agreed it will assume in the event of the invocation of the BCDR Plan; and
- (l) provide for the provision of technical assistance to key contacts at the Authority as required by the Authority to inform decisions in support of the Authority's business continuity plans.

3.2 The BCDR Plan shall be designed to ensure that:

- (a) the Services are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
- (b) the adverse impact of any Disaster, service failure, an Insolvency Event of the Contractor and/or any Sub-Contractor, or disruption on the operations of the Authority, is minimised as far as reasonably possible;
- (c) it complies with the relevant provisions of ISO/IEC 22301 and all other industry standards from time to time in force; and
- (d) it details a process for the management of disaster recovery testing.

3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Services and the business operations supported by the provision of Services.

3.4 The Contractor shall not be entitled to any relief from its obligations under the Key Performance Indicators or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Contractor of this Contract.

## **4. SECTION 2 OF THE BCDR PLAN - BUSINESS CONTINUITY**

4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Services remain supported and to ensure continuity of the business operations supported by the Services including:

- (a) the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Services; and
- (b) the steps to be taken by the Contractor upon resumption of the provision of Services in order to address any prevailing effect of the failure or disruption including a root cause analysis of the failure or disruption.

4.2 The Business Continuity Plan shall:



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- (a) address the various possible levels of failures of or disruptions to the provision of Services;
- (b) set out the services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Services (such services and steps, the "**Business Continuity Services**");
- (c) specify any applicable Key Performance Indicators with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Key Performance Indicators in respect of the provision of other Services during any period of invocation of the Business Continuity Plan; and
- (d) clearly set out the conditions and/or circumstances in which the Business Continuity Plan is invoked.

**5. SECTION 3 OF THE BCDR PLAN - DISASTER RECOVERY**

- 5.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Contractor ensures continuity of the business operations of the Authority supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Disaster Recovery Plan shall include the following:
  - (a) the technical design and build specification of the Disaster Recovery System;
  - (b) details of the procedures and processes to be put in place by the Contractor in relation to the Disaster Recovery System and the provision of the Disaster Recovery Services and any testing of the same including but not limited to the following:
    - (i) the process for conducting a business impact assessment to determine the acceptable length of time of non-availability;
    - (ii) such procedures and processes as are required to ensure compliance with ISO 22301:2019;
    - (iii) identification of all potential disaster scenarios;
    - (iv) risk analysis;
    - (v) documentation of processes and procedures;
    - (vi) invocation rules;



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- (vii) Service recovery procedures;
- (viii) steps to be taken upon resumption of the provision of Services to address any prevailing effect of the failure or disruption of the provision of the Services; and
- (ix) principally in relation to the Contractor's business data collection systems and any other related IT systems required for the delivery of the Services, including:
  - (i) data centre and disaster recovery site audits;
  - (ii) backup methodology and details of the Contractor's approach to data back-up and data verification;
  - (iii) hardware configuration details;
  - (iv) network planning including details of all relevant data networks and communication links;
- (c) any applicable Key Performance Indicators with respect to the provision of the Disaster Recovery Services and details of any agreed relaxation to the Key Performance Indicators in respect of the provision of other Services during any period of invocation of the Disaster Recovery Plan;
- (d) details of how the Contractor shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
- (e) access controls to any disaster recovery sites used by the Contractor in relation to its obligations pursuant to this Schedule 11; and
- (f) testing and management arrangements.

## 6. SECTION 4 OF THE BCDR PLAN – INSOLVENCY CONTINUITY PLAN

- 6.1 The Insolvency Continuity Plan shall be designed by the Contractor to permit continuity of the business operations of the Authority supported by the Services through continued provision of the Services following an Insolvency Event of the Contractor, the Guarantor and/or any Key Sub-Contractor with, as far as reasonably possible, minimal adverse impact.
- 6.2 The Insolvency Continuity Plan shall include the following:
- (a) communication strategies which are designed to minimise the potential disruption to the provision of the Services, including key contact details in respect of the supply chain and key contact details for operational and contract Key Personnel and/or Key Sub-Contractor;



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- (b) identification, explanation, assessment and an impact analysis of risks in respect of dependencies between the Contractor and Key Sub-Contractors where failure of those dependencies could reasonably have an adverse impact on the Services;
- (c) plans to manage and mitigate identified risks;
- (d) details of the roles and responsibilities of the Contractor, Guarantor and/or Key Sub-Contractors to minimise and mitigate the effects of an Insolvency Event of such persons on the Services;
- (e) details of the recovery team to be put in place by the Contractor (which may include representatives of the Contractor, Guarantor and Key Sub-Contractors); and
- (f) sufficient detail to enable an appointed insolvency practitioner to invoke the plan in the event of an Insolvency Event of the Contractor.

## **7. REVIEW AND AMENDMENT OF THE BCDR PLAN**

7.1 The Contractor shall review and update the BCDR Plan (and the risk analysis on which it is based):

- (a) at its own cost on a regular basis and as a minimum once every six (6) Months;
- (b) at its own cost within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 9;
- (c) within fourteen (14) days of a Financial Distress Event;
- (d) within thirty (30) days of a Change of Control; and
- (e) where the Authority requests in writing any additional reviews (over and above those provided for in Paragraph 7.1(a) and 7.1(d)) of this Schedule 11) whereupon the Contractor shall conduct such reviews in accordance with the Authority's written requirements. Prior to starting its review, the Contractor shall provide an accurate written estimate of the total costs payable by the Authority for the Authority's approval. The reasonable costs of both Parties of any such additional reviews shall be met by the Authority except that the Contractor shall not be entitled to charge the Authority for any costs that it may incur above any estimate without the Authority's prior written approval.

7.2 Each review of the BCDR Plan pursuant to Paragraph 7 shall assess its suitability having regard to any change to the Services or any underlying business processes and operations facilitated by or supported by the Services which have taken place



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since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Contractor within such period as the Authority shall reasonably require.

7.3 The Contractor shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Authority a report (a "**Review Report**") setting out:

- (a) the findings of the review;
- (b) any changes in the risk profile associated with the Services; and
- (c) the Contractor's proposals (the "**Contractor's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan following the review detailing the impact (if any and to the extent the Contractor can reasonably be expected to be aware of the same) that the implementation of such proposals may have on any services or systems provided by a third party.

7.4 Following receipt of the Review Report and the Contractor's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Contractor's Proposals. If the Parties are unable to agree Review Report and the Contractor's Proposals within twenty (20) Working Days of its submission, then such dispute shall be resolved in accordance with the Dispute Resolution Procedure.

7.5 The Contractor shall as soon as is reasonably practicable after receiving the approval of the Contractor's Proposals effect any change in its practices or procedures necessary so as to give effect to the Contractor's Proposals. Any such change shall be at the Contractor's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Services.

## 8. TESTING OF THE BCDR PLAN

8.1 The Contractor shall test the BCDR Plan:

- (a) regularly and in any event not less than once in every Contract Year;
- (b) where in the opinion of the Authority there has been a major reconfiguration of the Services; and
- (c) at any time where the Authority considers it necessary (acting in its sole discretion).



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- 8.2 If the Authority requires an additional test of the BCDR Plan, it shall give the Contractor written notice and the Contractor shall conduct the test in accordance with the Authority's requirements and the relevant provisions of the BCDR Plan. The Contractor's costs of the additional test shall be borne by the Authority unless the BCDR Plan fails the additional test in which case the Contractor's costs of that failed test shall be borne by the Contractor.
- 8.3 The Contractor shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Authority and shall liaise with the Authority in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Authority.
- 8.4 The Contractor shall ensure that any use by it or any Sub-Contractor of "live" data in such testing is first approved with the Authority. Copies of live test data used in any such testing shall be (if so required by the Authority) destroyed or returned to the Authority on completion of the test.
- 8.5 The Contractor shall, within twenty (20) Working Days of the conclusion of each test, provide to the Authority a report setting out:
- (a) the outcome of the test;
  - (b) any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
  - (c) the Contractor's proposals for remedying any such failures.
- 8.6 Following each test, the Contractor shall take all measures requested by the Authority to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Contractor, at its own cost, by the date reasonably required by the Authority.
- 8.7 For the avoidance of doubt, the carrying out of a test of the BCDR Plan (including a test of the BCDR Plan's procedures) shall not relieve the Contractor of any of its obligations under this Contract.

**9. INVOCATION OF THE BCDR PLAN**

- 9.1 In the event of a complete loss of service or in the event of a Disaster, the Contractor shall immediately invoke the BCDR Plan (and shall inform the Authority promptly of such invocation). In all other instances the Contractor shall invoke or test the BCDR Plan only with the prior consent of the Authority.
- 9.2 The Insolvency Continuity Plan element of the BCDR Plan, including any linked elements in other parts of the BCDR Plan, shall be invoked by the Contractor:





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- (a) where an Insolvency Event of a Key Sub-Contractor and/or Affiliate of the Contractor could reasonably be expected to adversely affect delivery of the Services; and/or
- (b) where there is an Insolvency Event of the Contractor and the insolvency arrangements enable the Contractor to invoke the plan.

**10. FORCE MAJEURE**

The Contractor shall not be entitled to relief under Clause 12 (*Force Majeure*) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule 11.



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## **SCHEDULE 13 – GOVERNANCE**



## Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

### 1. DEFINITIONS AND INTERPRETATION

1.1 For the purpose of this Schedule 13 unless the context otherwise requires:

<b>"Annual Contract Review Meeting"</b>	means a meeting to review performance of this Contract including against all KPIs for the full Contract Year;
<b>"Authority Group Member"</b>	means representatives of the Authority who will attend the Governance Groups identified in Appendix A ( <i>Governance Groups Details</i> );
<b>"Authority's Representative"</b>	means the Authority's Contract Manager or such person in the Authority's contract management team who has been delegated responsibility in accordance with Paragraph 3.11.1(c) below;
<b>"Collaboration Forums"</b>	means the forums as detailed in Paragraph 9 and Appendix A ( <i>Governance Groups Details</i> ) of this Schedule 13;
<b>"Contractor Group Member"</b>	means representatives of the Contractor who will attend the Governance Groups identified in Appendix A ( <i>Governance Groups Details</i> );
<b>"Contractor's Representative"</b>	means the individual appointed in according with Paragraph 3.2 and identified in Paragraph 1 of Schedule 15 ( <i>Key Personnel</i> );
<b>"Core Education Contractors"</b>	means the contractors appointed to deliver core education services;
<b>"Escalation Board"</b>	means the board as detailed in Paragraph 8 and Appendix A ( <i>Governance Groups Details</i> ) of this Schedule 13;
<b>"Establishment Level Quality Improvement Group"</b>	means Quality Governance Group and Collaboration Forum of the same name as detailed in Paragraphs 9 and 10 and Appendix A of this Schedule 13;



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<b>"Establishment Performance Meeting"</b>	<b>Operational</b> means the meeting as detailed in Paragraph 5 and Appendix A ( <i>Governance Groups Details</i> ) of this Schedule 13;
<b>"Governance Groups"</b>	means those groups listed in Paragraph 4 of this Schedule 13;
<b>"Group Meetings"</b>	has the meaning given to it in Paragraph 4.8 of this Schedule 13;
<b>"Group Members"</b>	means the Authority Group Members, Contractor Group Members and Other Group Members of the Governance Groups as set out in Appendix A ( <i>Governance Groups Details</i> );
<b>"HMIP"</b>	means HM Inspectorate of Prisons;
<b>"Lot Level Quality Improvement Group"</b>	means the quality governance processes as detailed in Paragraph 10 and Appendix A ( <i>Governance Groups Details</i> ) of this Schedule 13;
<b>"Monthly Contract Review Meeting"</b>	means the meeting as detailed in Paragraph 6 and Appendix A ( <i>Governance Groups Details</i> ) of this Schedule 13;
<b>"New Futures Network" or "NFN"</b>	means the specialist part of the Authority that brokers partnerships between prisons and employers;
<b>"OFSTED"</b>	means the Office for Standards in Education, Children's Services and Skills;
<b>"OSAG"</b>	means the Operational and System Assurance Group;
<b>"Other Group Members"</b>	means members (that are not Authority Group Members or Contractor Group Members) as determined by the Authority who may also be included in the Collaboration Forums and the Quality Governance Groups. For example, providers of core education services will be required to attend Establishment Level Quality



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	Improvement Group and Collaboration Forum;
"PES Steward"	means the Authority lead role for PES; the person who is ultimately accountable for PES and will hold strategic oversight of all aspects of PES;
"Post Ofsted Inspection Action Plan"	means where OFSTED have inspected a Prison's ESW provision and has made comment about the Services;
"Quality Improvement Group Meetings"	means the Establishment Level Quality Improvement Group and Lot Level Quality Improvement Group;
"Quality Improvement Plan"	means a plan created by the Prison using evidence gathered from the variety of quality assurance activities and Quality Improvement Group Meetings to identify key priorities for improvement; and
"Quarterly Contract Review Meeting"	means the meeting as detailed in paragraph 7 and Appendix A ( <i>Governance Groups Details</i> ) of this Schedule 13.

## 2. INTRODUCTION AND PURPOSE

- 2.1 This Schedule 13 describes the approach to governance arrangements to be adopted by the Parties in meeting the requirements of this Contract.
- 2.2 The governance approach includes:
- (a) how the Parties will manage the relationship between them; and
  - (b) the specific governing structures under which the Parties will operate.

## 3. REPRESENTATIVES

### 3.1 Authority's Representative

- (a) The Authority shall appoint an individual to exercise the Authority's Representative role pursuant to this Paragraph 3.1.
- (b) The Authority's Representative shall exercise the functions and powers of the Authority in relation to this Contract which are identified in this Contract



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as functions or powers to be carried out by the Authority's Representative. The Authority's Representative shall also exercise such other functions and powers of the Authority under this Contract as may be notified to the Contractor from time to time.

- (c) The Authority's Representative shall be entitled at any time, by notice to the Contractor, to authorise any other person to exercise the functions and powers of the Authority delegated to the Authority's Representative pursuant to this Paragraph 3.1, either generally or specifically. Any act of any such person shall, for the purposes of this Contract, constitute an act of the Authority's Representative and all references to the "Authority's Representative" in this Contract (apart from this sub-Paragraph (c)) shall be taken as references to such person so far as they concern matters within the scope of such person's authority.
- (d) The Authority may by notice to the Contractor change the Authority's Representative. Such change shall have effect on the date specified in the written notice (which date shall, other than in the case of emergency, be such date as will not cause material inconvenience to the Contractor in the execution of its obligations under this Contract).
- (e) During any period when no Authority's Representative has been appointed (or when the Authority's Representative is unable through illness, incapacity or any other reason whatsoever to carry out or exercise his or her functions under this Contract) the Authority shall carry out the functions which would otherwise be performed by the Authority's Representative.
- (f) Except where notified in writing by the Authority before such act or instruction, the Contractor and Contractor's Representative shall be entitled to treat any act or instruction of the Authority's Representative which is authorised by this Contract as being expressly authorised by the Authority and the Contractor and the Contractor's Representative shall not be required to determine whether authority has in fact been given.
- (g) Except where notified in writing by the Authority before such act or instruction, the Contractor and Contractor's Representative shall not be entitled to treat any act or instruction of the Authority's Representative or any other officer, employee or other person engaged by the Authority which is not authorised by this Contract as being authorised by the Authority and shall be required to determine by notice to the Authority whether an express authority has in fact been given.

### **3.2 Contractor's Representative**

- (a) The Contractor shall appoint an individual to exercise the Contractor's Representative role pursuant to this Paragraph 3.2.
- (b) The Contractor's Representative shall have full authority to act on behalf of the Contractor for all purposes of this Contract. Except as previously notified



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in writing before such act by the Contractor to the Authority, the Authority and the Authority's Representative shall be entitled to treat any act of the Contractor's Representative in connection with this Contract as being expressly authorised by the Contractor and the Authority and the Authority's Representative shall not be required to determine whether any express authority has in fact been given. All references to the "Contractor's Representative" in this Contract shall be taken as references to such person so far as they concern matters within the scope of such person's authority.

- (c) The Contractor may by notice to the Authority, change the Contractor's Representative. Where the Contractor wishes to do so it shall, by written notice to the Authority, propose a substitute representative, taking account of the need for liaison and continuity in respect of this Contract. Such appointment shall be subject to the Approval of the Authority (not to be unreasonably withheld or delayed).
- (d) The Contractor's Representative shall be entitled at any time, by notice to the Authority, to authorise any other person to exercise the functions and powers of the Contractor delegated to the Contractor's Representative pursuant to this Paragraph 3.2(c), either generally or specifically. Any act of any such person shall, for the purposes of this Contract, constitute an act of the Contractor's Representative and all references to the "Contractor's Representative" in this Contract (apart from this sub-Paragraph (d)) shall be taken as references to such person so far as they concern matters within the scope of such person's authority.

### **3.3 Appointment of Representatives**

At any time, the Authority may appoint more than one Authority's Representative and the Contractor may appoint more than one Contractor's Representative provided in each case the appointer provides written confirmation to the Contractor or Authority as appropriate of the extent of its representative's authority. It is intended that each Authority Group Member has at all times a counterpart Contractor Group Member of equivalent seniority and expertise.

### **3.4 Management of the Services**

Both Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives, and specific provisions of this Contract can be fully realised.

## **4. GOVERNANCE GROUPS**

### **Establishment and structure of the Governance Groups**

- 4.1 The Governance Groups are the Establishment Operational Performance Meeting, Monthly Contract Review Meeting, Quarterly Contract Review Meeting, Escalation Board, Collaboration Forums, Establishment Level Quality Improvement Group and Lot Level Quality Improvement Group, as set out at Paragraphs 5 to 10 below



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(together “the **Groups**” and each “the **Group**”). Each Group shall be established by the Authority for the purposes of this Contract on which both the Contractor and the Authority shall be represented.

- 4.2 In relation to each of the Groups, the:
- (a) Authority Group Members;
  - (b) Contractor Group Members;
  - (c) Other Group Members;
  - (d) frequency that the Group shall meet (unless otherwise agreed between the Parties);
  - (e) location of the Group's meetings (unless otherwise agreed between the Parties); and
  - (f) planned start date by which the Group shall be established,
- are set out in Appendix A (*Governance Groups Details*).
- 4.3 If either Party wishes to replace any of its appointed Group Members, that Party shall notify the other Party in writing of the proposed change for agreement by the other Party (such agreement not to be unreasonably withheld or delayed).
- 4.4 The Authority shall not be prevented from making decisions or reaching agreement by processes and means provided for elsewhere in this Contract, as a result of the governance arrangements set out in this Schedule 13.
- 4.5 The Parties agree that the implementation of the governance structures and processes set out in this Schedule 13 (and any changes to these governance structures and processes agreed between the Parties) will not result in any increase in the Charges payable under this Contract.
- 4.6 In addition to the Groups, working groups may be set up to enable specific issues to be resolved and brought to the Groups for decision making/implementation.
- 4.7 The Contractor shall also attend any other meetings as reasonably required by the Authority, including (without limitation) digital and data governance meetings.

### **Governance Group meetings**

- 4.8 Each Party shall ensure that its Group Members shall make all reasonable efforts to attend meetings of the Groups (the “**Group Meetings**”) at which that Group Member's attendance is required. If any Group Member is not able to attend a Group Meeting, that person shall ensure that:





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- (a) a delegate attends the relevant Group Meeting in their place who (wherever possible) is of appropriate seniority and is properly briefed and prepared; and
  - (b) that they are debriefed by such delegate after the Group Meeting.
- 4.9 A chairperson shall be appointed by the Authority for each Group as identified in Appendix A (*Governance Groups Details*) or as appointed by the Authority in due course. The chairperson and the vice chairperson shall be responsible for:
  - (a) scheduling Group Meetings;
  - (b) setting the agenda for Group Meetings and circulating this and any relevant papers to all attendees in advance of such meetings, with a minimum of 5 Working Days;
  - (c) chairing the Group Meetings;
  - (d) monitoring the progress of any follow up tasks and activities agreed to be carried out following Group Meetings;
  - (e) ensuring that minutes for Group Meetings are recorded and disseminated electronically to the appropriate persons and to all Group meeting participants within 5 Working Days after the Group Meeting, or prior to the next Group Meeting, whichever comes first; and
  - (f) facilitating the process or procedure by which any decision agreed at any Group Meeting is given effect in the appropriate manner.
- 4.10 The Parties shall ensure, as far as reasonably practicable, that the Groups shall resolve the issues and achieve the objectives placed before them. Each Party shall ensure that Group Members are empowered to make relevant decisions or have access to empowered individuals for decisions to be made to achieve this subject to the overarching principle, a decision properly reached by a Group in accordance with this Schedule 13 that falls within the remit of that Group will be binding on both Parties. The overarching principle is that no Group has the power or authority to amend or waive any provision of this Contract. Any amendment to the Contract may only be made through the Change Control Procedure. A waiver of any provision of this Contract may only be given in writing by the Authority's Representative or Contractor's Representative (as appropriate).
- 4.11 Each Party shall pay its own costs and expenses in relation to attendance at Group Meetings.



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### 5. ESTABLISHMENT OPERATIONAL PERFORMANCE MEETING

5.1 The Establishment Operational Performance Meeting, as set out in Appendix A (*Governance Groups Details*), shall:

- (a) review and discuss the Services being delivered at a Prison establishment level, ensuring local accountability and appropriate decision making, relevant to individual Prison establishment needs. The scope covers all elements of the Services as defined in this Contract and any related internal or external dependencies;
- (b) set and communicate strategic direction for the Services within each Prison;
- (c) review Prison level performance;
- (d) discuss contractual dependencies relating to allocation and attendance;
- (e) discuss progress against the Contractor's Improvement Plan and agree updates on a quarterly basis;
- (f) discuss progress against the Post Ofsted Inspection Action Plan, any Post Inspection Improvement Plan and response to HMIP thematic reviews;
- (g) discuss risks, issues and opportunities;
- (h) discuss escalated issues from relevant regular Prison establishment meetings such as security issues and any forthcoming changes to Prison operations;
- (i) agree points for escalation to Monthly Contract Review Meeting; and
- (j) agree actions, progress and next steps from previous meetings.

This meeting and its outputs should inform the Monthly Contract Review Meeting agenda, and the Quarterly Contract Review Meeting agenda.

### 6. MONTHLY CONTRACT REVIEW MEETING

6.1 The Monthly Contract Review Meeting, as set out in Appendix A (*Governance Groups Details*), shall undertake the roles stated below. It is proposed that the Monthly Contract Review Meeting takes place in each of the three (3) Months following the Effective Date and thereafter, unless requested by the Authority, shall be replaced by the Quarterly Contract Review Meeting. If they are so replaced, and for the period that they are replaced, the roles stated below shall, as far as is relevant, form part of the roles of the Quarterly Contract Review Meeting:

- (a) ensure mutual understanding of obligations, goals, expectations, duties and objectives under this Contract;



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- (b) review delivery of the Services and performance at the Contractor level taking a strategic perspective to reporting and issue resolution;
- (c) review delivery across the Lot and to provide an escalation route for Prisons where concerns regarding the quality of delivery can be raised;
- (d) cover all elements of the Services and is the forum for escalation of contractual delivery or dependency issues which cannot be resolved at Prison level;
- (e) set and communicate strategic direction for delivery of the Services within each Lot;
- (f) review Lot level contractual performance, Key Performance Indicators and obligations across the Contractor's contract areas;
- (k) on a quarterly basis, agree the updated Contractor's Improvement Plan;
- (g) discuss contractual dependencies;
- (h) discuss external/internal audits and agree related contractual actions (HMIP, Ofsted, OSAG);
- (i) discuss contractual assurance and compliance activity and findings;
- (j) discuss risks, issues and opportunities;
- (k) discuss escalated issues from the Establishment Operational Performance Meeting;
- (l) agree points for escalation to Quarterly Contract Review Meeting (if relevant); and
- (m) to agree actions, progress and next steps from previous meetings.

6.2 This meeting and its outputs should inform the Quarterly Contract Review Meetings.

## **7. QUARTERLY CONTRACT REVIEW MEETING**

7.1 The Quarterly Contract Review Meeting, as set out in Appendix A (*Governance Groups Details*), shall:

- (a) include finance (including reconciliation and agreeing performance payment related to any moderated KPIs), commercial, performance, staffing, compliance, relationship management and any other relevant topics as and when required;
- (b) review performance of the Contractor across all relevant Lots;



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- (c) ensure mutual understanding of obligations, goals, expectations, duties and objectives in entering and performing obligations under this Contract;
- (d) ensure all parties remain aligned in delivering this Contract effectively;
- (e) ensure any changes within this Contract are documented in accordance with the Change Control Procedure and well managed;
- (f) provide an escalation route for the Prisons where concerns regarding the quality of delivery can be raised;
- (g) once per annum this meeting will take the form of an Annual Contract Review Meeting; and
- (h) when and where relevant to discuss Exit planning/strategy pursuant to Schedule 20 (*Exit Management*).

### 8. **ESCALATION BOARD**

8.1 The Escalation Board, as set out in Appendix A (*Governance Groups Details*), shall:

- (a) be the highest-level board to raise contractual issues or disputes (at a national level or below), which have not been resolved at the Quarterly Contract Review Meeting.
- (b) if this Escalation Board is unable to reach a resolution for the disputes, the formal Dispute Resolution process as set out in Clause 11 (*Dispute Resolution*) will commence, which the Contractor will be expected to engage with.

### 9. **COLLABORATION FORUMS**

9.1 The Collaboration Forums shall:

- (a) provide an environment for promoting collaborative ways of working and partnerships between all parties involved in the provision of the Services, including other Lot members and providers of other educational services such as Core Education Contractors.
- (b) enable collaboration at local, regional and national levels.

9.2 The Collaboration Forums are:

- (a) Establishment Level Quality Improvement Group;
- (b) Lot Level Collaboration Forum (with the Core Education Contractors and other providers and Authority in each Lot);
- (c) Provider Level Collaboration Forum; and



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(d) National Level Collaboration Forum,

as detailed in Appendix A (*Governance Groups Details*) to this Schedule 13.

9.3 The Contractor shall attend and actively engage and contribute to Collaboration Forums at each of the levels (local, regional and national) as set out in Appendix A (*Governance Groups Details*) to:

- (a) through joint problem solving, share best practice, and promote innovation and efficiencies;
- (b) provide an opportunity to identify successes and challenges within the Prison;
- (c) engage with other invited other attendees who may attend on an ad hoc basis;
- (d) discuss potential opportunities to improve the integration, efficiency and effectiveness of the Services to meet the requirements of an integrated learning environment that increases Prisoner employability or further learning potential on release.

9.4 At the Provider Level Collaboration Forum, the Contractor will actively engage, contribute and undertake agreed objectives in the Joint Collaboration Plan and participate in regular reviews.

9.5 This list is non-exhaustive and any other relevant topics may be discussed.

9.6 Further details are set out and contained in Schedule 24 (*Collaboration*).

## 10. **QUALITY GOVERNANCE GROUPS**

10.1 The Contractor is expected to attend and actively engage in regular meetings and activities with the quality cycle at all levels, which focus primarily on the quality of education provision as set out in Appendix A (*Governance Groups Details*).

10.2 The Contractor shall attend Quality Improvement Group Meetings at a local and regional level, as set on in Appendix A (*Governance Groups Details*). Note that the Establishment Level Quality Improvement Group serves as both a Quality Improvement Group Meeting and a Collaboration Forum.

10.3 The quality meetings shall:

- (a) review delivery and co-ordination of CIAG Services and how this links to all education, skills and work across the prison, including but not limited to the Contractor's provision;



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- (b) review completed quality assurance activities including OFSTED reports, recognising strengths and weaknesses to ensure a cycle of continuous improvement;
  - (c) discuss the Quality Improvement Plan noting the progress against actions;
  - (d) identify and share best practice;
  - (e) develop and monitor effective quality assurance tools across the whole of education, skills and work;
  - (f) identify problems early and work together to find solutions and make positive changes;
  - (g) monitor progression and achievement information to make sure Services are consistent, themes are identified, and action is taken where it is needed;
  - (h) listen and respond to the comments of Prisoners, employers and staff;
  - (i) engage with other invited other attendees who may attend on an ad hoc basis; and
  - (j) any other topics pertaining to the quality of the Services as and when they arise.
- 10.4. The Establishment Level Quality Improvement Group will follow the same obligations as the Collaboration Forums listed in Paragraph 9.3.



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**APPENDIX A (GOVERNANCE GROUPS DETAILS)<sup>1</sup>**

**Establishment Operational Performance Meeting - Representation and Structure**

Authority Members	Governor (Chair), Contract Manager, Head of Education Skills and Work (HoESW), Learning and Skills Manager (LSM), Neurodiversity Support Manager (NSM)
Contractor Members	Local CIAG Manager
Contractor Reporting Requirements	<p>Name: Operational Performance Report</p> <p>Purpose: A report setting out the Contractor's actual performance against performance measures in the preceding month.</p> <p>Distribution: Contractor, Governor, HoESW and any other attendees as appropriate. Issued 5 Working Days before meeting.</p> <p>And any other reports as required.</p>
Start Date	Services Commencement Date
Frequency	Monthly
Location	At Prison – flexibility where this necessitates.

**Monthly Contract Review Meeting - Representation and Structure**

Authority Members	<p>Contract Manager (Chair), Regional Head of Education, Skills and Work (RHoESW)</p> <p>Others by exception to represent escalations from site level as necessary: Governor/HoESW/Quality Manager</p>
Contractor Members	<p>Lot Manager</p> <p>Other subject matter experts as needed on an ad hoc basis</p>
Contractor Reporting Requirements	Name: Provider Performance Report



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	<p>Purpose: A report setting out the Contractor's actual performance against the contract, including identification of any performance that does not meet expectations and actions being taken to resolve.</p> <p>Owner: The Authority will provide a template for the document to be completed by the Contractor.</p> <p>Distribution: PGD(s), Governors, HoESWs, Contract Manager, RHoESW and any other attendees as appropriate. Issued 5 Working Days before meeting.</p> <p>And any other reports as required.</p>
Start Date	Effective Date
Frequency	These will be held monthly for the first three months following the Effective Date and thereafter, if the continuance (or resumption) of these meetings is requested by the Authority, on a monthly or bi-monthly basis for such period as the Authority considers appropriate.
Location	TBA

**Quarterly Contract Review Meeting - Representation and Structure**

Authority Members	<p>Senior Contract Manager (Chair), Contract Manager, Finance Lead, Commercial Lead, HR Lead</p> <p>Others by exception: Quality Manager</p>
Contractor Members	<p>Contractor's Representative</p> <p>Quality Assurance Lead</p>
Contractor Reporting Requirements	<p>Name: Quarterly Provider Performance Report</p>





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	<p>Purpose: To inform discussion. Sections likely to be requested include: performance, staffing, compliance, relationship management – this list is not exhaustive and any other topics could be included.</p> <p>Distribution: Meeting attendees. Issued 5 Working Days before meeting.</p> <p>And any other reports as required.</p>
Start Date	Services Commencement Date
Frequency	Quarterly
Location	TBA

### Escalation Board - Representation and Structure

Authority Members	<p>PES Steward, Head of Education Contracts (Chair)</p> <p>Attendees will be dependent on the topic of escalation being discussed, so can include the following but the list is not exhaustive:</p> <p>PES Steward, Head of Education Contracts, Senior Contract Managers, Finance Lead, Commercial Lead, HR Lead, Quality Lead, Legal Lead</p> <p>Authority's Representative</p>
Contractor Members	<p>Attendees will be dependent on the topic of escalation being discussed, so can include the following but the list is not exhaustive:</p> <p>Contractor's Representative</p> <p>Quality Assurance Lead</p> <p>Any other subject matter experts as needed on an ad hoc basis.</p>
Contractor Reporting Requirements	<p>Will be required to set out requirement for an Escalation Board to be convened, clearly articulating the areas to be considered by the</p>



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	board and the activity that has taken place to avoid escalation within the contractual governance processes.
Start Date	Services Commencement Date
Frequency	Ad hoc – when required.
Location	TBA

### National Level Collaboration Forum – Representation and Structure

Authority Members	PES Steward (Chairperson)  Full list of attendees to be defined but will consist of appropriate Authority representatives.
Contractor Members	Collaboration Sponsor  Other subject matter experts as needed on an ad hoc basis
Contractor Reporting Requirements	As and when required by the Authority
Start Date	Services Commencement Date
Frequency	Quarterly
Location	TBA

### Provider Level Collaboration Forum – Representative and Structure

Authority Members	PES Steward (Chairperson)  Contract Management Lead  Commercial Lead  Quality Improvement Lead  Full list of attendees to be defined but will consist of appropriate Authority representatives.
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Contractor Members	Contractor's Representative  Quality Assurance Lead  Other subject matter experts as needed on an ad hoc basis
Contractor Reporting Requirements	Joint Collaboration Plan And anything else as and when required by the Authority
Start Date	Services Commencement Date
Frequency	Bi-annually
Location	TBA

**Lot Level Collaboration Forum – Representation and Structure**

Authority Members	Attendees to be defined but will consist of appropriate Authority representatives.
Contractor Members and Other Providers	From the Contractor: Lot Manager  Other subject matter experts as needed on an ad hoc basis.  Others: The Core Education Contractor and Other Group Members
Contractor Reporting Requirements	As and when required by the Authority
Start Date	Services Commencement Date
Frequency	Quarterly
Location	TBA

**Establishment Level Quality Improvement Group – Representation and Structure**

Authority Members	Governor (Chair)  Regional HoESW/RHoLS  HoESW
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	HoRR  Activities Manager  Industries Manager  Neurodiversity Support Manager  Others as required including: Quality Manager, New Futures Network Broker
Contractor Members	Local Managers
Contractor Reporting Requirements	As relevant to establishment and to be circulated prior to meeting, 5 Working Days before, and discussed by exception.  Creation and adherence to the annual quality calendar.  And any other reports if and when required.
Start Date	Services Commencement Date
Frequency	Monthly
Location	TBA

**Lot Level Quality Improvement Group – Representation and Structure**

Authority Members	RHoLS/RHoESW (Chairperson)  Heads of Education Skills and Work/Learning and Skills Managers  Neurodiversity Support Managers  Contract Management  Others as required
Contractor Members	Lot Manager  Specialists/Subject matter experts as required



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Contractor Reporting Requirements	As relevant to establishment and to be circulated prior to meeting, 5 Working Days before, and discussed by exception.
Start Date	Services Commencement Date
Frequency	Quarterly
Location	TBA



# **SCHEDULE 14 – KEY PERFORMANCE INDICATORS AND PERFORMANCE MANAGEMENT**



## Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

### 1 DEFINITIONS

1.1 In this Schedule 14, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Continuous Improvement Plan"</b>	has the meaning given to it in Paragraph 6.2 of Part B of this Schedule 14;
<b>"Improvement Actions"</b>	has the meaning given in Paragraph 3.3 of Part B of this Schedule 14;
<b>"Improvement Notice"</b>	means a notice issued by the Authority under (and as defined in) Paragraph 3.1 of Part B of this Schedule 14;
<b>"Improvement Plan"</b>	has the meaning given to it in Paragraph 3.3 of Part B of this Schedule 14;
<b>"Interim Period"</b>	means the period from the Service Commencement Date until the Authority informs the Contractor in writing that the New Screening and Assessment process is operational;
<b>"Temporarily KPI Omitted Prisoners"</b>	means, during the Transition Period only, Prisoners who have entered Prison prior to the Services Commencement Date and do not have a PLP on the Authority IT System and are not recorded on the data of completed Induction and Review Sessions provided to by the Incumbent Supplier (s).
<b>"Key Performance Indicators" and "KPI(s)"</b>	means the key performance indicators details of which are set out in the KPI Technical Notes;
<b>"KPI Technical Notes"</b>	means the technical notes describing the measurement and calculation of KPI performance set out in Appendix 1 ( <i>KPI Technical Notes</i> ) to this Schedule 14 (which the Authority may update from time to time);
<b>"New Screening and Assessment Process"</b>	means the New Screening and Assessment Process being procured by the Authority (as part of which the date of completion of the Screening Assessment will be entered on the Authority's ICT System);



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<b>"Lot Pass Percentage"</b>	means for each KPI, the minimum 'Pass' percentage score for the Lot as set out in the KPI Technical Notes;
<b>"Minimum Pass Level"</b>	means the minimum level of performance, in the areas of delivery as assessed by each KPI, for the Contractor to 'Pass' the KPI in accordance with the KPI Technical Notes;
<b>"Outstanding Issues Notice"</b>	has the meaning given to it in Paragraph 4.1 of Part B of this Schedule 14;
<b>"Pass" and "Passed"</b>	means that the Contractor has met all of the relevant requirements in the KPI Technical Notes and has achieved the Minimum Pass Level in respect of a KPI;
<b>"Performance Period"</b>	means each quarter of the Contract Year, i.e., 1 <sup>st</sup> April to 30 <sup>th</sup> June, 1 July to 30 September, 1 October to 31 December and 1 January to 31 March;
<b>"Post Inspection Improvement Plan"</b>	means any plan required under Paragraph 5 of Part B of this Schedule 14;
<b>"Prison Pass Percentage"</b>	means for each KPI, the minimum 'Pass' percentage score for each Prison as set out in the KPI Technical Notes;
<b>"Rectification Plan"</b>	has the meaning given to it in Paragraph 4.3 of Part B of this Schedule 14; and
<b>"Transition Period"</b>	means the period of six Months following the Services Commencement Date.





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### PART A – KEY PERFORMANCE INDICATORS

#### 2 INTRODUCTION

- 2.1 The Contractor shall provide the Services to the standards set out in the Specification and in compliance with the terms of this Contract. Key Performance Indicators (KPIs) shall be used to ensure that the Contractor is (at a minimum) meeting expected standards across two of the key areas of the Services.
- 2.2 A high-level description of each KPI, and details of how each KPI will be measured, can be found in the KPI Technical Notes.
- 2.3 The Authority expects to see continuous improvement in the quality of the Services and outcomes for Prisoners. The Authority also expects the Contractor to use its best endeavours to reach maximum performance in all KPIs, even though the Minimum Pass Level for each KPI is set below 100%. The expectation of continuous improvement is reflected in the increase in Minimum Pass Level for each KPI in the initial three Contract Years as set out in the KPI Technical Notes.
- 2.4 During the Transition Period the revised KPIs as set out in Appendix 4 to this Schedule shall apply to Temporarily KPI Excluded Prisoners.

#### 3 CALCULATION OF WITHHELD PERFORMANCE INCENTIVE PAYMENT

- 3.1 A Withheld Performance Incentive Payment will be calculated for each Performance Period in accordance with Schedule 3 (*Charges*).
- 3.2 The details of the methodology to be used in assessing whether the Contractor has Passed a KPI is set out in the KPI Technical Notes.
- 3.3 Each KPI shall have equal weighting.
- 3.4 Any disruption to the recording of data that is caused by material issues with the availability of the Authority's ICT System will not result in the unreasonable withholding of the Withheld Performance Incentive Payment. If there are issues with the Authority's ICT System, an alternative method of measurement will be sought to obtain the required data to assess the Contractor's performance against the KPIs. If an alternative method of measurement is not reasonably possible, and the disruption is significant, it will be assumed that the Minimum Pass Level has been achieved in the KPI or KPIs affected, and they will be treated as Passed.
- 3.5 Any disagreements between the Authority and the Contractor about how an individual KPI has been assessed will be resolved through the Dispute Resolution Procedure. Whilst the dispute resolution process is ongoing, the Authority will continue to use the KPI outcome that it has calculated.

#### 4 TRANSITION PERIOD

- 4.1 In respect of the KPIs, there will be a Transition Period. In the Transition Period, for the purposes of assessing the Withheld Performance Incentive Payment only, the



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Contractor will be deemed to have Passed both KPIs, regardless of the actual KPI outcome in the Transition Period.

- 4.2 Regardless of the Transition Period and Paragraph 4.1, the KPIs will be fully measured from the Services Commencement Date and must be reported on in accordance with this Schedule 14 and Schedule 22 (*Reporting Requirements*).

**5 KEY PERFORMANCE INDICATOR REVIEW**

The Authority shall undertake a rolling review of the KPIs on an annual basis. Any changes to the KPIs set out in this Schedule 14 will be agreed via the Change Control Procedure.



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### PART B - PERFORMANCE MANAGEMENT

#### 1 PERFORMANCE REPORTING

- 1.1 The Authority shall measure the Contractor's performance in the delivery of the Services against the KPIs and Management Information within the Lot.
- 1.2 The Contractor shall maintain a record of all data required to inform the calculation of the KPIs and Management Information for each month on the Authority's ICT System. This shall include data in relation to performance at each Prison to enable the Authority to measure the Prison Pass Percentage and the Lot Pass Percentage as set out in the KPI Technical Notes.
- 1.3 On such occasions that a Monthly Contract Review Meeting is held, the Contractor shall, no more than five (5) Working Days after the end of each Month, submit a monthly Provider Performance Report to the Authority relating to the preceding Month setting out such information as the Authority may reasonably require in relation to performance of delivery of the Services (see Schedule 13 (*Governance*)). Such reports shall set out information at Prison level and Lot level and shall be provided whenever a Monthly Contract Review Meeting is held.
- 1.4 The Contractor shall, at least five (5) Working Days before each Quarterly Contract Review Meeting, submit a quarterly Provider Performance Report to the Authority setting out such information as the Authority may reasonably require in relation to performance of the delivery of the Services relating to the previous Quarter (see Schedule 13 (*Governance*)). Such reports shall be provided each Quarter during the Term.

#### 2 REDUCED PERFORMANCE

The Contractor shall comply with the provisions in Clause F1 (*Contract Performance*).

#### 3 IMPROVEMENT NOTICES AND IMPROVEMENT PLAN

- 3.1 If the Authority reasonably considers that:
  - (a) any instances of reduced performance by the Contractor fall below the required standard under this Contract (including, without limitation, the quality standards set out in Paragraph 10 (*Quality Delivery*) of Schedule 2 (*Specification*)); or
  - (b) the Contractor has failed to meet any of its obligations under this Contract; or
  - (c) the Contractor has failed to meet the Lot Pass Percentage; or
  - (d) the Contractor has failed to meet the Prison Pass Percentage as calculated for any individual Prison in more than two consecutive Performance Periods; or
  - (e) the Contractor has failed to achieve matrix accreditation within six (6) Months of the Effective Date (as required by Paragraph 10 (*Quality Delivery*) of Schedule 2 (*Specification*)); or



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- (f) in relation to the Joint Collaboration Plan and relevant process outlined in Paragraph 6 of Schedule 24 (*Collaboration*), the Contractor is not participating, collaborating or meeting the actions or outputs to a satisfactory level,

then it may issue an improvement notice ("**Improvement Notice**"). An Improvement Notice may relate to any aspect of the provision of the Services whether or not it is related to the Key Performance Indicators or Management Information.

### 3.2 An Improvement Notice shall include:

- (a) details of the reduced performance or the nature of the occurrence of the Defaults; and
- (b) any supporting information which the Authority considers to be relevant.

### 3.3 Within twenty (20) Working Days of the date of issue of an Improvement Notice the Contractor shall deliver to the Authority a plan ("**Improvement Plan**") in respect of the relevant failures stated in the Improvement Notice, which shall:

- (a) provide an explanation of the causes of the reduced performance;
- (b) identify the actions (the "**Improvement Actions**") needed to remedy the reduced performance identified in the Improvement Notice and prevent its recurrence;
- (c) set out:
  - (i) the Contractor's proposals for carrying out the Improvement Actions;
  - (ii) a programme for undertaking such Improvement Actions; and
  - (iii) the date by which such Improvement Actions will be completed;
- (d) identify any actions or consents required from the Authority to facilitate the Contractor's remedial actions (where these activities do not form part of the Contractor's obligations under this Contract);
- (e) not increase cost or risk to the Authority; and
- (f) propose criteria for the purpose of auditing completion of the remedial actions and resolution of the poor performance (to include an appropriate period of time to monitor the stability of the resolution).

### 3.4 Following receipt of an Improvement Plan, the Authority may (acting reasonably):

- (a) agree it; or
- (b) reject it and require the Contractor to submit a revised Improvement Plan within five (5) Working Days of such rejection (or such other time as may be agreed by the Parties in writing).



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- 3.5 The Contractor shall implement all the Improvement Actions by the date specified in the Improvement Plan at no cost to the Authority.
- 3.6 An Improvement Plan shall remain open until the Improvement Actions identified in it have been completed in accordance with the agreed Improvement Plan to the Authority's satisfaction, whereupon it shall be closed.
- 3.7 The Authority may request a meeting with the Contractor to discuss progress against any open Improvement Plan by giving not less than two (2) Working Days' notice to the Contractor.

**4 RECTIFICATION**

4.1 Where either:

- (a) the Contractor fails to submit an Improvement Plan in accordance with Paragraph 3.3 and/or fails to submit a revised Improvement Plan in accordance with Paragraph 3.4(b) or the revised Improvement Plan is in the Authority's reasonable opinion unacceptable; or
- (b) Improvement Actions are carried out and completed but do not succeed in remedying the reduced performance identified in the Improvement Notice or in preventing its recurrence as described in Paragraph 3.3; or
- (c) the Improvement Actions in an Improvement Plan are not completed by the date specified or to the Authority's satisfaction in accordance with Paragraph 3.3,

it may issue a notice ("**Outstanding Issues Notice**") to the Contractor.

4.2 If an Outstanding Issues Notice is issued where:

- (a) the Contractor fails to submit a revised Improvement Plan in accordance with Paragraph 3.4(b) or the revised Improvement Plan is in the Authority's reasonable opinion unacceptable; or
- (b) Improvement Actions are carried out and completed but do not succeed in remedying the reduced performance identified in the Improvement Notice or in preventing its recurrence: or
- (c) the Improvement Actions in an Improvement Plan are not completed by the date specified or to the Authority's satisfaction in accordance with Paragraphs 3.5 and 3.6;

the Authority may in its sole discretion:

- (a) agree an extension to the Improvement Plan;
- (b) agree a revised Improvement Plan; or
- (c) issue a notice in respect of such issues.



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4.3 Following receipt of a notice under Paragraph 4.2(f), the Contractor shall within ten (10) Working Days of the date of its issue (or such other time as may be agreed by the Parties in writing) provide a rectification plan which shall set out the Contractor's proposals for carrying out the actions necessary to ensure that the issues identified in the Outstanding Issues Notice are rectified and do not recur and a programme for undertaking such actions and the date by which they will be completed (the "**Rectification Plan**").

4.4 On receipt of a Rectification Plan the Authority may:

- (a) agree it; or
- (b) reject it and require the Contractor to submit a revised Rectification Plan within five (5) Working Days of such rejection (or such other time as may be agreed by the Parties in writing).

4.5 If:

- (a) the Contractor fails to submit a revised Rectification Plan in accordance with Paragraph 4.3; or
- (b) the revised Rectification Plan is in the Authority's reasonable opinion unacceptable; or
- (c) within twenty (20) Working Days (or to an alternative deadline agreed with the Authority) of a Rectification Plan (or a revised Rectification Plan) being agreed the Contractor fails to carry out and complete the actions in accordance with the Rectification Plan programme, or in the Authority's reasonable opinion fails to make substantial progress with the actions,

the Authority may in its sole discretion:

- (a) agree an extension to the time for carrying out and completing the Rectification Plan;
- (b) agree a revised Rectification Plan; or
- (c) determine the Contractor's failure to be a Default and apply the remedies available to it under this Contract.

### 4.6 Performance Records

4.6.1 The Contractor shall keep appropriate documents and records in relation to the Services being delivered in accordance with Clause F5 (*Audit*) and Schedule 22 (*Reporting Requirements*) and provide prompt access to such records to the Authority upon the Authority's request. The records and documents of the Contractor shall be available for inspection by the Authority and/or its nominee at any time and the Authority and/or its nominee may make copies of any such records and documents.

4.6.2 In addition to the requirement in Paragraph 4.6.1 to maintain appropriate documents and records, the Contractor shall provide to the Authority such supporting



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documentation as the Authority may reasonably require to verify the level of the performance of the Contractor both before and after the Services Commencement Date and the calculations of the amount of the Withheld Performance Incentive Payments for any specified period.

- 4.6.3 The Contractor shall ensure that any performance records and any variations or amendments thereto, any reports and summaries produced in accordance with this Schedule 14 and/or any other document or record reasonably required by the Authority are available to the Authority on-line and are capable of being printed.

## 5 OFSTED INSPECTION OUTCOMES

- 5.1 A similar performance management and rectification process will apply in relation to any OFSTED inspections and outcomes.
- 5.2 Where OFSTED have inspected a Prison's ESW provision and raised a formal concern or made a recommendation in their report about the Services, the Authority will inform the Contractor of any comment(s) and the Contractor shall prepare a Post Inspection Improvement Plan in respect of such comment(s).
- 5.3 In preparing the Post Inspection Improvement Plan, the Contractor shall liaise with the Core Education Providers as necessary if any aspect of any OFSTED comment relates to issues concerning both core education and the Services.
- 5.4 The requirement to provide a Post Inspection Improvement Plan shall arise upon the date the Contractor is informed of any OFSTED comment(s) by the Authority.
- 5.5 The Contractor shall ensure that the Post Inspection Improvement Plan addresses any comments / recommendations made by OFSTED which relate to the Services being provided by the Contractor.

## 6 CONTINUOUS IMPROVEMENT

- 6.1 The Contractor shall adopt a policy of continuous improvement in relation to the Services and will regularly review with the Authority the Services with a view to reducing the Authority's costs (including the Charges) and/or improving the quality and efficiency of the Services. The Contractor and the Authority will provide to one another any information which may be relevant in fulfilling these objectives.
- 6.2 The Contractor shall produce prior to the start of the second Contract Year and prior to the start of each subsequent Contract Year thereafter during the Term a plan for improving the provision of the Services and/or reducing the Charges (without adversely affecting the performance of this Contract) during that Contract Year ("**Continuous Improvement Plan**") for the Authority's Approval.
- 6.3 The Continuous Improvement Plan shall include, as a minimum, proposals in respect of the following:
- (a) identifying the emergence of relevant new and evolving technologies;



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- (b) changes in business processes of the Contractor or the Authority and ways of working that would provide cost savings and/or enhanced benefits to the Authority (such as methods of interaction, supply chain efficiencies, reduction in energy consumption and methods of sale);
  - (c) new or potential improvements to the provision of the Services including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Services;
  - (d) measuring and reducing the sustainability impacts of the Contractor's operations and supply-chains pertaining to the Services and identifying opportunities to assist the Authority in meeting their sustainability objectives; and
  - (e) any consequent or enabling changes that will be required in order to facilitate the Contractor's proposals including changes that will need to be made by the Authority or any third parties.
- 6.4 The Authority shall notify the Contractor of its Approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Working Days of receipt. If it is rejected then the Contractor shall, within ten (10) Working Days of receipt of notice of rejection, submit a revised Continuous Improvement Plan reflecting the changes required. Once Approved, it shall constitute the Continuous Improvement Plan for the purposes of this Contract.
- 6.5 The Contractor shall provide sufficient information with each suggested improvement to enable a decision on whether to implement it. The Contractor shall provide any further information as reasonably requested.
- 6.6 If the Authority wishes to incorporate any improvement into this Contract, it shall request a Change in accordance with the Change Control Procedure and the Contractor shall implement such Change at no additional cost to the Authority.
- 6.7 Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 6.4:
  - (a) the Contractor shall use all reasonable endeavours to implement any agreed Services in accordance with the Continuous Improvement Plan; and
  - (b) the Parties shall meet as soon as reasonably possible following the start of each Performance Period (or as otherwise agreed between the Parties) to review the Contractor's progress against the Continuous Improvement Plan.
- 6.8 The Contractor shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the second (2nd) Contract Year) in accordance with the procedure and timescales set out in Paragraph 6.3.
- 6.9 All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of





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

- 6.10 Should the Contractor's costs in providing the Services to the Authority be reduced as a result of any changes implemented, all of the cost savings (net of the cost of change or implementation) shall be passed on to the Authority by way of a consequential and immediate reduction in the Charges for the Services.



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### Appendix 1 –KPI TECHNICAL NOTES

#### Summary

There will be the following two KPIs:

- (a) KPI 1 – Completed Induction Sessions; and
- (b) KPI 2 – Completed Review Sessions.

#### TECHNICAL NOTES RELATING TO KPI 1

KPI 1: Completed Induction Sessions	
1: Description	Percentage of Induction In-Scope Prisoners with a completed Induction Session by the Induction Session Deadline in each Performance Period.
2: Rationale	<p>A contractual measure to promote the timely completion of the Induction Sessions including completing a Prisoner's digital PLP and uploading of the required information to the Authority's ICT System.</p> <p>This will support the goal that all Induction In-Scope Prisoners have structured access to the Services from induction, receive support to choose and access an appropriate Pathway that meets their needs, and have relevant SMART Goals set to support them to achieve career aspirations.</p> <p>This will provide improved sequencing of a Prisoner's learning, promote Prisoner engagement, and will support educational outcomes.</p>
3: Output	The total number of Induction In-Scope Prisoners made available to the Contractor, whose Induction Session Deadline is within the Performance Period (or whose Induction Session Deadline was during a previous Performance Period but the Contractor had not completed the Induction Session) and where the Contractor has not completed Induction Session (including completing a Prisoner's digital PLP) by the Induction Session Deadline as a percentage of all Induction In-Scope Prisoners, made available to the Contractor, whose Induction Session Deadline is within the Performance Period (or whose Induction Session Deadline was during a previous Performance Period but the Contractor had not completed the Induction Session).
4: Performance Ratings	
<p>The KPI will be measured at Lot level and Prison level using the mechanism below.</p> <p>The Authority mandates a minimum 'Pass' percentage score for the Lot (the "<b>Lot Pass Percentage</b>") and a minimum 'Pass' percentage score for each Prison (the "<b>Prison Pass Percentage</b>"). The Contractor must achieve above or equal to <u>both</u> the minimum Lot Pass Percentage and Prison Pass Percentage, to pass the KPI.</p>	



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### **4.1 Lot Level Performance**

Lot level performance will be measured as follows:

- (a) performance will be measured using a binary scoring system, where the Contractor either passes or fails the KPI;
- (b) the Lot Pass Percentage will be set at:
  - 85% for Contract Year 1 (note the Transition Period will apply for the first six (6) Months of Contract Year 1)
  - 90% for Contract Year 2
  - 95% for Contract Year 3 and onwards

### **4.2 Prison Level Performance**

Prison level performance will be measured as follows:

- (a) Prison level performance will be measured using a binary scoring system, where the Contractor either passes or fails the KPI;
- (b) The Prison Pass Percentage will be set at:
  - 60% in Contract Year 1 (note the Transition Period will apply for the first six (6) Months of Contract Year 1)
  - 65% in Contract Year 2
  - 70% in Contract Year 3 onwards.

**PASS**

(a) Where the Lot Pass Percentage has been achieved

**AND**

(b) Where the Prison Pass Percentage has been achieved.

**FAIL**

(a) Where the Lot Pass Percentage has not been achieved

**OR**

(b) Where the Prison Pass Percentage has not been achieved.

**5: General  
Description**

When Prisoners first enter the prison system (i.e. any adult prison in England), they begin an Induction Period.

The Induction Period supports a Prisoner to acclimatise to the Prison environment and receive relevant support. During the Induction Period, different teams from across the Prison, e.g. healthcare, will meet Prisoners as



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	<p>part of their induction and assess their needs and inform them of the support they can provide.</p> <p>As part of the Induction Period, Prisoners will undertake the Screening and Assessment Process (the responsibility of the Core Education Provider) which will identify additional learning needs and determine the baseline ability levels for functional skills (mathematics, English and digital skills). Following the Interim Period the Contractor shall complete an Induction Session after the completion of the Screening and Assessment Process, with every Induction In-Scope Prisoner in accordance with Schedule 2 (<i>Specification</i>) by the Induction Session Deadline. During the Interim Period the Contractor shall complete an Induction Session with every Induction In-Scope Prisoner by the calendar day that is twenty (20) calendar days from the day that the Prisoner enters the Prison (regardless of whether a Screening and Assessment has been undertaken) with the exception that, if the Prisoner enters Prison on a day which falls within period from 20 December to 1 January, the Induction Session Deadline shall be the calendar day that is twenty five (25) calendar days after the Prisoner enters Prison).</p> <p>The Induction Session will be considered complete when it meets the requirements outlined in 6 (a) below.</p>
<b>6: Technical Requirements</b>	<p>6(a) an Induction Session will be considered <u>complete</u> when, for each Induction In-Scope Prisoner:</p> <ul style="list-style-type: none"> <li>• an Induction Session has been completed by an appropriately qualified and experienced member of Staff; and</li> <li>• the Induction Session has been conducted in accordance with Schedule 2 (<i>Specification</i>); and</li> <li>• a digital PLP has been completed; and</li> <li>• the results have been uploaded to the Authority's ICT System. If the Authority's ICT System is unavailable, the Contractor shall complete paper records in the format required by the Authority and shall upload these to the Authority's ICT system within 5 days of Authority's ICT becoming available. (The date of the Induction Session shall be the date on which the Authority's ICT system is updated however, if this results in the Induction Session being later than the Induction Session Deadline, the Contractor shall be entitled to rely on Exemption 1.3(b) in Appendix 3). Please see Paragraph 4.5.6 of Schedule 2 (<i>Specification</i>) which sets out the requirement for any paper records to be uploaded to the Authority's ICT System within five (5) calendar days of the Authority's ICT System becoming available again.</li> </ul> <p>6(b) An '<u>appropriately qualified and experienced member of staff</u>' – means a member of Staff, who holds, at a minimum a Level 3 Qualification. A Peer Mentor is not considered an appropriately qualified and experienced member of staff.</p>



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	<p>6(c) Unless the Interim Period applies (see 6(d) below) the Induction Session Deadline is the calendar day that is ten (10) calendar days from the day after completion of the Screening and Assessment Process (with the exception that, if the Screening and Assessment Process is complete on a day which falls within period from 20 December to 1 January, the Induction Session Deadline shall be the calendar day that is fifteen (15) calendar days after the Screening and Assessment).</p> <p>If a Prisoner has transferred from another establishment and their Screening and Assessment Process has been completed at the previous establishment, the Induction Session Deadline is the calendar day that is ten calendar days from the day after they enter the Prison.</p> <p>If a Prisoner has transferred from another establishment and completed an Induction Session at the previous Prison, then they shall have a Review Session (not an Induction Session) and shall not fall within the scope of KPI 1.</p> <p>Where Prisoners have transferred from another establishment and been identified as not having a digital PLP but have completed the required Screening and Assessment Process, the Induction Session Deadline will be ten (10) calendar days from the day after they enter the Prison..</p> <p>6 (d) During the Interim Period the Induction Session Deadline is the calendar day that is twenty (20) calendar days from the day that the Prisoner enters the Prison with the exception that, if the Prisoner enters Prison on a day which falls within period from 20 December to 1 January, the Induction Session Deadline shall be the calendar day that is twenty five (25) calendar days after the Prisoner enters Prison).</p> <p>If a Prisoner has transferred from another establishment the above deadlines will still apply from the day after they enter the Prison.</p> <p>6 (e) Induction In-Scope Prisoners are all the Prisoners eligible for an Induction Session unless it is agreed by the Authority that they are an Excluded Prisoner or one of the Exemptions listed in Appendix 3 (Excluded Prisoners and Exemptions) to this Schedule 14 applies. Note that if a Prisoner should have had an Induction Session in the previous Performance Period but this was not completed, they will be included in the figures for the current Performance Period.</p> <p>6 (f) A Prisoner will only be excluded from the number of Induction In-Scope Prisoners if they are an Excluded Prisoner or an Exemption applies. The Contractor shall not be entitled to rely on any other reasons for failure to complete an Induction Session, including, but not limited to, failure of a Sub-Contractor, lack of appropriate qualified and experienced staff, incorrect completion of the digital PLP or failure to effectively plan and schedule the Induction Sessions.</p>
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<b>7: Calculation</b>	<p><b>Scoring system</b></p> <p>The total number (<i>a</i>) of Induction In-Scope Prisoners whose Induction Session is completed by the Induction Session Deadline will be calculated using the following scoring system:</p> <ul style="list-style-type: none"><li>• One (1) point will be awarded for each Induction Session complete by the Induction Session Deadline.</li><li>• Zero (0) points will be awarded for each Induction Session which is not complete by the Induction Session Deadline.</li></ul> <div><math display="block">\frac{a}{b + c} \times 100 =</math><p>Percentage delivery of Induction in-Scope Prisoners (where the Induction Session Deadline for their Induction Session is within the Performance Period) where the Contractor has delivered the completed Induction Session by the Induction Session Deadline</p></div> <p>Where:</p> <p><i>a</i> = The sum of points awarded for all Induction In-Scope Prisoners where the Induction Session Deadline for their Induction Session is within the Performance Period (or whose Induction Session Deadline was during a previous Performance Period and where the Contractor had not completed the Induction Session) and where the Contractor has completed the Induction Session by the Induction Session Deadline.</p> <p><i>b</i> = The total number of Induction In-Scope Prisoners due an Induction Session in a Performance Period.</p> <p><i>c</i> = The total number of Induction In-Scope Prisoners whose Induction Session Deadline was during a previous Performance Period and where the Contractor had not completed the Induction Session and where the Contractor has still not delivered a completed Induction Session by the end of the current Performance Period.</p>
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## TECHNICAL NOTES RELATING TO KPI 2

KPI 2: Completed Review Sessions	
<b>1: Description</b>	<p><b>Percentage of Review In-Scope Prisoners with a completed Review Session by the Review Session Deadline in each Performance Period.</b></p> <p>Please note that the term Review Session shall include Pre-Release Sessions.</p>
<b>2: Rationale</b>	<p>A contractual measure to promote the regular and timely completion of Review Sessions including the entry of outcomes on the Authority's ICT System.</p> <p>This supports the goal that the Authority's ICT System holds up-to-date Prisoner careers information that is accessible to the Authority. This will support all In-Scope Prisoners in engaging with ESW throughout their time in Prison and enable Review In-Scope Prisoners to understand their career progression pathway towards meaningful outcomes on release.</p> <p>This will provide improved sequencing of a Prisoner's learning, promote Prisoner engagement and will support educational outcomes.</p>
<b>3: Output</b>	<p>The total number of Review In-Scope Prisoners made available to the Contractor, whose Review Session Deadline is within the Performance Period (or whose Review Session Deadline was during a previous Performance Period but the Contractor had not completed the Review Session) and where the Contractor has delivered the Review Session by the Review Session Deadline, as a percentage of all Review In-Scope Prisoners, made available to the Contractor, whose Review Session is within the Performance Period (or whose Review Session Deadline was during a previous Performance Period but the Contractor had not completed the Review Session).</p>
<b>4: Performance Ratings</b>	
<p>The KPIs will be measured at the Lot level and the Prison level using the mechanism below.</p> <p>The Authority mandates a minimum 'Pass' percentage score for the Lot (the "<b>Lot Pass Percentage</b>") and a minimum 'Pass' percentage score for each Prison (the "<b>Prison Pass Percentage</b>"). The Contractor must achieve above or equal to <u>both</u> the minimum Lot Pass Percentage and Prison Pass Percentage, to pass the KPI.</p> <p><b><u>4.1 Lot Level Performance</u></b></p> <p>Lot level performance will be measured as follows:</p>	



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<p>(a) performance will be measured using a binary scoring system, where the Contractor either passes or fails the KPI;</p> <p>(b) the Lot Pass Percentage will be set at:</p> <ul style="list-style-type: none"> <li>• 85% for Contract Year 1 (note the Transition Period will apply for the first six (6) Months of Contract Year 1)</li> <li>• 90% for Contract Year 2</li> <li>• 95% for Contract Year 3 and onwards</li> </ul>	
<p><b><u>4.2 Prison Level Performance</u></b></p> <p>Prison level performance will be measured as follows:</p> <p>(a) Prison level performance will be measured using a binary scoring system, where the Contractor either passes or fails the KPI;</p> <p>(b) The Prison Pass Percentage will be set at:</p> <ul style="list-style-type: none"> <li>• 60% in Contract Year 1 (note the Transition Period will apply for the first six (6) Months of Contract Year 1)</li> <li>• 65% in Contract Year 2</li> <li>• 70% in Contract Year 3 onwards</li> </ul>	
PASS	<p>Where the Lot Pass Percentage has been achieved</p> <p>AND</p> <p>Where the Prison Pass Percentage has been achieved.</p>
FAIL	<p>Where the Lot Pass Percentage has not been achieved</p> <p>OR</p> <p>Where the Prison Pass Percentage has not been achieved.</p>
<p><b>5: General Description</b></p>	<p>Review Sessions assist the Prisoner to track their progress against their goals and SMART objectives and review their Pathway.</p> <p>The Review Session will follow an Induction Session or a previous Review Session. The Contractor will set the date for the Review Session at the end of the previous Session to align with the frequency requirements for the Review Session set out in Appendix 2 (Review Session Deadlines) to this Schedule 14. All Review In-Scope Prisoners shall receive a Review Session by the Review Session Deadline set out in Appendix 2 (Review Session Deadlines) to this Schedule 14.</p>





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	<p>The Review Session will be considered complete when it meets the requirements set out in 6 (a) below.</p>
<b>6: Technical Requirements</b>	<p>6(a) a Review Session will be considered <u>complete</u> when, for each Review In-Scope Prisoner:</p> <ul style="list-style-type: none"><li>• a Review Session has been completed by an appropriately qualified and experienced member of Staff;</li><li>• the Review Session has been conducted in accordance with Schedule 2 (<i>Specification</i>); and</li></ul> <p>the results have been uploaded to the Authority's ICT System. If the Authority's ICT System is unavailable, the Contractor shall complete paper records in the format required by the Authority and shall upload these to the Authority's ICT system within 5 days of Authority's ICT becoming available. (The date of the Review Session shall be the date on which the Authority's ICT system is updated however, if this results in the Review Session being later than the Review Session Deadline, the Contractor shall be entitled to rely on Exemption 1.3(b) in Appendix 2).</p> <ul style="list-style-type: none"><li>• Please see Paragraph 5.3.3 of Schedule 2 (<i>Specification</i>) which sets out the requirement for any paper record to be uploaded to the Authority's ICT System within five (5) calendar days of the Authority's ICT System becoming available again.</li></ul> <p>6(b) An '<u>appropriately qualified and experienced member of staff</u>' – has the same meaning as the meaning set out for KPI 1.</p> <p>6(c) The Review Session Deadline is as set out in Appendix 2 (Review Session Deadlines) to this Schedule 14.</p> <p>6(d) Review In-Scope Prisoners are all the Prisoners eligible for a Review Session unless it is agreed by the Authority that they are an Excluded Prisoner or one of the Exemptions listed in Appendix 3 (<i>Excluded Prisoners and Exemptions</i>) to this Schedule 14 applies. Note that if a Prisoner should have had a Review Session in the previous Performance Period but this was not completed, they will be included in the figures for the current Performance Period.</p> <p>6 (e) A Prisoner will only be excluded from the number of Review In-Scope Prisoners if they are an Excluded Prisoner or one of the Exemptions applies. The Contractor shall not be entitled to rely on any other reasons for failure to complete a Review Session, including, but not limited to, failure of a Sub-Contractor, lack of appropriate qualified and experienced staff, incorrect completion of the digital PLP or failure to effectively plan and schedule the Review Sessions.</p>



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<b>7: Calculation</b>	<p><b><u>Scoring system</u></b></p> <p>The total number (<i>a</i>) of Review In-Scope Prisoners whose Review Session is completed by the Review Session Deadline will be calculated using the following scoring system:</p> <p>One (1) point will be awarded for each Review Session complete by the Review Session Deadline.</p> <p>Zero (0) points will be awarded for each Review Session which is not complete by the Review Session Deadline.</p> <div style="display: flex; justify-content: space-between; align-items: center;"><div style="text-align: center;"><math display="block">\frac{a}{b + c} \times 100 =</math></div><div><p>Percentage delivery of Review In-Scope Prisoners (where the Review Session Deadline for their Review Session is within the Performance Period) where the Contractor has delivered a Review Session by the Review Session Deadline.</p></div></div> <p>Where:</p> <p><i>a</i> = The sum of points awarded for all Review In-Scope Prisoners where the Review Session Deadline for their Review Session is within the Performance Period (or whose Review Session Deadline was during a previous Performance Period and where the Contractor had not completed the Review Session) and where the Contractor has completed the Review Session by the Review Session Deadline.</p> <p><i>b</i> = The total number of Review In-Scope Prisoners due a Review Session in a Performance Period.</p> <p><i>c</i> = The total number of Review In-Scope Prisoners whose Review Session was during a previous Performance Period and where the Contractor had not delivered a Review Session and where the Contractor has still not delivered a Review Session meeting by the end of the current Performance Period.</p>
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## Appendix 2: REVIEW SESSION DEADLINES

Prisoner Time left to serve <sup>1</sup>	Review Session Deadline	Worked Examples
All Prisoners (regardless of time left to serve)	Must receive a Review Session within ten (10) calendar days from the day after they enter the Prison if they have already had an Induction Session (either at the current Prison or a previous Prison)	<i>A prisoner has an Induction Session at Prison A and, after release, re-offends and enters Prison B. At Prison B the Prisoner has a Review Session as there is already an Induction Session recorded on the Authority ICT System.</i>
Prisoners with less than six (6) Months' time to serve	<p>Must receive a Review Session (referred to as a Pre-Release Session) within the period:</p> <ul style="list-style-type: none"> <li>(a) at least one (1) Month after their Previous CIAG Session; but</li> <li>(b) not more than three (3) Months after their Previous CIAG Session.</li> </ul> <p>PROVIDED THAT if the Prisoner's date for release is within this period, the Pre-Release Session shall be held at least seven (7) calendar days prior to release.</p>	<p><i>If Prisoner A is due to be released in less than six (6) Months and attended an Induction Session or Review Session on 6 May 2025 their Pre-Release Session shall:</i></p> <p style="text-align: center;"><i>Not be <b>before</b> the 6 June 2025; but</i></p> <p style="text-align: center;"><i>Not <b>later than</b> the 6 August 2025.</i></p> <p><i>However, if the Prisoner A is due to be released on 6 July 2025, then the Pre-Release Session shall be no later than seven (7) calendar days before this, i.e., on or before the 29 June 2025.</i></p>
Prisoners with less than twelve (12) Months' time but more than six (6) Months to serve	<p>Must receive a Review Session within the period:</p> <ul style="list-style-type: none"> <li>(a) at least two (2) Months after their Previous CIAG Session; but</li> </ul>	<i>If Prisoner A is due to be released in less than twelve (12) Months (but more than six (6) Months) and attended an Induction Session or Review Session on 6 May 2025 their next Review Session shall:</i>

<sup>1</sup> A Prisoner's time left to serve is the length of time a Prisoner has left within custody before release at the point of a Review Session.



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Prisoner Time left to serve <sup>1</sup>	Review Session Deadline	Worked Examples
OR  Prisoners on remand or unsentenced	(b) not more than three (3) Months after their Previous CIAG Session.	a) Not be <b>before</b> the 6 July 2025; but  b) Not <b>later than</b> the 6 August 2025.
Prisoners with more than twelve (12) Months' time but less than sixty (60) Months to serve	Must receive a Review Session within the period:  (a) at least four (4) Months after their Previous CIAG Session; but  (b) not more than six (6) Months after their Previous CIAG Session.	<i>If Prisoner A is due to be released in in more than twelve (12) Months (but less than sixty (60) Months) and attended an Induction Session or Review Session on 6 May 2025 their next Review Session shall:</i>  a) Not be <b>before</b> the 6 September 2025; but  b) Not <b>later than</b> 6 November 2025.
Prisoners with greater than sixty (60) Months' time left to serve and Prisoners with indeterminate Prison sentences	Must receive a Review Session within the period:  (a) at least ten (10) Months after their Previous CIAG Session; but  (b) not more than twelve (12) Months after their Previous CIAG Session.	<i>If Prisoner A is due to be released in over sixty (60) Months or has an indeterminate sentence and attended an Induction Session or Review Session on 6 May 2025 their next Review Session shall:</i>  a) Not be <b>before</b> the 6 March 2026; but  b) Not <b>later than</b> 6 May 2027.



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### Appendix 3: EXCLUDED PRISONERS AND EXEMPTIONS

#### 1 EXCLUDED PRISONERS

- 1.1 The Authority shall notify the Contractor if a Prisoner is an Excluded Prisoner.
- 1.2 Reasons for exclusion include, but are not limited to:
  - (a) Drug / alcohol dependency / and/or recovery / Health Concern / assessment / treatment;
  - (b) Prisoner safety (e.g. where outreach work cannot be facilitated);
  - (c) Security issue that poses a risk to Staff; or
  - (d) Prison regime circumstances outside of the Contractor's control.
- 1.3 The Prisoner shall be an Excluded Prisoner from the date that the Authority notifies the Contractor that the Prisoner is an Excluded Prisoner until the date that the Authority informs the Contractor that the Prisoner is an In-Scope Prisoner. The notification may be by direct communication or, subject to the development of the Authority's ICT System, be an update of the records that the Contractor can access.
- 1.4 The Induction Session Deadline for any Prisoner who has been excluded shall be 10 calendar days from the date on which the Authority notifies the Contractor that the Prisoner should be an In-Scope Prisoner.
- 1.5 The Review Session Deadline for any Prisoner who has been excluded shall be the later of: (a) the Review Session Deadline that would apply to the Prisoner in accordance with the time remaining on their sentence in accordance with the table in Appendix 2 (*Review Session Deadlines*) to this Schedule 14; and (b) ten (10) calendar days from the date on which the Authority notifies the Contractor that the Prisoner should be an In-Scope Prisoner.

#### 2 EXEMPTIONS

- 2.1 The Contractor shall be exempt from the requirement to deliver an Induction Session/Review Session by the Relevant Deadline if the Authority advises that one of the following events listed in 1.4 occurs which prevents the Contractor from completing an Induction Session/ Review Session by the Relevant Deadline.
- 2.2 The Exemption shall apply solely for the period that the event applies. Within five (5) calendar days of the Authority informing the Contractor that the Exemption no longer applies the Contractor shall no longer be able to rely on the Exemption.
- 1.2 If the Exemption has delayed the delivery of an Induction Session or a Review Session the Contractor should deliver the Induction Session or Review Session within five (5) calendar days of the Authority advising the Contractor that the exemption no longer applies.



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### 1.3 Exemptions shall include:

- (a) **Prison staff redeployment** – Where the Authority is unable to take any steps necessary to facilitate the Contractor's completion of the Prisoner's Induction Session / Review Session by the Relevant Deadline due to staff deployment elsewhere.
- (b) **Prison operational/security reasons** – Where the Authority is unable to facilitate the Contractor's completion of the Induction Session/ Review Session by the Relevant Deadline due to extended operational or security factors, such as the Authority ICT system being unavailable for a period in excess of 24 hours, Prison staff training or a Prison security incident.
- (c) **Prisoner death:** The Prisoner will be excluded from reporting with effect from the date of death.
- (d) **Prisoner escape or abscond:** The Contractor will be exempt from completion of the Prisoner's Induction Session / Review Session with effect from a Prisoner's date of escape or abscond. If the Prisoner is returned to the Prison and has completed the required Screening and Assessment Process, the Relevant Deadline will be agreed by the Authority and Contractor. If the Prisoner has not completed the required Screening and Assessment Process, the Screening and Assessment Process should be completed which will then be used to define the Induction Session Deadline.
- (e) **Prisoner transfer to another Prison:** The Contractor will be exempt from completion of the Prisoner's Induction Session / Review Session if the Prisoner is transferred to another prison which prevents the completion of the Induction Session or Review Session before the Relevant Deadline. The exemption shall apply from the date of transfer. On arrival at the new prison, if the Prisoner has had an Induction Session previously the incumbent contractor for that prison will be responsible for conducting a Review Session within 10 days of the Prisoner entering the Prison. The Review Session at the new Prison should highlight opportunities within the new Prison.
- (f) **Prisoner failure to engage or co-operate for a reason outside of the Contractor's control:** The Contractor will be exempt from completion of the Prisoner's Induction Session / Review Session where the Authority advises the Contractor that the Prisoner has refused to engage or co-operate and should be out of scope. The exemption will apply from the date that the Prisoner refuses to engage. If a Prisoner subsequently engages or co-operates, the Authority and Contractor will agree to include the Prisoner as an In-Scope Prisoner. If the Prisoner has completed the required Screening and Assessment Process, the Induction Session Deadline will be agreed by the Authority and Contractor. If the Prisoner has not completed the required Screening and Assessment Process, the Screening and Assessment Process should be completed first which will then be used to define the Induction Session Deadline.
- (g) **Prisoner release or failure to return to Prison:** The Contractor will be exempt from completion of the Prisoner's Induction Session / Review Session if the



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Prisoner is released or fails to return to Prison which prevents the completion of the Induction Session / Review Session before the Relevant Deadline.

During the Interim Period, the following additional exemptions shall apply in relation to Induction Sessions. In both the following scenarios the Exemption shall apply until such time as the Authority notifies the Contractor that the Screening and Assessment is complete:

- (h) **Ongoing Comprehensive Screening and Assessment underway** – Where the Authority notifies the Contractor that it is in the process of conducting a comprehensive Screening and Assessment indicating a Prisoner requires additional evaluation and support for an identified learning need, neurodivergence or health concern, and that there is benefit in postponing the Induction Session until this is completed.
- (i) **The Induction Session cannot be completed to a reasonable quality without information from the Screening and Assessment** - If the Contractor considers that the Induction Session cannot be completed to a reasonable quality due to lack of information from the Screening and Assessment it may request that the Authority grants an Exemption. Subject to the Authority agreeing with such assessment, and notifying the Contractor to this effect, an Exemption will apply.



**Appendix 4: MANAGEMENT OF TEMPORARILY KPI EXCLUDED PRISONERS DURING THE TRANSITION PERIOD**

1. Temporarily KPI Omitted Prisoners shall have a Review Session within 6 months of the Service Commencement Date unless they are due for release in this period in which case the Review Session shall take place at least 7 days prior to their Release Date.
2. The provisions set out in Appendix 3 (Excluded Prisoners and Exemptions) shall apply to Temporarily KPI Omitted Prisoners.





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## **SCHEDULE 15 – KEY PERSONNEL**

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))**
**1 KEY ROLES AND KEY PERSONNEL**

The Contractor's management structure should include functions and Key Roles which cover the areas described in the table below. The exact structure, roles and organisation are matters for the Contractor to determine.

Key Role	Name of Key Personnel	Responsibilities/Authorities	Description of the role	Period during which they will be a member of Key Personnel
Contractor's Representative	[REDACTED Section 40 of the FOIA: Personal Information]	Person appointed in accordance with Clause 3.2 of Schedule 13 ( <i>Governance</i> ), to have full authority to act on behalf of the Contractor for all purposes of this Contract.	<p>The role will include:</p> <ul style="list-style-type: none"> <li>key Contractor contact for the Authority, having the authorisation to make key decisions about service rectification and financial issues relating to the Service across all Lots in which the Contractor is delivering the Services.</li> <li>has overall responsibility for effective delivery and quality assurance of all Services.</li> <li>ensures the Contractor meets requirements set out in Schedule 13 (<i>Governance</i>).</li> </ul>	Duration of the Contract

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<b>Key Role</b>	<b>Name of Key Personnel</b>	<b>Responsibilities/Authorities</b>	<b>Description of the role</b>	<b>Period during which they will be a member of Key Personnel</b>
			<ul style="list-style-type: none"> <li>delivers innovation and mutually beneficial advantage through collaborative working.</li> </ul>	
Mobilisation Project Manager	[REDACTED Section 40 of the FOIA: Personal Information]	Responsible for the project management of the Mobilisation Period.	<ul style="list-style-type: none"> <li>responsible for the preparation and delivery of the Developed Mobilisation Plan and reporting progress of the same.</li> <li>responsible for providing evidence that the mobilisation tasks have been achieved.</li> </ul>	Duration of the Mobilisation Period
Chief Information Officer	[REDACTED Section 40 of the FOIA: Personal Information]	Person appointed in accordance with Clause 2.2 of Schedule 7 ( <i>Baseline Security Requirements</i> ).	<ul style="list-style-type: none"> <li>responsible for information assurance and cyber security, including personnel security and information risk.</li> <li>responsible for updating the ISMP as necessary.</li> </ul>	Duration of the Contract



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Key Role	Name of Key Personnel	Responsibilities/Authorities	Description of the role	Period during which they will be a member of Key Personnel
Quality Assurance Lead	[REDACTED Section 40 of the FOIA: Personal Information]	Responsible for assuring that the Services delivered, and documentation provided are compliant with this Contract and data submitted to the Authority is accurate.	<ul style="list-style-type: none"><li>• overall responsibility for the quality of the Services and effectively implementing quality processes.</li><li>• ensures that the Contractor is meeting the quality requirements set out in Paragraph 10 of Schedule 2 (<i>Specification</i>) – Quality Assurance and Improvement and relevant requirements set out in Schedule 13 (<i>Governance</i>).</li><li>• works with both individual Prisons and across the Lot to recognise and share best practice and to deliver notable improvements to the delivery of the Services.</li><li>• to ensure the Contractor is addressing identified weaknesses through continuing professional development activities.</li><li>• work collaboratively with the Authority, Prison staff and other</li></ul>	Duration of the Contract

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<b>Key Role</b>	<b>Name of Key Personnel</b>	<b>Responsibilities/Authorities</b>	<b>Description of the role</b>	<b>Period during which they will be a member of Key Personnel</b>
			contractors, to support the delivery of high-quality Services across Prisons.	
Collaboration Sponsor	[REDACTED Section 40 of the FOIA: Personal Information]	An executive level representative tasked with the remit of championing collaboration and innovation at all levels including but not limited to attending the National Collaboration Forums as further described in Schedule 24 ( <i>Collaboration</i> ).	<ul style="list-style-type: none"> <li>• executive level representative, responsible for championing collaboration and innovation at all levels.</li> <li>• attendee at the Provider Level Collaboration Forum and the National Level Collaboration Forum.</li> <li>• may be the same person as the Contractor's Representative or the Quality Assurance Lead.</li> </ul>	Duration of the Contract



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## Contract for the Provision of Prisoner Education Services (Careers Information, Advice and Guidance (CIAG))

between

**The Secretary of State for Justice**

(as Authority)

and

**The Growth Company Limited** (as Contractor)

In relation to Lot 10 (West Midlands Group)

Volume [2] of [2] volumes

For and on behalf of the Contractor:		For and on behalf of the Authority:	
Signature:	[REDACTED Section 40 of the FOIA: Personal Information]	Signature:	[REDACTED Section 40 of the FOIA: Personal Information]
Name:	[REDACTED Section 40 of the FOIA: Personal Information]	Name:	[REDACTED Section 40 of the FOIA: Personal Information]
Role:	[REDACTED Section 40 of the FOIA: Personal Information]	Role:	[REDACTED Section 40 of the FOIA: Personal Information]
Date:	6 December 2024	Date:	6 December 2024



# **SCHEDULE 16 – APPROVED SUB- CONTRACTORS AND AUTHORITY MARKET STEWARDSHIP PRINCIPLES**

Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

**PART A – LIST OF APPROVED SUB-CONTRACTORS**

- 1 In accordance with Clause F2.1 (*Transfer and Sub-Contracting*), the Contractor is entitled to sub-contract its obligations under this Contract to the Sub-Contractors listed in the table below.
- 2 The Parties agree that they will update this Schedule 16 periodically to record any Sub-Contractor or Key Sub-Contractors appointed by the Contractor with the consent of the Authority after the Effective Date for the purposes of the delivery of the Services.

Sub-Contractor name and address (if not the same as the registered office)	Key Sub Contractor (Yes / No)	Registered office and company number	Related product/ Service description	Sub-Contract price expressed as a percentage of total projected Charges over the Term	Role in delivery of the Services	Credit Threshold	Rating
None at the Effective Date							





## Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

### PART B – THE AUTHORITY’S MARKET STEWARDSHIP PRINCIPLES

#### 1 INTRODUCTION

- 1.1 The Market Stewardship Principles set out below cover five (5) key principles that must underpin the Contractor’s relationship with its Sub-Contractors together with guidance as to how the Contractor should respond in relation to each of the principles.

#### 2 PRINCIPLE 1: APPROPRIATE MANAGEMENT OF RISK IN THE SUPPLY CHAIN

- 2.1 All contractual and other risk should be appropriately managed. This includes not passing risk to the supply chain disproportionately, managing volume fluctuations and managing intellectual property rights.
- (a) **Meaningful work allocation:** the Contractor should be able to evidence its approach in allocating work to supply chain partners in a manner which is fair. Where a Sub-Contractor is specified in Part A of this Schedule 16 as a Sub-Contractor, the Contractor shall wherever practical, refer appropriate work to that Sub-Contractor. The Contractor shall record details of all complaints from Sub-Contractors that they have not received anticipated work (including volumes, where appropriate) and shall provide copies of these complaints to the Authority.
  - (b) **Systems for allocation of work to the Sub-Contractor:** the Contractor should have systems for allocation of specific work to the Sub-Contractor where the delivery of the Services is best served by calling on the particular expertise offered by that Sub-Contractor.
  - (c) **Volume Fluctuations:** the Contractor must be able to demonstrate to the reasonable satisfaction of the Authority how it manages any volume fluctuations and the reallocation of work to the supply chain, where appropriate. The potential impact of both increases and reductions in work allocation and associated drop in income, and actions to mitigate these risks, should be discussed with the Sub-Contractor.
  - (d) **Spot purchase arrangements:** purchases of products and services outside of a long-term purchase contract with a regular supplier (‘spot purchases’) can be detrimental to the supply chain as opposed to long term purchase arrangements. The Contractor should therefore ensure that wherever ‘spot purchase’ arrangements are utilised, options to transition to more stable contractual referral systems are reviewed at regular periods.
  - (e) **Payment terms:** the Contractor should consider the payment terms and the impact of these on the supply chain including the requirement for any clawback/repayment if targets (such as performance targets) are not met. The implications of this should be discussed with Sub-Contractors each year.



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- (f) **Contract term:** consideration should be given to the duration of the Sub-Contract. The contract duration, if inadequate, may affect the ability of the Sub-Contractor to obtain finance or impact on recruitment and investment. On request the Contractor shall provide the Authority with information on Sub-Contract durations and how these have been determined.
- (g) **Intellectual Property Rights ("IPR"):** the Sub-Contract should set out the position on IPR.

### 3 PRINCIPLE 2: ALIGNMENT OF ETHOS IN THE SUPPLY CHAIN

- 3.1 It is the expectation of the Authority that a sustainable relationship with each Sub-Contractor will be fostered throughout the Term, which meets the expectations of both parties according to the position established at contract inception. Prior to finalising the Sub-Contract there should be an understanding of what is important to both parties and this should form part of the contractual agreement which will be reviewed throughout the Term.
- (a) **Audit trail:** the Contractor must maintain an audit trail of engagement with Sub-Contractors that demonstrates compliance with the principles established at contract inception and shall include any additional support the Sub-Contractor offers.
  - (b) **Support to supply chain organisations:** if requested by the Authority the Contractor must provide details of the support it offers Sub-Contractors.
  - (c) **Meetings:** the Contractor must record details of all meetings with Sub-Contractors to ensure that they are timely and appropriate and reinforce good relationship management.
  - (d) **Forum for promoting best practice:** if requested by the Authority the Contractor shall work with the Authority to implement a forum for sharing and publicising best practice with Sub-Contractors.

### 4 PRINCIPLE 3: VISIBILITY ACROSS THE SUPPLY CHAIN

- 4.1 The Authority expects that the Contractor to have visibility of participation within the supply chain. This should include payment terms against contractual targets, the volume of business handled by the Sub-Contractors in Part A of this Schedule 16 (where appropriate), how work is apportioned, and how the supply chain adjusts to changing volumes.
- (a) **Supply chain sourcing, selection and refresh process:** the Contractor must ensure that the sourcing and selection process for the Sub-Contractors in Part A of this Schedule 16 is transparent. This information must be made freely available to the Authority on request.



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- (b) **Authority contact with the supply chain:** the Contractor shall provide all necessary details so that the Authority can contact the Sub-Contractors if required to verify that the Contractor is complying with these Market Stewardship Principles.

## **5 PRINCIPLE 4: REWARD AND RECOGNITION OF GOOD PERFORMANCE**

- 5.1 The Authority considers it important that organisations in the supply chain receive appropriate reward for good performance. Recognition of good performance should be shared across the chain, and this should include the sharing of good practice. If requested the Contractor shall work with the Authority to explore how this principle can be delivered and develop a suitable strategy.

## **6 PRINCIPLE 5: APPLICATION OF THE PRINCIPLES OF THE COMPACT IN WORK WITH CIVIL SOCIETY ORGANISATIONS**

- 6.1 Civil Society Organisations ("**CSO's**") are non-profit, voluntary citizens' groups which are organised on a local, national or international level. The Compact (as set out here: [The 20Compact.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/61221/20Compact.pdf)) is an accord which plays a crucial part in improving the partnership between the Government and civil society organisations, for the benefit of citizens and communities.
- 6.2 The Authority expects, in so far as it is consistent with the terms of this Contract, that the Contractor and its supply chain follow the principles of the Compact when engaging CSO's.

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## **SCHEDULE 17 – TUPE, EMPLOYEES AND PENSIONS**

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Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

Part 1 – INTRODUCTION

1 DEFINITIONS

1.1 In this Schedule 17, the following definitions shall apply:

<b>"Contractor's Final Contractor Personnel List"</b>	means a list provided by the Contractor of all employees and workers of the Contractor and any Sub-Contractor who will transfer under the Employment Regulations on the Service Transfer Date;
<b>"Contractor's Provisional Contractor Personnel List"</b>	means a list prepared and updated by the Contractor of any employees and workers of the Contractor and any Sub-Contractor who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Contractor or the relevant Sub-Contractor;
<b>"Data Protection Legislation"</b>	as defined in Schedule 1 ( <i>Definitions</i> );
<b>"Employee Liabilities"</b>	as defined in Schedule 1 ( <i>Definitions</i> );
<b>"Employment Regulations"</b>	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced;
<b>"Former Contractor"</b>	means a contractor supplying services to the Authority before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such contractor (or any sub-contractor of any such sub-contractor);
<b>"Law"</b>	as defined in Schedule 1 ( <i>Definitions</i> );
<b>"New Contractor"</b>	means any service provider of Replacement Services appointed by the Authority from time to time (or where the Authority is providing replacement Services for its own account, the Authority);
<b>"New Fair Deal"</b>	means the revised Fair Deal position set out in the HM Treasury guidance: " <i>Fair Deal for staff pensions: staff transfer from central government</i> " issued in October 2013 including:

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	<p>(a) any amendments to that document immediately prior to the Relevant Transfer Date; and</p> <p>(b) any similar pension protection in accordance with Appendices D1 (<i>LGPS</i>) to D2 (<i>TPS</i>) inclusive to Part D of this Schedule 17 as notified to the Contractor by the Authority;</p>
<b>"New Sub-Contractor"</b>	means a sub-contractor of the New Contractor to whom Transferring Contractor Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor);
<b>"Notified Sub-Contractor"</b>	means a Sub-Contractor identified in Appendix E1 of this Schedule 17 to whom Transferring Former Contractor Employees will transfer on a Relevant Transfer Date;
<b>"Old Fair Deal"</b>	HM Treasury Guidance " <i>Staff Transfers from Central Government: A Fair Deal for Staff Pensions</i> " issued in June 1999 including the supplementary guidance "Fair Deal for Staff pensions: Procurement of Bulk Transfer Agreements and Related Issues" issued in June 2004;
<b>"Partial Termination"</b>	as defined in Schedule 1 ( <i>Definitions</i> );
<b>"Relevant Transfer"</b>	means a transfer of employment to which the Employment Regulations applies;
<b>"Relevant Transfer Date"</b>	means, in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place or the Services Commencement Date where the Former Contractor and the Contractor remain the same legal entity;
<b>"Service Transfer"</b>	means any transfer of the Services (or any part of the Services), for whatever reason, from the Contractor or any sub-contractor to a New Contractor or a New Sub-Contractor;
<b>"Service Transfer Date"</b>	means the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires;
<b>"Staffing Information"</b>	means in relation to all persons identified on the Contractor's Provisional Supplier Personnel List or Contractor's Final Supplier Personnel List, as the case may be, such information as the Authority may reasonably request including all information required in Appendix E2 ( <i>Staffing Information</i> ) in the format specified and with the

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identities of Data Subjects anonymised where possible and any other "employee liability information" as such term is defined in regulation 11 of the Employment Regulations. The Authority may acting reasonably make changes to the format or information requested above from time to time;

<b>"Statutory Schemes"</b>	means the LGPS or the TPS;
<b>"Term"</b>	as defined in Schedule 1 ( <i>Definitions</i> );
<b>"Termination Assistance Period"</b>	has the meaning given to it in Schedule 20 ( <i>Exit Management</i> );
<b>"Transferring Contractor Employees"</b>	means those employees of the Contractor and/or any Sub-Contractors to whom the Employment Regulations will apply on the Service Transfer Date; and
<b>"Transferring Former Contractor Employees"</b>	means in relation to a Former Contractor, those employees of the Former Contractor to whom the Employment Regulations will apply on the Relevant Transfer Date and whose names are provided to the Contractor on or prior to the Relevant Transfer Date.

## **2 INTERPRETATION**

Where a provision in this Schedule 17 imposes an obligation on the Contractor to provide an indemnity, undertaking or warranty, the Contractor shall procure that each of its Sub-Contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Authority, Former Contractor, New Contractor or New Sub-Contractor, as the case may be.

## **3 APPLICABLE PARTS OF THIS SCHEDULE 17**

The following parts of this Schedule 17 shall apply to this Contract:

- (a) Part A (*Staff Transfer At Services Commencement Date – Outsourcing From the Authority*) **N/A**;
- (b) Part B (*Transferring Former Contractor Employees At Commencement Of Services*);
- (c) Part C **N/A**;
- (d) Part D (*Pensions*);
  - (i) Appendix D1 (*LGPS*);
  - (ii) Appendix D2 (*TPS*);
- (e) Part E (*Employment Exit Provisions*) of this Schedule 17 will always apply to

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this Contract, including:

- (i) Appendix E1 (*List of Notified Sub-Contractors*);
- (ii) Appendix E2 (*Staffing Information*).



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**Part A – [NOT USED]**

**OFFICIAL SENSITIVE****Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****Part B – TRANSFERRING FORMER CONTRACTOR EMPLOYEES AT COMMENCEMENT OF SERVICES****1 RELEVANT TRANSFERS**

1.1 The Authority and the Contractor agree that:

- (a) the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the Transferring Former Contractor Employees; and
- (b) as a result of the operation of the Employment Regulations, the contracts of employment between each Former Contractor and the Transferring Former Contractor Employees (except in relation to any terms disapplied through the operation of regulation 10(2) of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Contractor and/or Notified Sub-Contractor and each such Transferring Former Contractor Employee.

1.2 The Authority shall procure that the Former Contractor shall, for itself and on behalf of any sub-contractor of a Former Contractor, discharge all obligations in respect of all the Transferring Former Contractor Employees in respect of the period up to (but not including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (but not including) the Relevant Transfer Date) and the Contractor shall make, and the Authority shall procure that the Former Contractor makes, any necessary apportionments in respect of any periodic payments.

**2 FORMER CONTRACTOR INDEMNITIES**

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

- (a) any act or omission by the Former Contractor in respect of any Transferring Former Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Contractor Employee arising before the Relevant Transfer Date;
- (b) the breach or non-observance by the Former Contractor arising before the Relevant Transfer Date of:
  - (i) any collective agreement applicable to the Transferring Former Contractor Employees; and/or

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- (ii) any custom or practice in respect of any Transferring Former Contractor Employees which the Former Contractor is contractually bound to honour; and/or
- (c) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
  - (i) in relation to any Transferring Former Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
  - (ii) in relation to any employee who is not a Transferring Former Contractor Employee and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Contractor to the Contractor and/or any Notified Sub-Contractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;
- (d) a failure of the Former Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Contractor Employees in respect of the period to (but excluding) the Relevant Transfer Date;
- (e) any claim arising before the Relevant Transfer Date made by or in respect of any person employed or formerly employed by the Former Contractor other than a Transferring Former Contractor Employee for whom and for which it is alleged the Contractor and/or any Notified Sub-Contractor as appropriate may be liable by virtue of this Contract and/or the Employment Regulations; and
- (f) any claim made by or in respect of a Transferring Former Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Contractor Employee relating to any act or omission of the Former Contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Contractor or any Sub-Contractor to comply with regulation 13(4) of the Employment Regulations.

2.2 The indemnities in Paragraph 2.1 of this Part B shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Contractor

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

- (a) arising out of the resignation of any Transferring Former Contractor Employee before the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Contractor or any Sub-Contractor to occur in the period from (and including) the Relevant Transfer Date; or
- (b) arising from the failure by the Contractor and/or any Sub-Contractor to comply with its obligations under the Employment Regulations.

2.3 If any person who is not identified as a Transferring Former Contractor Employee claims, or it is determined, that his/her contract of employment has been (or would otherwise have) transferred from a Former Contractor to the Contractor and/or any Notified Sub-Contractor pursuant to the Employment Regulations then:

- (a) the Contractor shall, or shall procure that the Notified Sub-Contractor shall, as soon as reasonably possible and in any event by no later than 5 Working Days of becoming aware of that fact, give notice in writing to the Authority and, where required by the Authority, to the Former Contractor; and
- (b) the Former Contractor may offer (or may procure that a third party may offer) employment to such person within 10 Working Days of the notification by the Contractor and / or a Notified Sub-Contractor or take such other reasonable steps as the Former Contractor considers appropriate to deal with the matter.

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

2.5 If by the end of the 10 Working Day period specified in Paragraph 2.3(b):

- (a) no such offer of employment has been made;
- (b) such offer has been made but not accepted; or
- (c) the situation has not otherwise been resolved,

the Contractor and/or any Notified Sub-Contractor may within 5 Working Days of becoming aware of the person's claim give notice to terminate the employment or alleged employment of such person.

2.6 Subject to the Contractor and/or any Notified Sub-Contractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 of this Part B and, where possible, in accordance with all applicable proper employment procedures set out in Law, the

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Authority shall procure that the Former Contractor shall indemnify the Contractor and/or any Notified Sub-Contractor (as appropriate) against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.5 of this Part B provided that the Contractor takes, or shall procure that the Notified Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.7 The indemnity in Paragraph 2.6 of this Part B:

(a) shall not apply to:

(i) any claim for:

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

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

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

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

(b) shall apply only where the termination of employment referred to in Paragraph 2.3(a) of this Part B is made by the Contractor or a Notified Sub-Contractor (as appropriate) within 3 Months of the Relevant Transfer Date.

2.8 If any such person as is described in Paragraph 2.3 of this Part B is neither re-employed by the Former Contractor (or a third party as procured by the Former Contractor) nor dismissed by the Contractor and/or any Notified Sub-Contractor within the time scales set out in Paragraph 2.5 of this Part B, such person shall be treated as having transferred to the Contractor or Notified Sub-Contractor and the Contractor shall, or shall procure that the Notified Sub-Contractor shall, (a) comply with such obligations as may be imposed upon it under the applicable Law, and (b) comply with the provisions of Part D (*Pensions*) and its Appendices of this Schedule 17.

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

- (a) any act or omission by the Contractor or any Sub-Contractor in respect of any Transferring Former Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Contractor Employee whether occurring before, on or after the Relevant Transfer Date;
- (b) the breach or non-observance by the Contractor or any Sub-Contractor on or after the Relevant Transfer Date of:
  - (i) any collective agreement applicable to the Transferring Former Contractor Employee; and/or
  - (ii) any custom or practice in respect of any Transferring Former Contractor Employees which the Contractor or any Sub-Contractor is contractually bound to honour;
- (c) any claim by any trade union or other body or person representing any Transferring Former Contractor Employees arising from or connected with any failure by the Contractor or a Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
- (d) any proposal by the Contractor or a Sub-Contractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Contractor Employees to their material detriment on or after their transfer to the Contractor or a Sub-Contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Contractor Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
- (e) any statement communicated to or action undertaken by the Contractor or a Sub-Contractor to, or in respect of, any Transferring Former Contractor Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Authority and/or the Former Contractor in writing;

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- (f) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
    - (i) in relation to any Transferring Former Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
    - (ii) in relation to any employee who is not a Transferring Former Contractor Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Former Contractor to the Contractor or a Sub-Contractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
  - (g) a failure of the Contractor or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Contractor Employees in respect of the period from (and including) the Relevant Transfer Date;
  - (h) any claim made by or in respect of a Transferring Former Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Contractor Employee relating to any act or omission of the Contractor or any Sub-Contractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Contractor's failure to comply with its obligations under regulation 13 of the Employment Regulations; and
  - (i) a failure by the Contractor or any Sub-Contractor to comply with its obligations under Paragraph 2.8 of this Part B.
- 3.2 The indemnities in Paragraph 3.1 of this Part B shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Contractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Contractor's failure to comply with its obligations under the Employment Regulations.
- 3.3 The Contractor shall comply, and shall procure that each Sub-Contractor shall comply, with all of its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all of its obligations in respect

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of all the Transferring Former Contractor Employees, on and from the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and any other sums due under the LGPS Admission Agreement which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Contractor and the Former Contractor.

**4 INFORMATION**

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

**5 PRINCIPLES OF GOOD EMPLOYMENT PRACTICE**

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

- (a) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised December 2013;
- (b) Old Fair Deal; and/or
- (c) the New Fair Deal.

5.2 Any changes necessary to this Contract as a result of changes to, or any replacement of any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 5.1 of this Part B shall be agreed in accordance with Schedule 4 (*Change Control Procedure*).

**6 PROCUREMENT OBLIGATIONS**

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



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**7 PENSIONS**

7.1 The Contractor shall, and shall procure that each Sub-Contractor shall, comply with:

- (a) the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; and
- (b) the provisions in Part D (and its Appendices) of this Schedule 17.

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**Part C – [NOT USED]**

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**Part D – PENSIONS**

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

- "Actuary"** a Fellow of the Institute and Faculty of Actuaries;
- "Broadly Comparable"** (a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Appendix A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department of a broad comparability certificate; and/or
- (a) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme's certificate of broad comparability issued by the Government Actuary's Department,
- and **"Broad Comparability"** shall be construed accordingly;
- "Fair Deal Eligible Employees"** means each of the LGPS Eligible Employees (as defined in Appendix D1 (*LGPS*) to this Part D and the TPS Eligible Employees (as defined in Appendix D2 (*TPS*) to this Part D) (as applicable) (and shall include any such employee who has been admitted to and/or remains eligible to join a Broadly Comparable pension scheme at the relevant time in accordance with Paragraph 10 or 11 of this Part D);
- "Fair Deal Employees"** means any of:
- (a) Transferring Former Contractor Employees;
- (b) employees who are not Transferring Former Contractor Employees but to whom the Employment Regulations apply on the Relevant Transfer Date to transfer their employment to the Contractor or a Sub-Contractor, and whose employment is not terminated in accordance

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with the provisions of Paragraph 2.5 of Part B of this Schedule 17; and

- (c) where the Contractor or a Sub-Contractor was the Former Contractor, the employees of the Contractor (or Sub-Contractor),

who at the Relevant Transfer Date are or become entitled to New Fair Deal protection in respect of any of the Statutory Schemes or a Broadly Comparable pension scheme provided in accordance with Paragraph 10 of this Part D as notified by the Authority; and

**"Fund Actuary"**

a Fund Actuary as defined in Appendix D1 (*LGPS*) to this Part D.

**2 PARTICIPATION**

- 2.1 In respect of all or any Fair Deal Employees each of Appendix D1 (*LGPS*) and/or Appendix D2 (*TPS*) shall apply, as appropriate.
- 2.2 The Contractor undertakes to do all such things and execute any documents (including any relevant *LGPS* Admission Agreement or *TPS* Participation Agreement, if necessary) as may be required to enable the Contractor to participate in the appropriate Statutory Scheme or a Broadly Comparable pension scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.
- 2.3 The Contractor undertakes:
- (a) to pay to the Statutory Schemes or a Broadly Comparable pension scheme all such amounts as are due under the relevant *LGPS* Admission Agreement, *TPS* Participation Agreement or otherwise and shall deduct and pay to the Statutory Schemes or a Broadly Comparable pension scheme such employee contributions as are required; and
- (b) subject to Paragraph 5 of Appendix D1 (*LGPS*) or Paragraph 4 of Appendix D2 (*TPS*) to be fully responsible for all other costs, contributions, payments and other amounts relating to its participation in the Statutory Schemes or a Broadly Comparable pension scheme, including for the avoidance of doubt any exit payments and the costs of providing any bond, indemnity or guarantee required in relation to such participation.
- 2.4 Where the Contractor is the Former Contractor (or a Sub-Contractor is a sub-contractor of the Former Contractor) and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Contractor (or Sub-Contractor) at the Services Commencement Date, this Part D and its Appendices shall be modified accordingly so that the Contractor (or Sub-Contractor) shall comply with its requirements from the Services Commencement Date or, where it previously

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provided a Broadly Comparable pension scheme, from the date it is able to close accrual of its Broadly Comparable pension scheme (following appropriate consultation and contractual changes as appropriate) if later. The Contractor (or Sub-Contractor) shall make arrangements for a bulk transfer from its Broadly Comparable pension scheme to the relevant Statutory Scheme in accordance with the requirements of the previous contract with the Authority.

**3 PROVISION OF INFORMATION**

The Contractor undertakes to the Authority:

- (a) to provide all information which the Authority may reasonably request concerning matters referred to in this Part D as expeditiously as possible;
- (b) not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of the Authority (such consent not to be unreasonably withheld or delayed); and
- (c) retain such records as would be necessary to manage the pension aspects in relation to any current or former Fair Deal Eligible Employees arising on expiry or termination of this Contract.

**4 INDEMNITIES**

4.1 The Contractor shall indemnify and keep indemnified the Authority, the Administering Authority, Teachers' Pensions, any New Contractor and/or any New Sub-Contractor on demand from and against all and any Losses whatsoever suffered or incurred by it or them which:

- (a) arise out of or in connection with any liability towards all and any Fair Deal Employees in respect of service on or after the Relevant Transfer Date which arises from any breach by the Contractor of this Part D, and/or the LGPS Admission Agreement or TPS Participation Agreement;
- (b) relate to the payment of benefits under and/or participation in a pension scheme (as defined in section 150(1) Finance Act 2004) provided by the Contractor or a Sub-Contractor on and after the Relevant Transfer Date until the date of termination or expiry of this Contract, including the Statutory Schemes or any Broadly Comparable pension scheme provided in accordance with Paragraphs 10 or 11 of this Part D;
- (c) relate to claims by Fair Deal Employees of the Contractor and/or of any Sub-Contractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses: and/or
  - (i) relate to any rights to benefits under a pension scheme (as defined in section 150(1) Finance Act 2004) in respect of periods of

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employment on and after the Relevant Transfer Date until the date of termination or expiry of this Contract;

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

4.2 The indemnities in this Part D and its Appendices:

- (a) shall survive termination of this Contract; and
- (b) shall not be affected by the caps on liability contained in Clause G1 (*Liability, Indemnity and Insurance*).

## **5 DISPUTES**

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

- (a) who will act as an expert and not as an arbitrator;
- (b) whose decision will be final and binding on the Authority and/or the Contractor; and
- (c) whose expenses shall be borne equally by the Authority and/or the Contractor unless the independent Actuary shall otherwise direct.

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

## **6 THIRD PARTY RIGHTS**

6.1 The Parties agree Clause I5 (*Rights of Third Parties*) does not apply and that the CRTPA applies to this Part D to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to him or her by the Contractor under this Part D, in his or her or its own right under section 1(1) of the CRTPA.

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

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- 7.1 The Contractor agrees to notify the Authority should it breach any obligations it has under this Part D and agrees that the Authority shall be entitled to terminate its Contract for material Default in the event that the Contractor:
- (a) commits an irremediable breach of any provision or obligation it has under this Part D; or
  - (b) commits a breach of any provision or obligation it has under this Part D which, where capable of remedy, it fails to remedy within a reasonable time and in any event within 28 days of the date of a notice from the Authority giving particulars of the breach and requiring the Contractor to remedy it.

**8 TRANSFER TO ANOTHER EMPLOYER/SUB-CONTRACTORS**

- 8.1 Save on expiry or termination of this Contract, if the employment of any Fair Deal Eligible Employee transfers to another employer (by way of a transfer under the Employment Regulations or other form of compulsory transfer of employment), the Contractor shall or shall procure that any relevant Sub-Contractor shall:
- (a) notify the Authority as far as reasonably practicable in advance of the transfer to allow the Authority to make the necessary arrangements for participation with the relevant Statutory Scheme(s);
  - (b) consult with about, and inform those Fair Deal Eligible Employees of, the pension provisions relating to that transfer; and
  - (c) procure that the employer to which the Fair Deal Eligible Employees are transferred (the "**New Employer**") complies with the provisions of this Part D and its Appendices provided that references to the "Contractor" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Eligible Employees so transferred to the New Employer.

**9 PENSION ISSUES ON EXPIRY OR TERMINATION**

- 9.1 The provisions of Part E (*Employment Exit Provisions*) apply in relation to pension issues on expiry or termination of this Contract.
- 9.2 The Contractor shall (and shall procure that any of its Sub-Contractors shall) prior to the termination of this Contract provide all such co-operation and assistance (including co-operation and assistance from the Broadly Comparable pension scheme's Actuary) as the New Contractor and/or Teachers' Pensions and/or the relevant Administering Authority and/or the Authority may reasonably require, to enable the New Contractor to participate in the appropriate Statutory Scheme in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection following a Service Transfer.

**OFFICIAL SENSITIVE****Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****10 BROADLY COMPARABLE PENSION SCHEME ON RELEVANT TRANSFER DATE**

10.1 If the terms of Paragraph 3.1 of Appendix D1 (*LGPS*) or Paragraph 3.1 of Appendix D2 (*TPS*) applies, the Contractor must (and must, where relevant, procure that each of its Sub-Contractors will) ensure that, with effect from the Relevant Transfer Date until the day before the Service Transfer Date, the relevant Fair Deal Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme, and then on such terms as may be decided by the Authority.

10.2 Such Broadly Comparable pension scheme must be:

- (a) established by the Relevant Transfer Date;
- (b) a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
- (c) capable of receiving a bulk transfer payment from the relevant Statutory Scheme or from a Former Contractor's Broadly Comparable pension scheme (unless otherwise instructed by the Authority);
- (d) capable of paying a bulk transfer payment to the New Contractor's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Authority); and
- (e) maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Authority).

10.3 Where the Contractor has provided a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 10, the Contractor shall (and shall procure that any of its Sub-Contractors shall):

- (a) supply to the Authority details of its (or its Sub-Contractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the Relevant Transfer Date) covering all relevant Fair Deal Employees, as soon as it is able to do so before the Relevant Transfer Date (where possible) and in any event no later than seven (7) days after receipt of the certificate;
- (b) be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995;
- (c) instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing bulk transfer process with the Actuary to the Former Contractor's Broadly Comparable pension scheme or the Actuary to the relevant Statutory Scheme (as





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appropriate) and to provide all such co-operation and assistance with any other Actuary appointed by the Authority (where applicable). This will be with a view to the bulk transfer terms providing day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme in respect of any Fair Deal Eligible Employee who consents to such a transfer; and

- (d) provide a replacement Broadly Comparable pension scheme in accordance with this Paragraph 10 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Contractor and/or relevant Sub-Contractor and are still eligible for New Fair Deal protection in the event that the Contractor and/or Sub-Contractor's Broadly Comparable pension scheme is closed to future accrual and/or terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).

10.4 Where the Contractor has provided a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 10, the Contractor shall (and shall procure that any of its Sub-Contractors shall) prior to the termination of this Contract:

- (a) allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the New Contractor's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be on a past service reserve basis which should be calculated allowing for projected final salary at the assumed date of retirement, leaving service or death (in the case of final salary benefits). The actuarial basis for this past service reserve basis should be aligned to the funding requirements of the Broadly Comparable pension scheme in place at the time the bulk transfer terms are offered. The bulk transfer terms shall be subject to an underpin in relation to any service credits awarded in the Broadly Comparable pension scheme in accordance with Paragraph 10.3(c) such that the element of the past service reserve amount which relates to such service credits shall be no lower than that required by the bulk transfer terms that were agreed in accordance with Paragraph 10.3(c) but using the last day of the Fair Deal Eligible Employees' employment with the Contractor or Sub-Contractor (as appropriate) as the date used to determine the actuarial assumptions; and
- (b) if the transfer payment paid by the trustees of the Broadly Comparable pension scheme is less (in the opinion of the Actuary to the New Contractor's Broadly Comparable pension scheme (or to the relevant Statutory Scheme if applicable)) than the transfer payment which would have been paid had Paragraph 10.4(a) been complied with, the Contractor

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shall (or shall procure that the Sub-Contractor shall) pay the amount of the difference to the Contractor's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) or as the Authority shall otherwise direct. The Contractor shall indemnify the Authority or the New Contractor's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Authority directs) for any failure to pay the difference as required under this Paragraph 10.4(b).

**11 BROADLY COMPARABLE PENSION SCHEME IN OTHER CIRCUMSTANCES**

11.1 If the terms of Paragraph 3.2 of Appendix D1 (*LGPS*) or Paragraph 3.2 of Appendix D2 (*TPS*) apply, the Contractor must (and must, where relevant, procure that each of its Sub-Contractors will) ensure that, with effect from the cessation of participation in the Statutory Scheme, until the day before the Service Transfer Date, the relevant Fair Deal Eligible Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme at the date of cessation of participation in the relevant Statutory Scheme, and then on such terms as may be decided by the Authority.

11.2 Such Broadly Comparable pension scheme must be:

- (a) established by the date of cessation of participation in the Statutory Scheme;
- (b) a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
- (c) capable of receiving a bulk transfer payment from the relevant Statutory Scheme (where instructed to do so by the Authority);
- (d) capable of paying a bulk transfer payment to the New Contractor's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Authority); and
- (e) maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Authority).

11.3 Where the Contractor has provided a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 11, the Contractor shall (and shall procure that any of its Sub-Contractors shall):

- (a) supply to the Authority details of its (or its Sub-Contractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the date of cessation of participation in the Statutory Scheme) covering all relevant Fair Deal Eligible Employees, as soon as it is able to do so before the cessation of participation in the Statutory Scheme (where possible) and in any event no later than seven (7) days after receipt of the certificate;

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- (b) be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995; and
- (c) where required to do so by the Authority, instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing a bulk transfer process with the Actuary to the relevant Statutory Scheme and to provide all such co-operation and assistance with any other Actuary appointed by the Authority (where applicable). The Contractor must ensure that day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme are provided in respect of any Fair Deal Employee who consents to such a transfer from the Statutory Scheme and the Contractor shall be fully responsible for any costs of providing those credits in excess of the bulk transfer payment received by the Broadly Comparable pension scheme; and
- (d) provide a replacement Broadly Comparable pension scheme in accordance with this Paragraph 11 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Contractor and/or relevant Sub-Contractor and are still eligible for New Fair Deal protection in the event that the Contractor and/or Sub-Contractor's Broadly Comparable pension scheme is closed to future accrual and/or terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).

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

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the absence of any agreement between the Contractor and any Sub-Contractor, the Shortfall shall be paid by the Contractor. The Contractor shall indemnify the Authority or the New Contractor's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Authority directs) for any failure to pay the Shortfall under this Paragraph 11.4.

**12 RIGHT OF SET-OFF**

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

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

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

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

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PART D, APPENDIX D1 - LGPS

1 DEFINITIONS

1.1 In this Appendix D1 (LGPS) to Part D (Pensions), the following words have the following meanings:

"2013 Regulations"		the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) (as amended from time to time);
"Administering Authority"		in relation to the Fund, the relevant administering authority of that Fund for the purposes of the 2013 Regulations;
"Fund Actuary"		the actuary to a Fund appointed by the Administering Authority of the Fund;
"Fund"		[N/A], a pension fund within the LGPS;
"LGPS"		the Local Government Pension Scheme as governed by the LGPS Regulations, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the Local Government Pension Scheme;
"LGPS Initial Contribution Rate"		[N/A] of pensionable pay (as defined in the 2013 Regulations);
"LGPS Admission Agreement"		an admission agreement within the meaning in schedule 1 of the 2013 Regulations;
"LGPS Admission Body"		an admission body (within the meaning of Part 3 of schedule 2 of the 2013 Regulations);
"LGPS Eligible Employees"		any LGPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the LGPS under an LGPS Admission Agreement or otherwise;
"LGPS Fair Deal Employees"		any Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the LGPS or a pension scheme that is Broadly Comparable to the LGPS in accordance with the provisions of New Fair Deal;

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<b>"LGPS Participating Employees"</b>	any LGPS Fair Deal Employee who at the relevant time remains working wholly or mainly on the Services and participating in the LGPS; and
<b>"LGPS Regulations"</b>	the 2013 Regulations and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (SI 2014/525), and any other regulations (in each case as amended from time to time) which are from time to time applicable to the LGPS.

**2 CONTRACTOR TO BECOME AN LGPS ADMISSION BODY**

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

Any LGPS Fair Deal Employees whether:

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

shall be admitted to the LGPS with effect on and from the Relevant Transfer Date.

The Contractor shall not automatically enrol or re-enrol for the purposes of the Pensions Act 2008 any LGPS Fair Deal Employees in any pension scheme other than the LGPS unless they cease to be eligible for membership of the LGPS.

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

**3 BROADLY COMPARABLE SCHEME**

- 3.1 If the Contractor and/or any of its Sub-Contractors is unable to obtain an LGPS Admission Agreement or is otherwise unable to participate in the LGPS in accordance with Paragraph 2.1 because the Administering Authority will not allow it to participate in the Fund, the Contractor shall (and procure that its Sub-Contractors shall), with effect from the Relevant Transfer Date, offer the LGPS Fair Deal Employees membership of a pension scheme which is Broadly Comparable to LGPS on the

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Relevant Transfer Date in accordance with the provisions of Paragraph 10 of this Part D.

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

**4 DISCRETIONARY BENEFITS**

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

**5 LGPS RISK SHARING**

- 5.1 Subject to Paragraphs 5.4 to 5.10, if at any time during the term of this Contract the Administering Authority, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Contractor or any Sub-Contractor to pay employer contributions or other payments to the Fund in respect of LGPS Participating Employees in aggregate in excess of the LGPS Initial Contribution Rate, the excess of employer contributions above the LGPS Initial Contribution Rate for a Contract Year (the "**Excess Amount**") shall be paid by the Contractor or the Sub-Contractor, as the case may be, and the Contractor shall be reimbursed by the Authority.
- 5.2 Subject to Paragraphs 5.4 to 5.9 and 5.11, if at any time during the term of this Contract, the Administering Authority, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Contractor or any Sub-Contractor to pay employer contributions or payments to the Fund in respect of LGPS Participating Employees in aggregate below the LGPS Initial Contribution Rate for a Contract Year, the Contractor shall reimburse the Authority an amount equal to A–B (the "**Refund Amount**") where:
- A = the amount which would have been paid if contributions and payments had been paid equal to the LGPS Initial Contribution Rate in respect of LGPS Participating Employees for that Contract Year; and
- B = the amount of contributions or payments actually paid by the Contractor or Sub-Contractor for that Contract Year, as the case may be, to the Fund.
- 5.3 Subject to Paragraphs 5.4 to 5.10, where the Administering Authority obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when the LGPS Admission Agreement ceases to have effect and the Contractor or any Sub-Contractor is required to pay any exit payment in respect of LGPS Fair Deal Employees under Regulation 64(2) of the 2013 Regulations (the "**Exit Payment**"), such Exit Payment



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shall be paid by the Contractor or any Sub-Contractor (as the case may be) and the Contractor shall be reimbursed by the Authority in respect of LGPS Fair Deal Employees only.

**5.4 The Contractor and any Sub-Contractors shall at all times be responsible for the following costs:**

- (a) any employer contributions relating to the costs of early retirement benefits arising on redundancy or as a result of business efficiency under Regulation 30(7) of the 2013 Regulations or otherwise;
- (b) any payment of Fund benefits to active members on the grounds of ill health or infirmity of mind or body under Regulation 35 of the 2013 Regulations or otherwise;
- (c) any payment of Fund benefits to deferred or deferred pensioner members on the grounds of ill health or infirmity of mind or body under Regulation 38 of the 2013 Regulations or otherwise;
- (d) any employer contributions relating to the costs of early or flexible retirement where the actuarial reduction is waived in whole or in part or a cost neutral reduction is not applied with the consent of the Contractor or any relevant Sub-Contractor including without limitation any decision made under Regulation 30(8) of the 2013 Regulations or schedule 2 of The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014;
- (e) any employer contributions relating to the costs of enhanced benefits made at the discretion of the Contractor or any relevant Sub-Contractors including without limitation additional pension awarded under Regulation 31 of the 2013 Regulations or otherwise;
- (f) any increase to the employer contribution rate resulting from the award of pay increases by the Contractor or relevant Sub-Contractors in respect of all or any of the LGPS Eligible Employees in excess of the pay increases assumed in the Fund's most recent actuarial valuation (unless the Contractor and/or any Sub-Contractor is contractually bound to provide such increases on the Relevant Transfer Date);
- (g) to the extent not covered above, any other costs arising out of or in connection with the exercise of any discretion or the grant of any consent under the LGPS Regulations by the Contractor or any relevant Sub-Contractors where a member does not have an absolute entitlement to that benefit under the LGPS;
- (h) any cost of the administration of the Fund that are not met through the Contractor's or Sub-Contractor's employer contribution rate, including without limitation an amount specified in a notice given by the Administering Authority under Regulation 70 of the 2013 Regulations;



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- (i) the costs of any reports and advice requested by or arising from an instruction given by the Contractor or a Sub-Contractor from the Fund Actuary; and/or
  - (j) any interest payable under the 2013 Regulations or LGPS Administration Agreement.
- 5.5 For the purposes of calculating any Exit Payment, Excess Amount or Refund Amount, any part of such an amount which is attributable to any costs which the Contractor or Sub-Contractors are responsible for in accordance with Paragraph 5.4 above shall be disregarded and excluded from the calculation. In the event of any dispute as to level of any cost that should be excluded from the calculation, the opinion of the Fund Actuary shall be final and binding.
- 5.6 Where the Administering Authority obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when the LGPS Admission Agreement ceases to have effect and the Contractor or any Sub-Contractor receives payment of an exit credit payment under Regulation 64(2) of the 2013 Regulations (the “**Exit Credit**”), the Contractor shall (or procure that any Sub-Contractor shall) reimburse the Authority an amount equal to the Exit Credit within twenty (20) Working Days of receipt of the Exit Credit.
- 5.7 The Contractor shall (or procure that the Sub-Contractor shall) notify the Authority in writing within twenty (20) Working Days:
  - (a) of the end of each Contract Year of any Excess Amount or Refund Amount due in respect of the Contract Year that has just ended and provide a reasonable summary of how the Excess Amount or Refund Amount was calculated; and
  - (b) of being informed by the Administering Authority of any Exit Payment or Exit Credit that is determined by as being due from or to the Contractor or a Sub-Contractor and provide a copy of any revised rates and adjustments certificate detailing the Exit Payment or Exit Credit and its calculation.
- 5.8 Within twenty (20) Working Days of receiving the notification under Paragraph 5.7 above, the Authority shall either:
  - (a) notify the Contractor in writing of its acceptance of the Excess Amount, Refund Amount or Exit Payment;
  - (b) request further information or evidence about the Excess Amount, Refund Amount or Exit Payment from the Contractor; and/or
  - (c) request a meeting with the Contractor to discuss or clarify the information or evidence provided.
- 5.9 Where the Excess Amount, Refund Amount or Exit Payment is agreed following the receipt of further information or evidence or following a meeting in accordance with Paragraph 5.8 above, the Authority shall notify the Contractor in writing. In the event

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that the Contractor and the Authority are unable to agree the amount of the Excess Amount, Refund Amount or Exit Payment then they shall follow the Dispute Resolution Procedure.

- 5.10 Any Excess Amount or Exit Payment agreed by the Authority or in accordance with the Dispute Resolution Procedure shall be paid by the Authority within timescales as agreed between Authority and Contractor. The amount to be paid by the Authority shall be an amount equal to the Excess Amount or Exit Payment less an amount equal to any corporation tax relief which has been claimed in respect of the Excess Amount or Exit Payment by the Contractor or a Sub-Contractor.
- 5.11 Any Refund Amount agreed by the Authority or in accordance with the Dispute Resolution Procedure as payable by the Contractor or any Sub-Contractor to the Authority, shall be paid by the Contractor or any Sub-Contractor forthwith as the liability has been agreed. In the event the Contractor or any Sub-Contractor fails to pay any agreed Refund Amount, the Authority shall demand in writing the immediate payment of the agreed Refund Amount by the Contractor and the Contractor shall make payment within seven (7) Working Days of such demand.
- 5.12 This Paragraph 5 shall survive termination of this Contract.

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**PART D, APPENDIX D2 - TPS**

**1 DEFINITIONS**

1.1 In this Appendix D2 (*TPS*) to Part D (*Pensions*), the following words have the following meanings:

<b>"Accepted Employer"</b>	as defined in the TPS Regulations;
<b>"Pensionable Earnings"</b>	is as defined in the TPS Regulations;
<b>"TPS"</b>	the Teachers' Pension Scheme as governed by the TPS Regulations, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the Teachers' Pension Scheme;
<b>"TPS Eligible Employees"</b>	any TPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the TPS under a Participation Agreement or otherwise;
<b>"TPS Fair Deal Employees"</b>	any Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the TPS or a pension scheme that is Broadly Comparable to the TPS in accordance with the provisions of New Fair Deal;
<b>"TPS Initial Contribution Rate"</b>	28.6% of Pensionable Earnings;
<b>"TPS Participating Employees"</b>	any TPS Fair Deal Employee who at the relevant time remains working wholly or mainly on the Services and participating in the TPS;
<b>"TPS Participation Agreement"</b>	a participation agreement within the meaning in Chapter 2 of schedule 1 of the TPS Regulations;
<b>"TPS Regulations"</b>	the Teachers' Pension Scheme Regulations 2014 (as amended from time to time); and
<b>"TPS Scheme Manager"</b>	the scheme manager as described in the TPS Regulations.

**2 CONTRACTOR TO BECOME AN ACCEPTED EMPLOYER**

2.1 In accordance with the principles of New Fair Deal, the Contractor and/or any of its Sub-Contractors to which the employment of any TPS Fair Deal Employee

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compulsorily transfers as a result of either the award of this Contract or a Relevant Transfer, if not a scheme employer which participates automatically in the TPS, shall each become an Accepted Employer by entering into a TPS Participation Agreement on or before the Relevant Transfer Date to enable the TPS Fair Deal Employees to retain either continuous active membership of or eligibility for the TPS on and from the Relevant Transfer Date for so long as they remain employed in connection with the delivery of the Services under this Contract.

- 2.2 If the Contractor and/or any of its Sub-Contractors is unable to obtain a TPS Participation Agreement or is otherwise unable to participate in accordance with Paragraph 2.1 because the TPS Scheme Manager will not allow it to participate in the TPS, the Contractor shall (and procure that its Sub-Contractors shall), comply with the provisions of Paragraph 3.1 below and of Paragraph 10 of this Part D.
- 2.3 Unless Paragraph 2.2 above applies all and any TPS Fair Deal Employees whether:
- (a) active members of the TPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date; or
  - (b) eligible to join the TPS (or a Broadly Comparable pension scheme) but not active members of the TPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date,

shall be admitted to the TPS with effect on and from the Relevant Transfer Date.

The Contractor and/or any of its Sub-Contractors shall not automatically enrol or re-enrol for the purposes of the Pensions Act 2008 any TPS Fair Deal Employees in any pension scheme other than the TPS unless they cease to be eligible for membership of the TPS.

- 2.4 The Contractor will (and will procure that its Sub-Contractors (if any) will) provide at its own cost any indemnity, bond or guarantee required by the TPS Scheme Manager in relation to a TPS Participation Agreement.

### **3 BROADLY COMPARABLE SCHEME**

- 3.1 If the Contractor and/or any of its Sub-Contractors is unable to obtain a TPS Participation Agreement or is otherwise unable to participate in accordance with Paragraph 2.1 because the TPS Scheme Manager will not allow it to participate in the TPS, the Contractor shall (and procure that its Sub-Contractors shall), with effect from the Relevant Transfer Date, offer the TPS Fair Deal Employees membership of a pension scheme which is Broadly Comparable to TPS on the Relevant Transfer Date in accordance with the provisions of Paragraph 10 of this Part D.
- 3.2 If the Contractor and/or any of its Sub-Contractors becomes an Accepted Employer in accordance with Paragraph 2.1 but the TPS Participation Agreement is terminated during the term of this Contract for any reason at a time when the Contractor or Sub-Contractors still employs any TPS Eligible Employees, the Contractor shall (and procure that its Sub-Contractors shall) at no extra cost to the Authority, offer the remaining TPS Eligible Employees membership of a pension scheme which is Broadly

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Comparable to the TPS on the date the TPS Eligible Employees ceased to participate in the TPS in accordance with the provisions of Paragraph 11 of this Part D.

**4 TPS RISK SHARING**

- 4.1 Subject to Paragraphs 4.3 to 4.6, if at any time during the term of this Contract the TPS Scheme Manager requires the Contractor or any Sub-Contractor to pay employer contributions in accordance with Regulation 192 of the TPS Regulations in respect of TPS Participating Employees in aggregate in excess of the TPS Initial Contribution Rate, the excess of employer contributions above the TPS Initial Contribution Rate for a Contract Year (the “**Excess Amount**”) in respect of TPS Participating Employees only shall be paid by the Contractor or the Sub-Contractor, as the case may be, and the Contractor shall be reimbursed by the Authority in accordance with Paragraphs 4.3 to 4.6 below.
- 4.2 Subject to Paragraphs 4.3 to 4.5 and 4.7, if at any time during the term of this Contract, the TPS Scheme Manager requires the Contractor or any Sub-Contractor to pay employer contributions in accordance with Regulation 192 of the TPS Regulations in respect of the TPS Fair Deal Employees in aggregate below the TPS Initial Contribution Rate for a Contract Year, the Contractor shall reimburse the Authority an amount equal to A–B (the “**Refund Amount**”) where:
- A = the amount which would have been paid if contributions had been paid equal to the TPS Initial Contribution Rate for that Contract Year in respect of TPS Participating Employees only; and
- B = the amount of contributions actually paid by the Contractor or Sub-Contractor for that Contract Year, as the case may be, to the TPS in respect of TPS Participating Employees only.
- 4.3 The Contractor shall (or procure that the Sub-Contractor shall) notify the Authority in writing within twenty (20) Working Days of the end of each Contract Year of any Excess Amount or Refund Amount due in respect of the Contract Year that has just ended and provide a reasonable summary of how the Excess Amount or Refund Amount was calculated.
- 4.4 Within twenty (20) Working Days of receiving the notification under Paragraph 4.5 above, the Authority shall either:
- (i) notify the Contractor in writing of its acceptance of the Excess Amount or Refund Amount;
  - (ii) request further information or evidence about the Excess Amount or Refund Amount from the Contractor; and/or
  - (iii) request a meeting with the Contractor to discuss or clarify the information or evidence provided.
- 4.5 Where the Excess Amount or Refund Amount is agreed following the receipt of further information or evidence or following a meeting in accordance with Paragraph 4.6

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above, the Authority shall notify the Contractor in writing. In the event that the Contractor and the Authority are unable to agree the amount of the Excess Amount or Refund Amount then they shall follow the Dispute Resolution Procedure.

- 4.6 Any Excess Amount agreed by the Authority or in accordance with the Dispute Resolution Procedure shall be paid by the Authority within timescales as agreed between Authority and Contractor. The amount to be paid by the Authority shall be an amount equal to the Excess Amount less an amount equal to any corporation tax relief which has been claimed in respect of the Excess Amount by the Contractor or a Sub-Contractor.
- 4.7 Any Refund Amount agreed by the Authority or in accordance with the Dispute Resolution Procedure as payable by the Contractor or any Sub-Contractor to the Authority, shall be paid by the Contractor or any Sub-Contractor forthwith as the liability has been agreed. In the event the Contractor or any Sub-Contractor fails to pay any agreed Refund Amount, the Authority shall demand in writing the immediate payment of the agreed Refund Amount by the Contractor and the Contractor shall make payment within seven (7) Working Days of such demand.
- 4.8 This Paragraph 4 shall survive termination of this Contract.

**OFFICIAL SENSITIVE****Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****Part E – EMPLOYMENT EXIT PROVISIONS****1 PRE-SERVICE TRANSFER OBLIGATIONS**

1.1 The Contractor agrees that within 20 Working Days of the earliest of:

- (a) receipt of a notification from the Authority of a Service Transfer or intended Service Transfer;
- (b) receipt of the giving of notice of early termination or any Partial Termination of this Contract; and
- (c) the date which is 12 Months before the end of the Term; or
- (d) receipt of a written request of the Authority at any time, provided that (without limiting the Authority's ability during the Termination Assistance Period to make such requests at any frequency and at any time) the Authority shall only be entitled to make one such request in any 6 Month period during the Term,

it shall provide, and shall procure that each Sub-Contractor shall provide, in a suitably anonymised format so as to comply with the Data Protection Legislation, the "**Contractor's Provisional Contractor Personnel List**", together with the Staffing Information in relation to the Contractor's Provisional Contractor Personnel List and it shall provide an updated Contractor's Provisional Contractor Personnel List at such intervals as are reasonably requested by the Authority.

1.2 At least 20 Working Days prior to the Service Transfer Date, the Contractor shall provide to the Authority or at the direction of the Authority to any New Contractor and/or any New Sub-Contractor:

- (a) the "**Contractor's Final Contractor Personnel List**", which shall identify which of the employees and workers of the Contractor or any Sub-Contractor are Transferring Contractor Employees; and
- (b) the Staffing Information in relation to the Contractor's Final Contractor Personnel List (insofar as such information has not previously been provided).

1.3 The Authority shall be permitted to use and disclose information provided by the Contractor under Paragraphs 1.1 and 1.2 of this Part E for the purpose of informing any prospective New Contractor and/or New Sub-Contractor.

1.4 The Contractor warrants, for the benefit of the Authority, any New Contractor, and any New Sub-Contractor that all information provided pursuant to Paragraphs 1.1 and 1.2 of this Part E shall be true and accurate in all material respects at the time of providing the information.

1.5 From the date of the earliest event referred to in Paragraphs 1.1(a), 1.1(b) 1.1(c) and 1.1(d) of this Part E, the Contractor agrees, that it shall not, and agrees to procure that

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each Sub-Contractor shall not, assign any person to the provision of the Services who is not listed on the Contractor's Provisional Contractor Personnel List and shall not without the written approval of the Authority (not to be unreasonably withheld or delayed):

- (a) replace or re-deploy any person listed on the Contractor's Provisional Contractor Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;
- (b) make, promise, propose, permit or implement any material changes to the terms and conditions of employment of any person listed on the Contractor's Provisional Contractor Personnel List (including pensions and any payments connected with the termination of employment);
- (c) increase the proportion of working time spent on the Services (or the relevant part of the Services) by any person listed on the Contractor's Provisional Contractor Personnel List save for fulfilling assignments and projects previously scheduled and agreed;
- (d) introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Contractor's Provisional Contractor Personnel List;
- (e) increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
- (f) terminate or give notice to terminate the employment or contracts of any persons on the Contractor's Provisional Contractor Personnel List save by due disciplinary process,

and shall promptly notify, and procure that each Sub-Contractor shall promptly notify, the Authority or, at the direction of the Authority, any New Contractor and any New Sub-Contractor of any notice to terminate employment given by the Contractor or relevant Sub-Contractor or received from any persons listed on the Contractor's Provisional Contractor Personnel List regardless of when such notice takes effect. The Contractor agrees, for itself and on behalf of any Sub-Contractor to indemnify the Authority (or any New Contractor and / or any New Sub-Contractor) fully and hold the Authority (or any New Contractor and / or any New Sub-Contractor) harmless at all times from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities (including legal fees) whatsoever in any way connected with, arising from or relating to any failure by the Contractor or a Sub-Contractor to comply with the requirements of this Paragraph 1.5.

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



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- (a) the numbers of individuals (which includes but is not limited to employees, workers, contractors, agents, agency workers) engaged in providing the Services;
- (b) the percentage of time spent by each individual engaged in providing the Services;
- (c) the extent to which each individual qualifies for membership of any of the Statutory Schemes or any Broadly Comparable scheme set up pursuant to the provisions of any of the Appendices to Part D (*Pensions*) of this Schedule 17 (as appropriate); and
- (d) a description of the nature of the work undertaken by each individual by location.

1.7 The Contractor shall provide, and shall procure that each Sub-Contractor shall provide:

- (a) all reasonable cooperation and assistance to the Authority, any New Contractor and/or any New Sub-Contractor to support a future procurement process;
- (b) timely and full provision of Staffing Information and consultation between employers to ensure the smooth transfer of the Transferring Contractor Employees on the Service Transfer Date, including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Contractor Employees to be paid as appropriate.

Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Contractor shall provide, and shall procure that each Sub-Contractor shall provide, to the Authority or, at the direction of the Authority, to any New Contractor and/or any New Sub-Contractor (as appropriate), in respect of each person on the Contractor's Final Contractor Personnel List who is a Transferring Contractor Employee:

- (a) the most recent month's copy pay slip data;
- (b) details of cumulative pay for tax and pension purposes;
- (c) details of cumulative tax paid;
- (d) tax code;
- (e) details of any voluntary deductions from pay;
- (f) a copy of any personnel file and/or any other records regarding the service of the Transferring Contractor Employees;
- (g) all such data and information as may be required at law or as required by the trustee or manager of the relevant pension scheme/s in which the

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Contractor or any Sub-Contractor operates from time to time and in which the Transferring Contractor Employees have been members;

- (h) a complete copy of the information required to meet the minimum record keeping requirements under the Working Time Regulations 1998 and the National Minimum Wage Regulations 1998; and
- (i) bank/building society account details for payroll purposes.

- 1.8 From the date of the earliest event referred to in Paragraph 1.1(a), 1.1(b), 1.1(c) and 1.1(d), the Contractor agrees that following within 20 Working Days of a request from the Authority it shall and shall procure that each Sub-Contractor shall use reasonable endeavours to comply with any reasonable request to align and assign the Contractor's employees to any future delivery model proposed by the Authority for Replacement Services within 30 Working Days or such longer timescale as may be agreed.
- 1.9 Any changes necessary to this Contract as a result of alignment referred to in Paragraph 1.8 shall be agreed in accordance with the Change Control Procedure.

**2 EMPLOYMENT REGULATIONS EXIT PROVISIONS**

- 2.1 The Authority and the Contractor acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Contract or otherwise) resulting in the Services being undertaken by a New Contractor and/or a New Sub-Contractor. Such change in the identity of the Contractor and/or any Sub-Contractors of such services may constitute a Relevant Transfer to which the Employment Regulations will apply. The Authority and the Contractor further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Contractor and/or any Sub-Contractor and the Transferring Contractor Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the New Contractor and/or a New Sub-Contractor (as the case may be) and each such Transferring Contractor Employee.
- 2.2 The Contractor shall, and shall procure that each Sub-Contractor shall, comply with all its obligations in respect of the Transferring Contractor Employees arising under the Employment Regulations in respect of the period up to the Service Transfer Date and shall perform and discharge, and procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Transferring Contractor Employees arising in respect of the period up to the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Schemes which in any case are attributable in whole or in part to the period ending on the Service Transfer Date). The Contractor shall make, and shall procure that each Sub-Contractor shall make, any necessary apportionments in respect of any payments (including, but not limited to, those listed above) and, in



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particular, in respect of pay for holidays accrued but untaken, in either case due to or in respect of any Transferring Contractor Employee immediately before the Service Transfer Date between: (i) the Contractor and/or the Sub-Contractor (as appropriate); and (ii) the New Contractor and/or New Sub-Contractor.

- 2.3 Subject to Paragraph 2.4 of this Part E, the Contractor, for itself and for each Sub-Contractor, shall indemnify the Authority and/or the New Contractor and/or any New Sub-Contractor against any Employee Liabilities arising from or as a result of:
- (a) Any act or omission of the Contractor or any Sub-Contractor in respect of any Transferring Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Contractor Employee whether occurring before, on or after the Service Transfer Date;
  - (b) the breach or non-observance by the Contractor or any Sub-Contractor occurring before the Service Transfer Date of:
    - (i) any collective agreement applicable to the Transferring Contractor Employees; and/or
    - (ii) any other custom or practice with a trade union or staff association in respect of any Transferring Contractor Employees which the Contractor or any Sub-Contractor is contractually bound to honour;
  - (c) any claim by any trade union or other body or person representing any Transferring Contractor Employees arising from or connected with any failure by the Contractor or a Sub-Contractor to comply with any legal obligation to such trade union, body or person arising before the Service Transfer Date;
  - (d) any failure by the Contractor or any Sub-Contractor to comply with its obligations (including its obligations to maintain records) under the Working Time Regulations 1998, National Minimum Wage Act 1998 and any/all associated National Minimum Wage Regulations in the period prior to the Service Transfer Date in respect of any Transferring Contractor Employees or workers (current or past) including, but not limited to any failure to maintain adequate records which meet the minimum requirements for record-keeping and/or failure to deliver the same to the Authority, a New Contractor and/or New Sub-Contractor on request;
  - (e) the provision of inaccurate or incomplete information pursuant to Paragraphs 1.1, 1.2 and 1.6 of this Part E;
  - (f) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
    - (i) in relation to any Transferring Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory

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authority relates to financial obligations arising before the Service Transfer Date; and

- (ii) in relation to any employee who is not identified in the Contractor's Final Contractor Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Contractor and / or any Sub-Contractor to the Authority and/or New Contractor and/or any New Sub-Contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Service Transfer Date;
  - (g) a failure of the Contractor or any Notified Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Contractor Employees in respect of the period up to the Service Transfer Date);
  - (h) any claim made by or in respect of any person employed or formerly employed by the Contractor or any Sub-Contractor other than a Transferring Contractor Employee identified in the Contractor's Final Contractor Personnel List for whom it is alleged the Authority and/or the New Contractor and/or any New Sub-Contractor may be liable by virtue of this Contract and/or the Employment Regulations; and
  - (i) any claim made by or in respect of a Transferring Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Contractor Employee relating to any act or omission of the Contractor or any Sub-Contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Authority and/or New Contractor to comply with regulation 13(4) of the Employment Regulations.
- 2.4 The indemnities in Paragraph 2.3 of this Part E shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the New Contractor and/or any New Sub-Contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:
- (a) arising out of the resignation of any Transferring Contractor Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the New Contractor and/or any New Sub-Contractor to occur in the period on or after the Service Transfer Date); or
  - (b) arising from the New Contractor's failure, and/or New Sub-Contractor's failure, to comply with its obligations under the Employment Regulations.
- 2.5 If any person who is not identified in the Contractor's Final Contractor Personnel List claims, or it is determined in relation to any person who is not identified in the

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Contractor's Final Contractor Personnel List, that his/her contract of employment has been transferred from the Contractor or any Sub-Contractor to the New Contractor and/or New Sub-Contractor pursuant to the Employment Regulations, then:

- (a) the Authority shall procure that the New Contractor shall, or any New Sub-Contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Contractor; and
  - (b) the Contractor may offer (or may procure that a Sub-Contractor may offer) employment or engagement to such person within 10 Working Days of the notification by the New Contractor and/or any and/or New Sub-Contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with the applicable Legislation.
- 2.6 If such offer is accepted, or if the situation has otherwise been resolved by the Contractor or a Sub-Contractor, the Authority shall procure that the New Contractor shall, or the New Contractor shall procure that the New Sub-Contractor shall, immediately release or procure the release of the person from his/her employment or engagement or alleged employment or engagement.
- 2.7 If after the 10 Working Day period specified in Paragraph (b) of this Part E has elapsed:
- (a) no such offer of employment or engagement has been made;
  - (b) such offer has been made but not accepted; or
  - (c) the situation has not otherwise been resolved
- the Authority shall advise the New Contractor and/or New Sub-Contractor, as appropriate that it may within 5 Working Days give notice to terminate the employment, engagement or alleged employment or engagement of such person.
- 2.8 Subject to the New Contractor and/or New Sub-Contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7 of this Part E, and in accordance with all applicable proper employment procedures set out in applicable Legislation, the Contractor shall indemnify the New Contractor and/or New Sub-Contractor against all Employee Liabilities arising out of the termination of employment or engagement pursuant to the provisions of Paragraph 2.7 of this Part E provided that the New Contractor takes, or shall procure that the New Sub-Contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.9 The indemnity in Paragraph 2.8 of this Part E:
- (a) shall not apply to:
    - (i) any claim for:
      - (A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil

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partnership, pregnancy and maternity or sexual orientation, religion or belief; or

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

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

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

- (b) shall apply only where the notification referred to in Paragraph 2.5(a) of this Part E is made by the New Contractor and/or New Sub-Contractor to the Contractor within 6 Months of the Service Transfer Date.

- 2.10 If any such person as is described in Paragraph 2.5 of this Part E is neither re-employed or re-engaged by the Contractor or any Sub-Contractor nor dismissed by the New Contractor and/or New Sub-Contractor within the time scales set out in Paragraphs 2.5 to 2.7 of this Part E, such person shall be treated as a Transferring Contractor Employee.
- 2.11 The Contractor shall, and shall procure that each Sub-Contractor shall, promptly provide to the Authority and any New Contractor and/or New Sub-Contractor, in writing such information as is necessary to enable the Authority, the New Contractor and/or New Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Authority shall procure that the New Contractor and/or New Sub-Contractor, shall promptly provide to the Contractor and each Sub-Contractor in writing such information as is necessary to enable the Contractor and each Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.
- 2.12 The Contractor shall, and shall procure that each Sub-Contractor shall, provide all reasonable assistance and documentation required by the Authority, a New Contractor and/or a New Sub-Contractor in connection with any query, claim, dispute or proceedings arising on or after a Service Transfer Date but relating to a Transferring Contractor Employee
- 2.13 Subject to Paragraph 2.14 of this Part E, the Authority shall procure that the New Contractor indemnifies the Contractor on its own behalf and on behalf of any New Sub-Contractor and its sub-contractors against any Employee Liabilities arising from or as a result of:
- (a) any act or omission of the New Contractor and/or New Sub-Contractor in respect of any Transferring Contractor Employee identified in the Contractor's Final Contractor Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Contractor Employee;



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- (b) the breach or non-observance by the New Contractor and/or New Sub-Contractor on or after the Service Transfer Date of:
  - (i) any collective agreement applicable to the Transferring Contractor Employees identified in the Contractor's Final Contractor Personnel List; and/or
  - (ii) any custom or practice in respect of any Transferring Contractor Employees identified in the Contractor's Final Contractor Personnel List which the New Contractor and/or New Sub-Contractor is contractually bound to honour;
- (c) any claim by any trade union or other body or person representing any Transferring Contractor Employees identified in the Contractor's Final Contractor Personnel List arising from or connected with any failure by the New Contractor and/or New Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
- (d) any proposal by the New Contractor and/or New Sub-Contractor to change the terms and conditions of employment or working conditions of any Transferring Contractor Employees identified in the Contractor's Final Contractor Personnel List on or after their transfer to the New Contractor or New Sub-Contractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Contractor's Final Contractor Personnel List who would have been a Transferring Contractor Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;
- (e) any statement communicated to or action undertaken by the New Contractor or New Sub-Contractor to, or in respect of, any Transferring Contractor Employee identified in the Contractor's Final Contractor Personnel List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Contractor in writing;
- (f) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
  - (i) in relation to any Transferring Contractor Employee identified in the Contractor's Final Contractor Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and
  - (ii) in relation to any employee who is not a Transferring Contractor Employee identified in the Contractor's Final Contractor Personnel List

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List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Contractor or Sub-Contractor, to the New Contractor or New Sub-Contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;

- (g) a failure of the New Contractor or New Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Contractor Employees identified in the Contractor's Final Contractor Personnel List in respect of the period from (and including) the Service Transfer Date; and
  - (h) any claim made by or in respect of a Transferring Contractor Employee identified in the Contractor's Final Contractor Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Contractor Employee relating to any act or omission of the New Contractor or New Sub-Contractor in relation to obligations under regulation 13 of the Employment Regulations.
- 2.14 The indemnities in Paragraph 2.13 of this Part E shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Contractor and/or any Sub-Contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Contractor and/or any Sub-Contractor (as applicable) to comply with its obligations under the Employment Regulations.



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**PART E, APPENDIX E1 - LIST OF NOTIFIED SUB-CONTRACTORS**

*None at the Effective Date*

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**PART E, APPENDIX E2 - EMPLOYEE INFORMATION SPREADSHEET**

Information to be provided for all persons identified on the Contractor's Provisional Supplier Personnel List or Contractor's Final Supplier Personnel List anonymised where possible. This will be required in an electronic format for each person identified. The Authority will provide a spreadsheet for completion at such time as this information is required.

Position
Key duties / responsibilities the employee carries out
Grade / Band
Place of Work (if multiple places, please list all with primary place first)
If there are multiple places of work what % of time is spent at each place
Percentage of weekly working hours spent at Primary work location (if multiple places, please include the percentage worked at all, with primary place first)
Date the information is supplied
Date of Birth
Employment status (for example, employee, apprentice, other worker, agency worker, contractor or other self-employed)?
Contract type (for example, permanent, fix-term, zero-hours contract)
For zero hours or casual contracts to include the last known date the employee worked
Continuous service date (dd/mm/yy)
Date employment started with existing employer
Contract end date (if fixed term contract or temporary contract)
Contractual notice period
Contractual weekly hours
Regular overtime hours per week
Mobility or flexibility clause in contract?
Previously TUPE transferred to organisation? If so, please specify (i) date of transfer, (ii) name of transferor, and (iii) whether ex public sector
Any collective agreements?
Is this member of staff on long term absence (e.g. long term sick, maternity leave). If so, please specify the reason for absence and return date, if known
Qualification Leave (Achieved / working towards)
Are the employees deliberately organised to carry out the services by reference to the contract with the Authority? If not, how are they organised?
% of working time dedicated to the provision of services under the contract
If employee's work includes non-frontline service delivery (for example, management, administration and support), please specify the locations and services to which their work relates and approximate percentage split

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If employee is involved in providing the Specified IT Services (see point 4 in the completion notes), please indicate the approximate percentage of their working time which relates to those services
If this employee is involved in providing the Specified IT Services, (i) do they form part of a group of employees specifically organised to carry out such activities and (ii) do you consider this to be their "principal purpose"?
Basic Salary (or hourly rate of pay) for hours listed (Do not provide FTE for a part-time employee)
Payment interval (weekly/fortnightly/monthly)
Bonus payment for previous 12 months (please specify whether contractual or discretionary entitlement)
Pay review method
Frequency of pay reviews
Agreed pay increases
Next pay review date
Any existing or future commitment to training that has a time-off or financial implication
Car allowance (£ per year)
Lease or company car details
Any other allowances paid (e.g. shift allowance, standby allowance, travel allowance)
Private medical insurance (please specify whether single or family cover)
Life assurance (xSalary)
Long Term Disability / PHI (% of Salary)
Any other benefits whether in kind or otherwise and for each benefit, whether contractual or non-contractual
Annual leave entitlement (excluding bank holidays)
Bank holiday entitlement
Method of calculating holiday pay (i.e., based on fixed salary only or incl. entitlements to variable remuneration such as bonuses, allowances, commission or overtime pay?)
Maternity or paternity or shared parental leave entitlement and pay (e.g., statutory only or contractual)
Sick leave entitlement and pay
Redundancy pay entitlement (statutory / enhanced / contractual / discretionary)
Enhanced pension benefits on Redundancy or Retirement
Pensionable Salary or Earnings (please specify which elements of salary/earnings are pensionable e.g., basic salary, allowances, overtime etc.)
Employer pension contribution rate
Employee pension contribution rate
Please provide the name of the pension scheme and a link to the pension scheme website
Is the scheme an occupational pension scheme as defined in the Pension Schemes Act 1993?
If the scheme is not an occupational pension scheme, what type of scheme is it? E.g., personal pension scheme?
Type of pension provision e.g., defined benefit (CARE or final salary, and whether a public sector scheme e.g., CSPA, NHS, LGPS etc. or a broadly comparable scheme) or a defined contribution scheme or an auto enrolment master trust?

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<b>If the Employee is in the Local Government Pension Scheme, please supply details of Fund and Administering Authority.</b>
If the Employee is in the TPS, please confirm (i) whether the employer participates in the TPS under a Participation Agreement (PA), and (ii) if yes, provide details of the PA; and (iii) if no, confirm specific basis under which they participate by refer
If the Employee is in the Civil Service Pension Scheme, please provide details of the Admission Agreement.
If the Employee is in the NHSPS, please provide details of the Direction Letter.
If the Employee is in a broadly comparable pension scheme, please supply a copy of the GAD certificate of Broad Comparability.
Did Fair Deal or any other similar pension protection for ex-public sector employees apply to the employee when they TUPE transferred into your employment? If so, what was the nature of that protection (e.g., right to participate in a public sector pension scheme, or a broadly comparable scheme, or to bulk transfer past pension service into their current scheme)?
If Fair Deal, Best Value or other pension protection applied, which public sector employer did they originally transfer out of and when?
Do you expect Fair Deal or any other similar pension protection for ex-public sector employees to apply to the employee when they TUPE transfer to a new employer?
Security Check Level (for example, baseline vetting, DBS, enhanced)
Security Clearance Expiry date
Any relevant qualifications required to perform the role (and does the member of staff hold the requisite level)
Additional info or comments to support the information provided



**Ministry of  
JUSTICE**

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**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))**

## **SCHEDULE 18 – INSURANCES**



## Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

The insurances in this Schedule 18 shall be maintained by the Contractor (or the Contractor shall procure the maintenance of the insurances in this Schedule 18) in accordance with Clause G1 (*Liability, Indemnity and Insurance*) of this Contract.

### 1 OBLIGATION TO MAINTAIN INSURANCES

1.1 The insurances in this Schedule 18 shall be:

- (a) taken out and maintained with insurers who are:
  - (i) of good financial standing;
  - (ii) appropriately regulated;
  - (iii) regulated by the applicable regulatory body and is in good standing with that regulator; and
  - (iv) except in the case of any insurances provided by an Affiliate of the Contractor, of good repute in the international insurance market,
- (b) maintained in accordance with Good Industry Practice and (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time.

### 2 PARTY PUBLIC AND PRODUCTS LIABILITY INSURANCE

#### 2.1 Insured

The Contractor

#### 2.2 Interest

To indemnify the insured in respect of all sums which the insured shall become legally liable to pay, (including claimant's costs and expenses) as damages in respect of accidental:

- (a) death or bodily injury to or sickness, illness or disease contracted by any person;
- (b) loss of or damage to property;

happening during the period of insurance (in Paragraph 2.5 below) and arising out of or in connection with the provision of the Services and in connection with this Contract.

#### 2.3 Limit of indemnity

Not less than ten million pounds sterling (£10,000,000) in respect of any one occurrence, the number of occurrences being unlimited during the annual period of insurance, but in the annual aggregate in respect of pollution and products liability (to the extent insured by the relevant policy).



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### 2.4 Territorial limits

United Kingdom

### 2.5 Period of insurance

From the Effective Date for the duration of this Contract and renewable on an annual basis unless agreed otherwise by the parties.

### 2.6 Cover features and extensions

- (a) Indemnity to principal's clause under which the Authority shall be indemnified in respect of claims made against the Authority arising from death or bodily injury or third party property damage, and for which the Contractor is legally liable in the provision of the Services under this Contract.
- (b) Cross liability clause.
- (c) Contingent motor liability.
- (d) Legal defence costs.
- (e) Health and Safety at Work Act(s) clause.
- (f) Data Protection Act clause.
- (g) Defence, appeal and prosecution costs relating to the Corporate Manslaughter and Corporate Homicide Act.

### 2.7 Principal exclusions

- (a) War and related perils.
- (b) Nuclear and radioactive risks.
- (c) Liability for death, illness, disease or bodily injury sustained by employees of the insured arising out of the course of their employment.
- (d) Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by legislation in respect of such vehicles.
- (e) Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the insured.
- (f) Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.
- (g) Liability arising from the ownership, possession or use of any aircraft or marine vessel.
- (h) Liability arising from seepage and pollution unless caused by a sudden, unintended and unexpected occurrence.



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**3 PROFESSIONAL INDEMNITY INSURANCE**

**3.1 Insured**

Contractor

**3.2 Interest**

To indemnify the insured for all sums which the insured shall become legally liable to pay (including claimant's costs and expenses) as a result of any claim or claims first made against the insured during the period of insurance required in Paragraph 3.5 (*Period of Insurance*) below by reason of any act, error and/or omission arising from or in connection with this Contract and the provision of the Services.

**3.3 Limit of indemnity**

Not less than two million pounds sterling (£2,000,000) in respect of any one claim, and in the annual aggregate during the period of insurance.

**3.4 Territorial limits**

United Kingdom.

**3.5 Period of insurance**

From the Effective Date for the duration of this Contract and a period of six (6) years following the expiry or termination of this Contract whichever occurs earlier.

**3.6 Cover features & extensions**

- (a) Loss of documents and computer records extension; and
- (b) In respect of any claims made policy wording retroactive cover from the date of this Contract or retroactive date no later than the date of this Contract.

**3.7 Principal exclusions**

- (a) War and related perils.
- (b) Nuclear/radioactive risks.

**4 UNITED KINGDOM COMPULSORY INSURANCES**

4.1 The Contractor is required to meet its United Kingdom statutory insurance obligations in full. Insurances are required to comply with all legislation during the period of this Contract including employers' liability insurance and motor third party liability insurance.

4.2 The limit of indemnity for the employers' liability insurance being any one occurrence inclusive of costs, the number of occurrences being unlimited during the annual period of insurance.





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- 4.3 Employers' liability insurance to contain an indemnity to principal's clause in respect of claims made against the Authority arising out of the performance of the Contractor of his duties under this Contract.
- 4.4 All insurances required by legislation shall be maintained throughout the period of this Contract.



## **SCHEDULE 19 – PARENT COMPANY GUARANTEE**

**Not requested at Effective Date**



# PARENT COMPANY GUARANTEE

**BETWEEN**

[REDACTED]

[as Contractor]<sup>1</sup>

[REDACTED]

as Guarantor

and

**SECRETARY OF STATE FOR JUSTICE**

as Authority

relating to

**THE PROVISION OF PRISONER EDUCATION SERVICES (CAREERS INFORMATION, ADVICE AND GUIDANCE (CIAG))**

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<sup>1</sup> **Drafting note:** The Contractor shall be required to be a party to the PCG if the Guarantor is a non-UK entity. The Contractor shall sign the agreement to acknowledge their responsibilities as agent for service (please see Clause 13).



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Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

THIS DEED is dated

and made

**BETWEEN:**

- (1) **[[INSERT CONTRACTOR NAME], [a company incorporated in [England and Wales] with registered company number [INSERT REGISTERED NUMBER] whose registered office is at [INSERT REGISTERED OFFICE]] [OR] [a company incorporated under the laws of [INSERT COUNTRY], registered in [INSERT COUNTRY] with number [insert number] at [INSERT PLACE OF REGISTRATION], whose principal office is at [INSERT OFFICE DETAILS] (the "Contractor"))]; and**
- (2) **[INSERT GUARANTOR COMPANY NAME], [a company incorporated in [England and Wales] with registered company number [INSERT REGISTERED NUMBER] whose registered office is at [INSERT REGISTERED OFFICE]] [OR] [a company incorporated under the laws of [INSERT COUNTRY], registered in [INSERT COUNTRY] with number [INSERT NUMBER] at [INSERT PLACE OF REGISTRATION], whose principal office is at [INSERT OFFICE DETAILS] (the "Guarantor"); and**
- (3) **THE SECRETARY OF STATE FOR JUSTICE, acting as a part of the Crown of 102 Petty France, London, SW1H 9AJ (the "Authority").**

each one a "**Party**" and together the "**Parties**".

**BACKGROUND:**

- (A) The Authority and **[[INSERT CONTRACTOR NAME, [INSERT REGISTERED NUMBER] ("the Contractor")]**<sup>2</sup> **[OR] [the Contractor]** entered into a contract for the provision of Careers Information, Advice and Guidance Services ("**CIAG**") on or around the date of this Deed (the "**Contract**").
- (B) The Contractor is a wholly owned subsidiary of the Guarantor.
- (C) The Guarantor has agreed to enter into this Deed in favour of the Authority.

**NOW THIS DEED WITNESSETH** as follows:

## **1 DEFINITIONS AND CONSTRUCTION**

- 1.1 In this Deed, unless defined below or the context requires otherwise, capitalised terms shall have the same meaning as they have for the purpose of the Contract:

<b>"CIAG"</b>	has the meaning given to it in Recital A of this Deed;
<b>"Contract"</b>	has the meaning given to it in Recital (A) of this Deed;

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<sup>2</sup> **Drafting Note:** To be amended depending on if Contractor is party (as already defined in Recital 1) or if not.



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<b>"Guaranteed Obligations"</b>	has the meaning given to it in Paragraph 2.1(a) of this Deed;
<b>"Prescribed Rate"</b>	means applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis;
<b>"Proceedings"</b>	has the meaning given to it in Paragraph 17.2 of this Deed; and
<b>"VAT"</b>	means value added tax charged or regulated in accordance with the Value Added Tax Act 1994 and legislation supplemental thereto or replacing, modify or consolidating it.

- 1.2 References to any Party include its successors, permitted assigns or transferees, whether direct or indirect.
- 1.3 References to documents include all variations and replacements of such documents and supplements of such documents.
- 1.4 Any reference to a person includes any individual, firm, company, partnership and corporation, government, state or agency of a state or any association, trust, joint venture, consortium or other entity (whether or not having separate legal personality) and their successors and permitted assignees or transferees.
- 1.5 Unless otherwise stated, reference to Clause(s) are to Clauses of and to this Deed.
- 1.6 The headings are inserted for convenience only and shall not affect the construction of this Deed.

## 2 GUARANTEE AND INDEMNITY

- 2.1 In consideration of the Authority entering into the Contract with the Contractor, (as the Guarantor hereby acknowledges), the Guarantor unconditionally and irrevocably guarantees to the Authority:
  - (a) due and punctual performance and observance by the Contractor of each and all present and future acts, covenants, obligations, representations, warranties, duties and undertakings to be performed or observed by the Contractor under or pursuant to the Contract when and if the same become due and performable according to the terms of the Contract (the **"Guaranteed Obligations"**); and
  - (b) the due and punctual payment by the Contractor of all present and future sums payable (in accordance with Clause 7.8, together with interest on such sum accrued from the due date until the date of actual payment (both before and after judgment) at the Prescribed Rate) under or pursuant to the Contract to the



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Authority as and when the same fall due (with the intention that any amount not recoverable for any reason from the Guarantor under this Deed on the basis of a guarantee shall nevertheless be recoverable on the basis of an indemnity).

- 2.2 In addition to and separate from those obligations set out in Clause 2.1, the Guarantor agrees as primary obligor to, fully perform and observe or procure the performance and observance of all of the Contractor's Guaranteed Obligations when and to the extent the same shall become due and performable according to the terms of the Contract.
- 2.3 The Guarantor, as principal obligor and as a separate and independent obligation and liability from its obligations and liabilities under Clause 2.1, shall indemnify and keep the Authority fully and effectually indemnified against all losses, damages, costs, claims, expenses or liability whatsoever arising out of or in connection with:
- (a) any failure on the part of the Contractor to perform or discharge the Guaranteed Obligations;
  - (b) any of the Guaranteed Obligations being or becoming wholly or partially unenforceable for any reason;
- other than any losses, damages, costs, claims and expenses in respect of which the Authority has already been compensated pursuant to this Deed or by the Contractor under or pursuant to the Contract.
- 2.4 Notwithstanding the generality of Clause 2.3, the Guarantor shall be entitled in any action or proceedings by the Authority pursuant to this Deed to raise any equivalent rights in defence of liability as the Contractor would have against the Authority under the Contract so that except in relation to any costs incurred in enforcing this Deed, the liability of the Guarantor shall be no greater than the liability which it would have had if it had been jointly and severally liable with the Contractor to the Authority as a party to the Contract.
- 2.5 This Deed shall at all times be, a continuing and irrevocable security and shall remain in full force and effect until all Guaranteed Obligations have been satisfied or duly performed and shall not be satisfied, discharged or affected by any intermediate payment or settlement of account or other matter whatsoever. This security is in addition to and not in substitution for and shall not merge with any other right, remedy, guarantee or security which the Authority may at any time hold for the performance of the Guaranteed Obligations and may be enforced without first having recourse to any such security.

### **3 PRESERVATION OF THE GUARANTOR'S LIABILITY**

- 3.1 The Guarantor's liability under this Deed shall not be reduced, discharged or otherwise adversely affected by:
- (a) any arrangement made between the Contractor and the Authority;



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- (b) any single or partial exercise of any right or remedy provided under this Deed or by law;
- (c) any partial performance (except to the extent of such partial performance) by the Contractor of all and any of the present and future acts, covenants, obligations, representations, warranties, duties and undertakings to be performed or observed by the Contractor under or pursuant to the Contract;
- (d) any alteration in the obligations undertaken by the Contractor whether by way of any variation of the Contract or otherwise;
- (e) any waiver or forbearance by the Authority whether as to payment, time, performance or otherwise;
- (f) the taking, variation, renewal or release of, the enforcement or neglect to perfect or enforce any right, guarantee, remedy or security from or against the Contractor or any other person;
- (g) any unenforceability, illegality or invalidity of any of the provisions of the Contract or any of the Contractor's obligations under the Contract, so that this Deed shall be construed as if there were no such unenforceability, illegality or invalidity;
- (h) any dissolution, amalgamation, reconstruction, reorganisation, change in status, function, Control or ownership, insolvency, liquidation, administration, voluntary arrangement, or appointment of a receiver, of the Contractor, Guarantor or any other person.

## **4 DEMAND UNDER THE GUARANTEE**

The obligations of the Guarantor under or pursuant to this Deed shall not be discharged except by performance or the procurement of performance by the Guarantor of its obligations under this Deed including without limitation performance of the Guaranteed Obligations that have not been discharged by the Contractor under or pursuant to the Contract. The Guarantor's obligations shall not be subject to any prior notice to, or demand upon, the Guarantor with regard to any default on the part of the Contractor.

## **5 DEFERRAL OF RIGHTS**

- 5.1 Until all amounts which may be or become payable under the Contract or this Deed have been irrevocably paid in full, the Guarantor shall not, as a result of this Deed or any payment performance under this Deed:
- (a) be subrogated to any right or security of the Authority;
  - (b) claim or prove in competition with the Authority against the Contractor or any other person;





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- (c) demand or accept repayment in whole or in part of any indebtedness due from the Contractor;
- (d) take the benefit of, share in or enforce any security or other guarantee or indemnity against the Contractor; or
- (e) claim any right of contribution, set-off or indemnity from the Contractor,

without the prior written consent of the Authority (and in such case only in accordance with any written instructions of the Authority).

- 5.2 If the Guarantor receives any payment or other benefit in breach of Clause 5.1 or as a result of any action taken in accordance with a written instruction of the Authority given pursuant to Clause 5.1, such payment or other benefit, and any benefit derived directly or indirectly by the Guarantor therefrom, shall be held by the Guarantor on trust for the Authority applied towards the discharge of the Guarantor's obligations to the Authority under this Deed.

## 6 INSOLVENCY OF THE CONTRACTOR

If there occurs in respect of the Contractor an Insolvency Event, or where the principal obligations under the Contract are illegal, invalid, void, voidable or unenforceable, this Deed shall, without prejudice to the Contractor's obligations under the Contract, take effect as if the Guarantor were ab initio the principal obligor to the Authority (and not merely a surety) and liable to the Authority as if the relevant Contract had been entered into directly between the Guarantor and the Authority.

## 7 PAYMENTS

- 7.1 Each payment to be made by the Guarantor under this Deed shall be made to the Authority, in the appropriate currency in accordance with the terms of the Contract.
- 7.2 All payments to be made by the Guarantor under this Deed shall be calculated without reference to any set-off, condition or counterclaim and shall be made in full and free and clear of, and without any deduction whatsoever for or on account of, any set-off, condition or counterclaim.
- 7.3 All payments to be made by the Guarantor to the Authority under this Deed shall be made in full without any deduction or withholding whatsoever of or in respect of any tax, unless the Guarantor is required by law to make any such deduction or withholding.
- 7.4 If any deduction or withholding is required by any applicable law to be made by the Guarantor:
- (a) the amount of the payment due from the Guarantor shall be increased to an amount which (after making any deduction or withholding) leaves an amount equal



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to the payment which would have been due if no deduction or withholding had been required; and

- (b) the Guarantor shall promptly deliver to the Authority all receipts issued to it evidencing each deduction or withholding which it has made.

- 7.5 If any payment received by the Authority pursuant to the provisions of this Deed or the Contract shall be avoided or is required to be repaid for any reason in relation to any laws relating to an Insolvency Event, such payment shall not be considered as having discharged or diminished the liability of the Guarantor hereunder; and the liability of the Guarantor hereunder shall continue to apply as if such payment had at all times remained owing by the Contractor, and the Guarantor shall indemnify the Authority in respect thereof.
- 7.6 All sums payable by the Guarantor under or pursuant to this Deed are exclusive of any VAT.
- 7.7 The Guarantor shall not and may not direct the application by the Authority of any sums received by the Authority from the Guarantor under any of the terms in this Deed.
- 7.8 If the Guarantor defaults in the payment, when due, of any sum payable by it under this Deed, its liability shall be increased to include interest on such sum from the due date until the date of actual payment (both before and after judgment) at the Prescribed Rate. All such interest shall be calculated on the basis of the actual number of days elapsed, over a three hundred and sixty five (365) day year and compounded monthly. Any such interest paid by the Guarantor shall discharge pro tanto the Contractor's liability to pay interest under the Contract.
- 7.9 The Guarantor shall, on a full indemnity basis, pay to the Authority on demand the amount of all costs and expenses (including legal and out-of-pocket expenses and any VAT on those costs and expenses) which the Authority incurs in connection with:
  - (a) the preservation, or exercise and enforcement, of any rights under or in connection with this Deed or any attempt to do so; and
  - (b) any discharge or release of this Deed.
- 7.10 Notwithstanding any other provision in this Deed, the Guarantor shall not be required to make such part of a payment to the Authority pursuant to this Deed which, in aggregate with all other payments made to the Authority pursuant to this Deed, would exceed the Contractor's liability under the Contract.



## Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

### 8 REPRESENTATIONS AND WARRANTIES

8.1 The Guarantor represents and warrants to the Authority that:

- (a) it is duly incorporated [with limited liability]<sup>3</sup> and is a validly existing [company]<sup>4</sup> under the laws of its place of incorporation, has the capacity to sue or be sued in its own name, and has power to carry on its business as now being conducted and to own its property and other assets;
- (b) it has full power under its constitution or equivalent constitutional documents in the jurisdiction in which it is established to enter into this Deed;
- (c) it has full power to perform the obligations expressed to be assumed by it or contemplated by this Deed;
- (d) it has been duly authorised to enter into this Deed;
- (e) it has taken all necessary corporate action to authorise the execution, delivery and performance of this Deed;
- (f) this Deed when executed and delivered will constitute a legally binding obligation on it enforceable in accordance with its terms;
- (g) all necessary consents and authorisations for the giving and implementation of this Deed have been obtained;
- (h) that its entry into and performance of its obligations under this Deed will not constitute any breach of or default under any contractual, government or public obligation binding on it; and
- (i) that it is not engaged in any litigation or arbitration proceedings that might affect its capacity or ability to perform its obligations under this Deed and to the best of its knowledge no such legal or arbitration proceedings have been threatened or are pending against it.

### 9 FURTHER ASSURANCE

The Contractor and Guarantor (at their own cost) agree to do all further acts and things and execute and deliver all instruments as shall be necessary or expedient for the carrying out of the provisions of this Deed.

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<sup>3</sup> **Drafting Note:** Populate in accordance with the corporate structure of the Contractor.

<sup>4</sup> **Drafting Note:** Populate in accordance with the corporate structure of the Contractor.



**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))**

## **10 WAIVER AND VARIATION**

- 10.1 No variation of this Deed shall be effective unless it is in writing and signed by the parties.
- 10.2 Any waiver by the Authority of any terms of this Deed, or of any of the Guaranteed Obligations, shall only be effective if given in writing and then only for the purpose and upon the terms and conditions, if any, on which it is given.

## **11 PARTIAL INVALIDITY**

If any provision of this Deed is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision or part-provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Deed had been executed with the invalid, illegal or unenforceable provision eliminated.

## **12 ENTIRE AGREEMENT**

- 12.1 This Deed constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 12.2 The Guarantor acknowledges that it has not entered into this Deed in reliance upon, nor has it been induced to enter into this Deed by, any representation, warranty or undertaking made by or on behalf of the Authority (whether express or implied and whether pursuant to statute or otherwise) which is not set out in this Deed.

## **13 NOTICES AND COMMUNICATIONS**

- 13.1 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.
- 13.2 If it is not returned as undelivered a notice served in:
- (a) a letter is deemed to have been received two (2) Working Days after the day it was sent; and
  - (b) an email is deemed to have been received four (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 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:



## Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

(a) For the Authority:

Contact Name: [REDACTED Section 40 of the FOIA: Personal Information]  
Address: [REDACTED Section 40 of the FOIA: Personal Information]

Email: [REDACTED Section 40 of the FOIA: Personal Information]

For the Guarantor:

Contact Name: [INSERT NAME]

Address: [INSERT ADDRESS]; AND

Email: [INSERT EMAIL ADDRESS].

## 14 ASSIGNMENT

- 14.1 The Authority may assign the benefit of this Deed at any time to any person to whom the Contract is validly assigned without the Contractor's or the Guarantor's consent, provided that the Guarantor is notified prior to any such assignment. Any such assignment shall not release the Guarantor from liability under this Deed.
- 14.2 The Guarantor shall not contend that any person to whom the benefit of this Deed is assigned under Clause 14.1 may not recover any sum under this Deed because that person is an assignee and not a named party to this Deed.
- 14.3 The Guarantor may not assign or transfer any of its rights and/or obligations under this Deed without the prior written consent of the Authority.

## 15 COUNTERPARTS

This Deed may be executed in counterparts, in which case this Deed will be as effective as if all signatures on the counterparts were in a single copy of this Deed.

## 16 THIRD PARTY RIGHTS

A person who is not a Party to this Deed shall have no rights under the Contracts (Rights of Third Parties) Act 1999 (as amended, updated or replaced from time to time) to enforce any term of this Deed.

## 17 LAW AND JURISDICTION

- 17.1 This Deed and any issues, disputes or claims (whether contractual or non-contractual) arising from or connected with it or its subject matter shall be governed by and construed in accordance with English law.



**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))**

- 17.2 In relation to any dispute, legal action or proceedings (whether contractual or non-contractual) arising out of or in connection with this Deed or its subject matter or formation ("**Proceedings**"), the Guarantor and the Contractor irrevocably submit to the exclusive jurisdiction of the English courts and waive any objection to Proceedings, in such Courts on the grounds of venue or on the grounds that Proceedings have been brought in an inappropriate forum.
- 17.3 Nothing contained in Clause 17.2 shall limit the rights of the Authority to take proceedings against the Guarantor or Contractor in any other court of competent jurisdiction, nor shall the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable law).
- 17.4 [Without prejudice to any other mode of service allowed under any relevant law, the Guarantor:
- (a) irrevocably appoints the Contractor [INSERT ADDRESS] as its agent for service of process in relation to any proceedings before the English courts in connection with this Deed; and
  - (b) agrees that failure by the process agent to notify the Guarantor of the process will not invalidate the proceedings concerned.

Such service shall be deemed completed on delivery to such agent (whether or not it is forwarded to and received by the Guarantor) and shall be valid until such time as the Authority has received prior written notice that such agent has ceased to act as agent. If for any reason such agent ceases to be able to act as agent or no longer has an address in England or Wales, the Guarantor shall appoint a substitute acceptable to the Authority and deliver to the Authority the new agent's name and address within England and Wales.]<sup>5</sup>

**IN WITNESS** whereof this document is executed as a Deed and is delivered on the date first before written:

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<sup>5</sup> **Drafting Note:** Please delete Clause 17.4 unless the Guarantor is a non-UK entity (as only in those circumstances is require an agent for service).



Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

EXECUTED AS A DEED for and on behalf of  
**[INSERT THE NAME OF THE GUARANTOR]**  
acting by

.....  
Full Name (Director/Attorney)

.....  
Signature of Director/Attorney

in the presence of:

.....  
Full Name (Witness)

.....  
.....  
.....

Address

.....  
Signature of Witness

EXECUTED AS A DEED for and on behalf of  
**[INSERT THE NAME OF THE CONTRACTOR]<sup>6</sup>**  
acting by

.....  
Full Name (Director/Attorney)

.....  
Signature of Director/Attorney

in the presence of:

.....  
Full Name (Witness)

.....  
.....  
.....

Address

.....  
Signature of Witness

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<sup>6</sup> **Drafting Note:** Please delete the signing block for the Contractor unless a party to this Deed.



Ministry of  
**JUSTICE**

OFFICIAL SENSITIVE

Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

THE CORPORATE SEAL of the **SECRETARY OF STATE FOR JUSTICE** hereunto affixed is authenticated by:

---

Authorised by the Secretary of State for Justice

---

Name



**OFFICIAL SENSITIVE**

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))**

## **SCHEDULE 20 – EXIT MANAGEMENT**

**OFFICIAL SENSITIVE****Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****1 DEFINITIONS**

1.1 In this Schedule 20, the following definitions shall apply:

- “Authority Assets”** means the Authority Materials, the Authority infrastructure and any other data, Digital Equipment, software, assets, furniture, equipment or other property owned by and/or licensed or leased to the Authority and which is or may be used in connection with the provision or receipt of the Services as may be provided by the Authority in accordance with Schedule 2 (*Specification*) and Schedule 23 (*Authority Responsibilities*);
- “Authority Data”** means
- (a) 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 Contractor by or on behalf of the Authority; and/or (ii) which the Contractor is required to generate, process, store or transmit pursuant to this Contract; or
  - (b) any Personal Data for which the Authority is the Controller;
- “Authority Materials”** means the Authority Data together with any materials, documentation, information, programs and codes, (including but not limited to careers information material associated with the delivery of the Services), supplied by the Authority to the Contractor, the Intellectual Property Rights in which:
- (a) are owned or used by or on behalf of the Authority; and
  - (b) are or may be used in connection with the provision or receipt of the Services or the Collaboration Agreement;
- "Contractor Assets"** means all assets and rights used by the Contractor to provide the Services in accordance with this Contract, including but not limited to tools, software and licences, but excluding the Authority Assets;

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<b>"Digital Equipment"</b>	means the hardware owned by the Authority and provided to the Contractor as part of the Authority's ICT System to deliver the Services;
<b>"Emergency Exit"</b>	means any termination of this Contract which is a: <ul style="list-style-type: none"><li>(a) termination of the whole or part of this Contract in accordance with Clause H (<i>Default, Disruption and Termination</i>), except where the period of notice given under that clause is greater than or equal to six (6) Months;</li><li>(b) termination of the provision of the Services for any reason prior to the expiry of any period of notice of termination served pursuant to Clause H (<i>Default, Disruption and Termination</i>); or</li><li>(c) wrongful termination or repudiation of this Contract by either Party;</li></ul>
<b>"Ethical Wall Agreement"</b>	means an ethical wall agreement in the form as provided by the Authority;
<b>"Exclusive Assets"</b>	means those Contractor Assets used by the Contractor or a Sub-Contractor which are used exclusively in the provision of the Services;
<b>"Exit Information"</b>	has the meaning given in Paragraph 3.1;
<b>"Exit Manager"</b>	means the person appointed by each Party pursuant to Paragraph 2.4 for managing the Parties' respective obligations under this Schedule 20;
<b>"Exit Plan"</b>	means the plan produced and updated by the Contractor during the Term in accordance with Paragraph 5;
<b>"Net Book Value"</b>	means the net book value of the relevant Contractor Asset(s) calculated in accordance with the depreciation policy of the Contractor set out in the letter in the agreed form from the Contractor to the Authority of the same date as this Contract;
<b>"Non-Exclusive Assets"</b>	means those Contractor Assets (if any) which are used by the Contractor or Sub-Contractor in connection with the Services but which are also used by the Contractor or Sub-Contractor for other purposes of material value;

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<b>“Ordinary Exit”</b>	means any termination of the whole or any part of this Contract which occurs: <ul style="list-style-type: none"><li>(a) pursuant to Clause H (<i>Default, Disruption and Termination</i>), where the period of notice given by the Party serving notice to terminate pursuant to such clause is greater than or equal to six (6) Months; or</li><li>(b) as a result of the expiry of the Term;</li></ul>
<b>"Price"</b>	means the price to be agreed between the Authority and the Contractor for the Termination Services during the Termination Assistance Period in accordance with Paragraph 9 of this Schedule 20;
<b>“Register(s)”</b>	means the register(s) referred to in Paragraphs 2.1(a) to 2.1(c);
<b>“Termination Assistance Notice”</b>	has the meaning given in Paragraph 6.1 of this Schedule 20;
<b>“Termination Assistance Period”</b>	means in relation to a Termination Assistance Notice, the period specified in the Termination Assistance Notice for which the Contractor is required to provide the Termination Services as such period may be extended pursuant to Paragraph 6.3 of this Schedule 20;
<b>“Termination Services”</b>	means the services and activities to be performed by the Contractor (whether before or after it ceases performing Services) including those pursuant to the Exit Plan, those activities listed in Appendix 1 ( <i>Scope of the Termination Services</i> ) of this Schedule 20 where relevant, and any other services required pursuant to the Termination Assistance Notice or otherwise requested by the Authority from time to time;
<b>“Transferable Assets”</b>	means those of the Exclusive Assets which are capable of legal transfer to the Authority;
<b>“Transferable Contracts”</b>	means the Sub-Contracts, or other agreements which are necessary to enable the Authority and/or any Replacement Contractor to perform the Services or the replacement services (which are the same as or substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the expiry or termination or partial termination

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of this Contract, whether those services are provided by the Authority internally and/or by any third party); and

**“Transferring Contracts** has the meaning given in Paragraph 7.2(c).

**2 OBLIGATIONS DURING THE TERM TO FACILITATE EXIT**

2.1 During the Term, the Contractor shall:

- (a) create and maintain a register of all:
  - (i) Contractor Assets excluding any consumables, detailing their asset description, asset type (i.e. Exclusive, Non-Exclusive), purchase date, condition of the asset, original asset cost value, Net Book Value, location of asset, details of any maintenance agreement and operations manual in place for the asset, disposal record;
  - (ii) on-going and/or threatened disputes in relation to the provision of the Services including any on-going employment tribunals, with case number details, costs to date and status of legal claim;
  - (iii) Sub-Contracts and other relevant agreements (including relevant software licences, maintenance and support agreements and equipment rental and lease agreements) required for the performance of the Services (including which services are delivered by the Sub-Contractors, the details of break clauses associated with these Sub-Contracts, named contacts of the Sub-Contractor and their contact details to include a business address, telephone number and email address; as well as such other details as the Authority may reasonably require, details of service level agreements and Key Performance Indicators should be provided alongside an assessment by the Contractor of the Sub-Contractors performance) and copies of such Sub-Contracts and agreements);
- (b) create and maintain any other registers that the Authority may reasonably require; and
- (c) at all times keep the Registers up to date, in particular in the event that Contractor Assets, Sub-Contracts or other relevant agreements are added to, varied, or removed from the Services.

2.2 The Registers created and maintained by the Contractor shall be in such format as the Authority may reasonably require.

2.3 The Contractor shall procure that all Exclusive Assets listed in the Registers are clearly marked to identify that they are exclusively used for the provision of the Services under this Contract.

2.4 Each Party shall appoint a person for the purposes of managing the Parties' respective obligations under this Schedule 20 and provide written notification of such appointment

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to the other Party within three (3) Months of the Effective Date. The Contractor's Exit Manager shall be responsible for ensuring that the Contractor and its employees, agents and Sub-Contractors comply with this Schedule 20. The Contractor shall ensure that its Exit Manager has the requisite authority to arrange and procure any resources of the Contractor as are reasonably necessary to enable the Contractor to comply with the requirements set out in this Schedule 20. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the termination or expiry of this Contract and all matters connected with this Schedule 20 and each Party's compliance with it.

**3 OBLIGATIONS TO ASSIST ON RE-TENDERING OF SERVICES**

3.1 On (i) reasonable notice at any point during the Term, (ii) quarterly from the Services Commencement Date; and (iii) the first day of each Month during the final year of the Term, the Contractor shall provide to the Authority and/or its potential Replacement Contractors (subject to the potential Replacement Contractors entering into reasonable written confidentiality undertakings), the following material and information in order to facilitate the preparation by the Authority of any invitation to tender and/or to facilitate any potential Replacement Contractors undertaking due diligence (and/or for other purposes related to the provision or future provision of services):

- (a) details of the Service(s) (in such detail as to enable a potential Replacement Contractor to have an understanding of the nature and extent of the Service and how the Service is provided);
- (b) a copy of the Registers, updated by the Contractor up to the date of delivery of such Registers;
- (c) an inventory of Authority Data in the Contractor's possession or control;
- (d) details of all Intellectual Property Rights used in connection with the Services to the extent required to be provided by the Authority in accordance with Clause E (*Intellectual Property Rights*) and Schedule 6 (*IPR*);
- (e) the Contractor's depreciation policy, used for the purpose of calculating the Net Book Value;
- (f) the Contractor's data retention policy;
- (g) *Not used*;
- (h) details of any key terms of any third-party contracts and licences, particularly as regards charges, termination, assignment and novation;
- (i) a list of on-going and/or threatened disputes in relation to the provision of the Services;
- (j) to the extent permitted by applicable Law, all information relating to Transferring Contractor Employees required to be provided by the Contractor under this Contract; and

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- (k) such other material and information as the Authority shall reasonably require,
- (together, the “**Exit Information**”).
- 3.2 The Contractor acknowledges that the Authority may disclose the Contractor's Confidential Information to an actual or prospective Replacement Contractor or any third party whom the Authority is considering engaging to the extent that such disclosure is necessary in connection with such engagement except that the Authority may not under this Paragraph 3.2 disclose any Contractor's Confidential Information which is information relating to the Contractor's or its Sub-Contractors' prices or costs).
- 3.3 The Contractor shall:
- (a) notify the Authority within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the potential transfer and/or continuance of any Services and shall consult with the Authority regarding such proposed material changes; and
  - (b) provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and in any event within ten (10) Working Days of a request in writing from the Authority.
- 3.4 The Exit Information shall be accurate and complete in all material respects and the level of detail to be provided by the Contractor shall be such as would be reasonably necessary to enable a third party to:
- (a) prepare an informed offer for those Services; and
  - (b) not be disadvantaged in any subsequent procurement process compared to the Contractor (if the Contractor is invited to participate).
- 4 OBLIGATION TO ENTER INTO AN ETHICAL WALL AGREEMENT ON RE-TENDERING OF SERVICES**
- 4.1 The Authority may require the Contractor to enter into the Ethical Wall Agreement at any point during a re-tendering or contemplated re-tendering of the Services or any part of the Services.
- 4.2 If required to enter into the Ethical Wall Agreement, the Contractor will return a signed copy of the Ethical Wall Agreement within ten (10) Working Days of receipt. The Contractor's costs of entering into the Ethical Wall Agreement will be borne solely by the Contractor.
- 5 EXIT PLAN**
- 5.1 The Contractor shall in accordance with the timescales identified below in Paragraph 5.2, deliver to the Authority an Exit Plan which:
- (a) sets out the Contractor's proposed methodology for achieving an orderly transition of the relevant Services from the Contractor to the Authority and/or

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- its Replacement Contractor on the partial termination, expiry or termination of this Contract;
- (b) complies with the requirements set out in Paragraph 5.4; and
  - (c) is otherwise reasonably satisfactory to the Authority.
- 5.2 The Contractor shall deliver an Exit Plan to the Authority in accordance with the following timescales:
- (a) within three (3) Months of the Effective Date, the Contractor shall deliver the initial Exit Plan;
  - (b) from the Effective Date until the day before the first day of the final year of the Term, the Contractor shall deliver an Exit Plan on an annual basis, on each anniversary of the Services Commencement Date;
  - (c) during the final year of the Term, the Contractor shall deliver an Exit Plan quarterly;
  - (d) within twenty (20) Working Days after either Party gives notice of termination;
  - (e) following the occurrence of a Financial Distress Event; and
  - (f) where reasonably requested by the Authority.
- 5.3 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of its submission, then such dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 5.4 The Exit Plan shall set out, as a minimum:
- (a) how the Exit Information is obtained;
  - (b) separate mechanisms for dealing with Ordinary Exit and Emergency Exit, the provisions relating to Emergency Exit being prepared on the assumption that the Contractor may be unable to provide the full level of assistance which is required by the provisions relating to Ordinary Exit, and in the case of Emergency Exit, provision for the supply by the Contractor of all such reasonable assistance as the Authority shall require to enable the Authority or its sub-contractors to provide the Services;
  - (c) a mechanism for dealing with partial termination on the assumption that the Contractor will continue to provide the remaining Services under this Contract;
  - (d) the management structure to be employed during both transfer and cessation of the Services in an Ordinary Exit and an Emergency Exit;



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- (e) the management structure to be employed during the Termination Assistance Period;
  - (f) a detailed description of both the transfer and cessation processes, including a timetable, applicable in the case of an Ordinary Exit and an Emergency Exit;
  - (g) how the Services will transfer to the Replacement Contractor and/or the Authority, including details of the processes, documentation, assets, data transfer, systems migration, security and the segregation of the Authority's technology components from any technology components operated by the Contractor or its Sub-Contractors (where applicable);
  - (h) the scope of the Termination Services that may be required for the benefit of the Authority (including such of the services set out in Appendix 1 as are applicable);
  - (i) a timetable and critical issues for providing the Termination Services;
  - (j) any charges that would be payable for the provision of the Termination Services, together with a capped estimate of such charges;
  - (k) how the Termination Services would be provided (if required) during the Termination Assistance Period;
  - (l) procedures to deal with requests made by the Authority and/or a Replacement Contractor for Staffing Information pursuant to Schedule 17 (*TUPE, Employees and Pensions*);
  - (m) how each of the issues set out in this Schedule 20 will be addressed to facilitate the transition of the Services from the Contractor to the Replacement Contractor and/or the Authority with the aim of ensuring that there is no disruption to or degradation of the Services during the Termination Assistance Period; and
  - (n) such other information as the Authority may reasonably require.
- 5.5 The Parties acknowledge that the migration of the Services from the Contractor to the Authority and/or its Replacement Contractor may be phased, such that certain of the Services are handed over before others.
- 5.6 When updating the Exit Plan, the Contractor shall include any changes in the Services that have occurred since the Exit Plan was last agreed.

**Finalisation of the Exit Plan**

- 5.7 In accordance with the timescales set out in Paragraph 5.2, the Contractor will submit for the Authority's approval the Exit Plan in a final form that could be implemented immediately. The final form of the Exit Plan shall be prepared on a basis consistent with the principles set out in this Schedule 20 and shall reflect any changes in the Services that have occurred since the Exit Plan was last agreed.

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- 5.8 The Parties will meet and use their respective reasonable endeavours to agree the contents of the final form of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days following its delivery to the Authority then such dispute shall be resolved in accordance with the Dispute Resolution Procedure. Until the agreement of the final form of the Exit Plan, the Contractor shall provide the Termination Services in accordance with the principles set out in this Schedule 20 and the last approved version of the Exit Plan (insofar as relevant).

**6 TERMINATION SERVICES****Notification of Requirements for Termination Services**

- 6.1 The Authority shall be entitled to require the provision of Termination Services at any time during the Term by giving written notices to the Contractor (each a **"Termination Assistance Notice"**) and at least four (4) Months prior to the date of termination or expiry of this Contract or as soon as reasonably practicable (but in any event, not later than one (1) Month) following either Party terminating the Contract by notice. The Termination Assistance Notice shall specify:
- (a) the date from which Termination Services are required;
  - (b) the nature of the Termination Services required; and
  - (c) the period during which it is anticipated that Termination Services will be required, which shall continue no longer than six (6) Months after the date that the Contractor ceases to provide the terminated Services.
- 6.2 The Authority shall have:
- (a) an option to extend the period of assistance beyond the period specified in the Termination Assistance Notice provided that such extension shall not extend for more than three (3) Months after the date the Contractor ceases to provide the Services or, if applicable, beyond the end of the Termination Assistance Period and provided that it shall notify the Contractor to such effect no later than twenty (20) Working Days prior to the date on which the provision of Termination Services is otherwise due to expire; and
  - (b) the right to terminate its requirement for Termination Services by serving not less than twenty (20) Working Days' written notice upon the Contractor to such effect.

**Termination Assistance Period**

- 6.3 Throughout the Termination Assistance Period, or such shorter period as the Authority may require, the Contractor shall:
- (a) continue to provide the Services, or parts thereof (as applicable and to the extent required by the Authority) and, if required by the Authority pursuant to Paragraph 6.1, provide the Termination Services;

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- (b) in addition to providing the Services and the Termination Services, provide to the Authority any reasonable assistance requested by the Authority to allow the Services to continue without interruption following the partial termination, termination or expiry of this Contract and to facilitate the orderly transfer of responsibility for and conduct of the Services to the Authority and/or its Replacement Contractor;
  - (c) use all reasonable endeavours to reallocate resources to provide such assistance as is referred to in Paragraph 6.3(b) without additional costs to the Authority;
  - (d) provide the Services and the Termination Services at no detriment to the Key Performance Indicators, save to the extent that the Parties agree otherwise in accordance with Paragraph 6.5 (however without reduction of the delivery Services); and
  - (e) at the Authority's request and on reasonable notice, deliver up-to-date Registers to the Authority.
- 6.4 Without prejudice to the Contractor's obligations under Paragraph 6.3(c), if it is not possible for the Contractor to reallocate resources to provide such assistance as is referred to in Paragraph 6.3(b) without additional costs to the Authority, any additional costs incurred by the Contractor in providing such reasonable assistance which is not already in the scope of the Termination Services or the Exit Plan shall be agreed in accordance with Clause F3 (*Change*). The Contractor shall provide the Authority sufficient information (on an open book basis and as reasonably required by the Authority) to enable them to verify the costs.
- 6.5 The Authority may vary (at its discretion) the Key Performance Indicator(s) to take account of any material adverse effect on the Contractor's ability to meet one or more of the particular Key Performance Indicators during transition of the Services and provision of the Termination Services during the Termination Assistance Period.
- Termination Obligations**
- 6.6 The Contractor shall comply with all of its obligations contained in the Exit Plan in respect of any partial termination or termination.
- 6.7 Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Contractor's performance of the Services and the Termination Services and its compliance with the other provisions of this Schedule 20) in respect of the Services that have been terminated, the Contractor shall:
- (a) assist and co-operate with the Authority to ensure an orderly transition of the provision of the Services to the Replacement Contractor and/or the completion of any work in progress;
  - (b) cease to use the Authority Data;

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- (c) provide the Authority and/or the Replacement Contractor with a complete and uncorrupted version of the Authority Data and/or Personal Data in electronic form (or such other format as reasonably required by the Authority) not already on the Authority's ICT System;
- (d) erase from any computers, storage devices and storage media that are to be retained by the Contractor after the end of the Termination Assistance Period all Authority Data and promptly certify to the Authority that it has completed such deletion;
- (e) return to the Authority such of the following as is in the Contractor's possession or control:
  - (i) without prejudice to Paragraph 7, all Authority Assets, and at the request of the Authority, all assets, equipment, documents, data, and other information and materials provided to the Contractor used to provide the Services in good working order and condition;
  - (ii) all Confidential Information and Authority Existing IPRs 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;
  - (iii) all materials created by the Contractor under this Contract in which the Intellectual Property Rights are owned by the Authority, save to the extent the Contractor has an express licence under Clause E3 (*Licences granted by the Authority*) to use such materials beyond the Term;
  - (iv) any parts of the Authority and/or Contractor's computing environment, consisting of hardware, software and/or telecommunications networks or equipment) used by the Authority or the Contractor in connection with this Contract or which is necessary for the Authority to receive the Services, and any other equipment which belongs to the Authority; and
  - (v) any items that have been on-charged to the Authority, such as consumables;
- (f) vacate the Premises unless access is required to continue to deliver the Services;
- (g) 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 Contractor to conduct due diligence;
- (h) provide access during normal working hours to the Authority and/or the Replacement Contractor for up to twelve (12) Months after the partial termination, expiry or termination of this Contract to:

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- (i) such information relating to the Services as remains in the possession or control of the Contractor; and
- (ii) such members of the Staff as have been involved in the design, development and provision of the Services and who are still employed by the Contractor, provided that the Authority and/or the Replacement Contractor shall pay the reasonable costs of the Contractor actually incurred in responding to requests for access under this Paragraph 6.7(h)(ii).

- 6.8 If the Contractor does not comply with Paragraphs 6.7(e)(i) and/or (ii), the Authority may recover possession thereof and the Contractor hereby grants a licence to the Authority or its appointed agents to enter (for the purposes of such recovery) any premises of the Contractor or its suppliers or Sub-Contractors where any such items may be held.
- 6.9 Upon partial termination, termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Contractor's performance of the Services and the Termination Services and its compliance with the other provisions of this Schedule 20), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party in respect of the terminated Services and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Services or Termination Services or for statutory compliance purposes.
- 6.10 Except where this Contract provides otherwise, (or as may be notified by the Authority) all licences, leases and authorisations granted by the Authority to the Contractor in relation to the terminated Services shall be terminated with effect from the end of the Termination Assistance Period.
- 6.11 Upon partial termination, termination or expiry (as the case may be) or at the end of the Termination Assistance Period, the Contractor shall remove and safely dispose of all Contractor Assets which are not the property of the Authority and that the Authority does not wish to be transferred in accordance with Paragraph 7 together with any other materials used by the Contractor to supply the Services and shall leave the Premises in a clean, safe and tidy condition. The Contractor shall pay the cost to the Authority of any damage to those Premises and any fixtures and fitting in the Premises which is caused by the Contractor or Staff or such removal, taking account of any sustainability requirements including safe removal of data and recycling requirements.

**7 ASSETS, SUB-CONTRACTS AND SOFTWARE**

- 7.1 Following notice of termination or partial termination of this Contract and during the Termination Assistance Period, the Contractor shall not, in respect of the terminated Services, without the Authority's prior written consent:

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- (a) terminate, enter into or vary any Sub-Contract except to the extent that such change does not or will not affect the provision of Services or the Charges; or
  - (b) terminate, enter into or vary any licence for software in connection with the Services.
- 7.2 Within twenty (20) Working Days of receipt of the up-to-date Registers provided by the Contractor pursuant to Paragraph 6.3(e), (or at any stage should the Contractor delay or fail to deliver the Registers) the Authority shall provide written notice to the Contractor setting out:
  - (a) which, if any, of the Transferable Assets the Authority requires to be transferred to the Authority and/or the Replacement Contractor in respect of the terminated Services ("**Transferring Assets**");
  - (b) which, if any, of the Exclusive Assets that are not Transferable Assets and the Non-Exclusive Assets the Authority and/or the Replacement Contractor requires the continued use of; and
  - (c) which, if any, of the Transferable Contracts the Authority requires to be assigned or novated to the Authority and/or the Replacement Contractor (the "**Transferring Contracts**"),

in order for the Authority and/or its Replacement Contractor to provide the Services from the expiry of the Termination Assistance Period. Where requested by the Authority and/or its Replacement Contractor, the Contractor shall provide all reasonable assistance to the Authority and/or its Replacement Contractor to enable it to determine which Transferable Assets and Transferable Contracts the Authority and/or its Replacement Contractor requires to provide the Services or substantially similar services in substitution of the Services.
- 7.3 With effect from the expiry of the Services or expiry of the Termination Assistance Period (where assets are required for use during the Termination Assistance Period) and subject to agreement with the Authority of the market value of the Transferring Assets, the Contractor shall sell the Transferring Assets to the Authority and/or its nominated Replacement Contractor for a consideration equal to their agreed market value).
- 7.4 Risk in the Transferring Assets shall pass to the Authority or the Replacement Contractor (as appropriate) at the end of the Termination Assistance Period and title to the Transferring Assets shall pass to the Authority or the Replacement Contractor (as appropriate) on payment for the same.
- 7.5 Where the Contractor is notified in accordance with Paragraph 7.2(c) that the Authority and/or the Replacement Contractor requires continued use of any Exclusive Assets that are not Transferable Assets, the Contractor shall as soon as reasonably practicable:
  - (a) procure a non-exclusive, perpetual, royalty-free licence (or licence on such other terms that have been agreed by the Authority) for the Authority and/or

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the Replacement Contractor to use such assets (with a right of sub-licence or assignment on the same terms); or failing which;

- (b) procure a suitable alternative to such assets and the Authority or the Replacement Contractor shall bear the reasonable proven costs of procuring the same.

7.6 The Contractor shall as soon as reasonably practicable assign or procure the novation to the Authority and/or the Replacement Contractor of the Transferring Contracts. The Contractor shall execute such documents and provide such other assistance as the Authority reasonably requires to effect this novation or assignment.

7.7 The Authority shall:

- (a) accept assignments from the Contractor or join with the Contractor in procuring a novation of each Transferring Contract; and
- (b) once a Transferring Contract is novated or assigned to the Authority and/or the Replacement Contractor, carry out, perform and discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Contractor does the same.

7.8 The Contractor shall hold any Transferring Contracts on trust for the Authority until such time as the transfer of the relevant Transferring Contract to the Authority and/or the Replacement Contractor has been effected.

7.9 The Contractor shall indemnify the Authority (and/or the Replacement Contractor, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Authority (and/or Replacement Contractor) pursuant to Paragraph 7.6 both:

- (a) in relation to any matters arising prior to the date of assignment or novation of such Sub-Contract; and
- (b) in relation to any matters arising after the date of assignment or novation of such Sub-Contract where the loss, liability or cost arises as a result of the Contractor's failure to comply with Clause E (*Intellectual Property Rights*).

**8 STAFF**

8.1 The Authority and Contractor agree and acknowledge that in the event of the Contractor ceasing to provide the Services or part of them for any reason, Schedule 17 (*TUPE, Employees and Pensions*) shall apply.

8.2 The Contractor shall not take any step (expressly or implicitly or directly or indirectly by itself or through any other person) to dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Authority and/or the Replacement Contractor.

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- 8.3 During the Termination Assistance Period, the Contractor shall give the Authority and/or the Replacement Contractor reasonable access to the Contractor's personnel to present the case for transferring their employment to the Authority and/or the Replacement Contractor.
- 8.4 The Contractor shall immediately notify the Authority or, at the direction of the Authority, the Replacement Contractor of any period of notice given by the Contractor or received from any person referred to in the Staffing Information, regardless of when such notice takes effect.
- 8.5 The Contractor shall not for a period of twelve (12) Months from the date of transfer re-employ or re-engage or entice any employees, Contractors or Sub-Contractors whose employment or engagement is transferred to the Authority and/or the Replacement Contractor, except that this Paragraph 8.5 shall not apply where the employee, Contractor or Sub-Contractor applies in response to a public advertisement of a vacancy.

**9 PRICE**

- 9.1 During the Termination Assistance Period (or for such shorter period as the Authority may require the Contractor to provide the Termination Services), the Authority shall pay the Price to the Contractor in respect of the Termination Services in accordance with the rates set out in the Exit Plan (but shall not be required to pay costs in excess of the estimate set out in the Exit Plan and the Contractor shall provide the Authority sufficient information (on an open book basis and as reasonably required by the Authority) to enable them to verify the costs). If the scope or timing of the Termination Services is changed and this results in a change to the costs of such Termination Services, the estimate may be varied in accordance with the Change Control Procedure.
- 9.2 Where the Authority requests an extension to the Termination Services beyond the Termination Assistance Period in accordance with Paragraph 6.2 the Price stated in the Exit Plan shall be payable pro-rata for such period of extension.
- 9.3 For the purpose of calculating the costs of providing the Termination Services for inclusion in the Exit Plan or, if no Exit Plan has been agreed, the costs of providing Termination Services shall be determined in accordance with the Change Control Procedure.
- 9.4 Except as otherwise expressly specified in this Contract, the Contractor shall not make any charges for the services provided by the Contractor pursuant to, and the Authority shall not be obliged to pay for costs incurred by the Contractor in relation to its compliance with this Schedule 20 including the preparation and implementation of the Exit Plan and any activities mutually agreed between the Parties to carry on after the expiry of the Termination Assistance Period.

**10 APPORTIONMENTS**

- 10.1 All outgoings and expenses (including any remuneration due) and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts



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shall be apportioned between the Authority and the Contractor and/or the Replacement Contractor and the Contractor (as applicable) as follows:

- (a) the amounts shall be annualised and divided by 365 to reach a daily rate;
- (b) the Authority shall be responsible for (or shall procure that the Replacement Contractor shall be responsible for) or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and
- (c) the Contractor shall be responsible for or entitled to (as the case may be) the rest of the invoice.

10.2 Each Party shall pay (and/or the Authority shall procure that the Replacement Contractor shall pay) any monies due under Paragraph 10.1 as soon as reasonably practicable.

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- 1.1 The Termination Services to be provided by the Contractor are such services as may reasonably be expected to be provided by the Contractor to the Authority and/or any Replacement Contractor to ensure an orderly and efficient transfer of services, including (without limitation) such of the following services as the Authority may specify:
- (a) providing assistance and expertise as necessary to examine all operational and business processes (including all supporting documentation) in place and re-writing and implementing processes and procedures such that they are appropriate for use by the Authority and/or the Replacement Contractor after the end of the Termination Assistance Period;
  - (b) delivering to the Authority the existing systems support profiles, monitoring or system logs, problem tracking/resolution documentation and status reports all relating to the twelve (12) Month period immediately prior to the commencement of the Termination Services;
  - (c) providing details of work volumes and staffing requirements over the twelve (12) Month period immediately prior to the commencement of the Termination Services;
  - (d) with respect to work in progress as at the end of the Termination Assistance Period, documenting the current status and stabilising for continuity during transition;
  - (e) providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Services and re-writing and implementing these during and for a period of six (6) Months after the Termination Assistance Period;
  - (f) providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Services and re-writing and implementing these such that they are appropriate for the continuation of the Services after the Termination Assistance Period;
  - (g) providing assistance and expertise as necessary to support the Authority and/or the Replacement Contractor to develop the migration plan for business operations and Authority Data;
  - (h) to the Replacement Contractor, which may include migration approach, testing of plans, contingency options, and handling of historic or archived Authority Data;
  - (i) agreeing with the Authority an effective communication strategy and joint communications plan which sets out the implications for Staff, Authority staff, customers and key stakeholders;



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- (j) making available to the Authority and/or the Replacement Contractor expertise to analyse training requirements and provide all necessary training for the use of tools by such staff as are nominated by the Authority (acting reasonably) at the time of termination or expiry;
- (k) assisting in the execution of any parallel operation or implementation activity until the effective date of expiry or termination of this Contract;
- (l) in respect of the maintenance and support of the Contractor System, providing historical performance data for the previous twelve (12) Months;
- (m) providing an information pack listing and describing the Services for use by the Authority in the procurement of the Replacement Contractor;
- (n) agreeing with the Authority and/or the Replacement Contractor a plan for the migration of the Authority Data to the Authority and/or the Replacement Contractor;
- (o) providing access to the Authority and/or the Replacement Contractor during the Termination Assistance Period and for a period not exceeding six (6) Months afterwards for the purpose of the smooth transfer of the Services to the Authority and/or the Replacement Contractor:
  - (i) to information and documentation relating to the services provided by the Replacement Contractor that is in the possession or control of the Contractor or its Sub-Contractors (and the Contractor agrees and shall procure that its Sub-Contractors do not destroy or dispose of that information within this period) including the right to take reasonable copies of that material; and
  - (ii) following reasonable notice and during the Contractor's normal business hours, to members of the Staff who have been involved in the provision or management of the Services and who are still employed or engaged by the Contractor or its Sub-Contractors; and
- (p) knowledge transfer services, including:
  - (i) transferring all training material and providing appropriate training to those Authority and/or Replacement Contractor staff responsible for internal training in connection with the provision of the Services;
  - (ii) providing for transfer to the Authority and/or the Replacement Contractor of all knowledge reasonably required for the provision of the Services which may, as appropriate, include information, records and documents;
  - (iii) providing the Contractor and/or the Replacement Contractor with access to such members of the Contractor's or its Sub-Contractors' personnel as have been involved in the design, development, provision or management of the Services and who are still employed or engaged by the Contractor or its Sub-Contractors; and

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- (iv) allowing the Authority and/or the Replacement Contractor to work alongside and observe the performance of the Services by the Contractor at the Premises used to fulfil the Services (subject to compliance by the Authority and the Replacement Contractor with any applicable security and/or health and safety restrictions and any such person who is provided with such knowledge transfer services will sign a confidentiality undertaking in favour of the Contractor (in such form as the Contractor shall reasonably require)); and
  - (q) providing such other information services and assistance as may reasonably be requested by the Authority.
- 1.2 The Contractor shall:
  - (a) provide a documented plan relating to the training matters referred to in Paragraph 1.1(g) for agreement by the Authority at the time of termination or expiry of this Contract;
  - (b) co-operate fully in the execution of the handover plan agreed pursuant to Paragraph 1.1(i), providing skills and expertise of a suitable standard; and
  - (c) fully co-operate in the execution of the Authority Data migration plan agreed pursuant to Paragraph 1.1(n), providing skills and expertise of a reasonably acceptable standard.
- 1.3 To facilitate the transfer of knowledge from the Contractor to the Authority and/or its Replacement Contractor, the Contractor shall provide a detailed explanation of the procedures and operations used to provide the Services, the change management process and other standards and procedures to the operations personnel of the Authority and/or the Replacement Contractor.
- 1.4 The information which the Contractor shall provide to the Authority and/or the Replacement Contractor pursuant to Paragraph 1.1(n) shall include:
  - (a) copies of up-to-date procedures and operations manuals;
  - (b) agreements with third party Contractors of goods and services which are to be transferred to the Authority and/or the Replacement Contractor;
  - (c) key support contact details for third party Contractor personnel under contracts which are to be assigned or novated to the Authority pursuant to this Schedule 20;
  - (d) information regarding any unresolved faults in progress at the commencement of the Termination Assistance Period as well as those expected to be in progress at the end of the Termination Assistance Period;
  - (e) details of physical and logical security processes and tools which will be available to the Authority; and
  - (f) any relevant interface information.

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- 1.5 During the Termination Assistance Period the Contractor shall, subject to any security clearances required by the Authority to enter prisons, grant any agent or personnel (including employees, consultants and Contractors) of the Replacement Contractor and/or the Authority access, during business hours and upon reasonable prior written notice, to any Premises for the purpose of effecting a prompt knowledge transfer provided that:
- (a) any such agent or personnel (including employees, consultants and Contractors) having access to any Premises pursuant to this Paragraph 1.5 shall:
    - (i) sign a confidentiality undertaking in favour of the Contractor (in such form as the Contractor shall reasonably require); and
    - (ii) during each period of access comply with the security, systems and facilities operating procedures of the Contractor relevant to such Premises and that the Authority deems reasonable; and

the Authority and/or the Replacement Contractor shall pay the reasonable, proven and proper costs of the Contractor incurred in facilitating such access.



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## **SCHEDULE 21 – MOBILISATION**



## Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

### 1 DEFINITIONS

1.1 In this Schedule 21, the following terms shall have the following meanings:

<b>"Developed Mobilisation Plan"</b>	means the mobilisation plan developed by the Contractor from the Outline Mobilisation Plan and approved by the Authority as set out in Paragraph 4 below;
<b>"Mobilisation Meetings"</b>	means the meetings to be held between the Contractor and the Authority during the Mobilisation Period as specified in Paragraph 7 below;
<b>"Mobilisation Period"</b>	means the period when the Mobilisation Plan activities are being implemented;
<b>"Mobilisation Phase"</b>	means each phase of Mobilisation Period, Phase 1 and Phase 2, together the <b>"Mobilisation Phases"</b> ;
<b>"Mobilisation Plan"</b>	means where the so context so admits, the Outline Mobilisation Plan or the Developed Mobilisation Plan;
<b>"Mobilisation Progress Reports"</b>	means the reports to be delivered by the Contractor as specified in Paragraph 8 below;
<b>"Mobilisation Project Manager"</b>	means the manager appointed by the Contractor pursuant to Paragraph 11 below;

<b>"Outgoing Contractor(s)"</b>	<b>Prison</b>	<b>Outgoing Contractor</b>
	HMP Birmingham	[REDACTED Section 40 of the FOIA: Personal Information] [REDACTED Section 40 of the FOIA: Personal Information]
	HMP Brinsford	[REDACTED Section 40 of the FOIA: Personal Information] [REDACTED Section 40 of the FOIA: Personal Information]
	HMP Featherstone	[REDACTED Section 40 of the FOIA: Personal Information] [REDACTED Section 40 of the FOIA: Personal Information]
	HMP Hewell	[REDACTED Section 40 of the FOIA: Personal Information] [REDACTED Section 40 of the FOIA: Personal Information]
	HMP Oakwood	[REDACTED Section 40 of the FOIA: Personal Information]



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HMP Stafford	[REDACTED Section 40 of the FOIA: Personal Information]
HMP Stoke Heath	[REDACTED Section 40 of the FOIA: Personal Information]
HMP Swinfen Hall	[REDACTED Section 40 of the FOIA: Personal Information]

; and

**“Outline Mobilisation Plan”** means the mobilisation plan set out in Appendix 1 to this Schedule 21 as provided by the Contractor with the Tender.

## 2 PURPOSE

- 2.1 The Authority requires that the Services to be delivered by the Contractor are mobilised in a timely manner and will be provided in full from the Services Commencement Date.
- 2.2 This Schedule 21 sets out various elements of mobilisation, the phases of its delivery and the terms of support (if any) offered by the Authority when accessed by the Contractor to enable effective delivery of the Services. It also outlines the process for development and approval of the Developed Mobilisation Plan.

## 3 MOBILISATION PHASES

The Mobilisation Period is divided into the following two Mobilisation Phases:

- (a) **Phase 1:** The period covered by the Outline Mobilisation Plan. Phase 1 shall commence on the Effective Date and end when the Authority has Approved the Developed Mobilisation Plan. During Phase 1, the Contractor shall liaise with the Authority and key stakeholders to prepare the Developed Mobilisation Plan; and
- (b) **Phase 2:** The period covered by the Developed Mobilisation Plan. Phase 2 shall be the period in which the Contractor shall undertake all activities necessary to prepare for the Services Commencement Date including, but not limited to, any required





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actions in relation to TUPE, application for security clearances for all Staff to ensure that the Services will be delivered from the Services Commencement Date.

### 4 REQUIREMENTS OF THE DEVELOPED MOBILISATION PLAN

The Contractor shall develop from the Outline Mobilisation Plan a Developed Mobilisation Plan which shall:

- (a) be produced in Word or Excel;
- (b) identify all steps required to enable the Services to be provided as from the Services Commencement Date;
- (c) outline the required roles and responsibilities of the Contractor, including staffing requirements, site access and deliverables, and with proposed engagement timelines with other parties;
- (d) as a minimum, include the following proposed activities:
  - (i) project governance processes including a mechanism to manage and monitor progress during the Mobilisation Period as well as providing a forum to identify/manage risks during those Mobilisation Phases;
  - (ii) project governance processes including a mechanism to manage and monitor progress during the Mobilisation Period as well as providing a forum to identify/manage risks during those Mobilisation Phases;
  - (iii) arranging and attending introductory meetings with relevant members of the Authority teams for all meetings set out in Schedule 13 (*Governance*);
  - (iv) strategic, operational, communication and progress meetings with the Outgoing Contractor(s), other new contractors and Authority during the Mobilisation Period;
  - (v) obtaining necessary security clearances for Contractor staff;
  - (vi) application for Matrix Standard accreditation (if not already held);
  - (vii) recruitment and training activities;
  - (viii) the required roles and responsibilities (including the Contractor's organisational structure) including staffing requirements and relationships, with consideration of HMPPS role;
  - (ix) the development of HR policies ahead of the Services Commencement Date;
  - (x) any activity in relation to TUPE process and recruitment;
  - (xi) processes and activities that will be undertaken in order to have appropriate risk assessments in place in time for the Services Commencement Date;



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- (xii) process for the collection and delivery of KPI and management information sign-off in addition to the use of the Authority's ICT System;
- (xiii) stakeholder communication plan including (not limited to) the Contractor's plans to engage an/or communicate with Prison Governors (or Prison Director), Heads of Education, Skills and Work (or equivalent), Heads of Reducing Reoffending (or equivalent), and any other key stakeholders in Schedule 2 (Specification) or as determined by the Contractor in Schedule 27 (*Contractor's Tender*);
- (xiv) delivery and any transitioning of ICT and any documentation (if any) (in accordance with the requirements of Schedule 2 (*Specification*));
- (xv) process for creation and maintenance of an equipment register;
- (xvi) proposals for invoicing;
- (xvii) delivery of equality and diversity statements; and
- (xviii) delivery of an agreed BCDR Plan.

## **5 APPROVAL OF THE DEVELOPED MOBILISATION PLAN**

- 5.1 The Contractor shall submit a draft of the Developed Mobilisation Plan to the Authority for approval within twenty-one (21) Working Days of the Effective Date.
- 5.2 Following receipt of the draft Developed Mobilisation Plan from the Contractor, the Authority shall:
  - (a) review and comment on the draft Developed Mobilisation Plan as soon as reasonably practicable; and
  - (b) notify the Contractor in writing that it Approves or rejects the draft Developed Mobilisation Plan no later than five (5) Working Days after the date on which the draft Developed Mobilisation Plan is delivered to the Authority.
- 5.3 If the Authority rejects the draft Developed Mobilisation Plan:
  - (a) the Authority shall inform the Contractor in writing of its reasons for its rejection; and
  - (b) the Contractor shall then revise the draft Developed Mobilisation Plan (taking account of the Authority's comments) and shall re-submit a revised draft Developed Mobilisation Plan to the Authority for the Authority's approval within five (5) Working Days of the date of the Authority's notice of rejection. The provisions of Paragraph 5.2 and this Paragraph 5.3 shall apply again to any resubmitted draft Detailed Implementation Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.
- 5.4 If the Authority Approves the draft Developed Mobilisation Plan, it shall replace the Outline Mobilisation Plan from the date of the Authority's notice of approval.



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5.5 The Contractor acknowledges that the Authority's Approval of the Developed Mobilisation Plan shall not act as an endorsement of the Developed Mobilisation Plan and shall not relieve the Contractor of its responsibility for complying with the terms of any Mobilisation Plan and ensuring that the Services are provided by the Services Commencement Date and to the standards required by this Contract.

5.6 The Authority reserves the right to request additional information regarding any element of any Mobilisation Plan from the Contractor at any point during the Mobilisation Period.

## **6 FURTHER UPDATES TO AND MAINTENANCE OF THE DEVELOPED MOBILISATION PLAN**

6.1 Following the approval of the Developed Mobilisation Plan by the Authority pursuant to Paragraph 5:

- (a) the Contractor shall submit a revised Developed Mobilisation Plan to the Authority each time it wishes to amend or update the activities, deliverables or dates set out in the Developed Mobilisation Plan or at such a frequency as requested by the Authority;
- (b) any such revised Developed Mobilisation Plan is to be submitted by the Contractor to the Authority for Approval in accordance with the procedure set out in Paragraph 5; and
- (c) the Contractor's performance against the current agreed Developed Mobilisation Plan shall be monitored at the Mobilisation Meetings, as further described in Paragraph 7, and the Establishment Operational Performance Meeting.

6.2 Save for any amendments which are of a type identified and notified by the Authority (at the Authority's discretion) to the Contractor as not requiring approval, the Contractor shall not make any material amendments to the Developed Mobilisation Plan. Any proposed amendments to the current agreed Mobilisation Plan shall not come into force until they have been Approved by the Authority.

6.3 The Contractor shall keep the Mobilisation Plans under review in accordance with the Authority's instructions. The Authority shall have the right to require the Contractor to include any reasonable changes or provisions in each version of the Mobilisation Plan.

## **7 MOBILISATION MEETINGS**

7.1 In addition to the meetings specified in Schedule 13 (*Governance*), the Authority and the Contractor shall, if required by the Authority, hold Mobilisation Meetings to fully review and discuss Mobilisation activities.

7.2 In preparation for the Mobilisation Meetings, the current Mobilisation Plan shall be provided by the Contractor to the Authority not less than five (5) Working Days in advance of each Mobilisation Meeting.

7.3 Such Mobilisation Meetings shall:

- (a) be held when required but not more than twice per Month;



## **Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))**

- (b) be attended by the Mobilisation Project Manager and any other personnel reasonably specified by the Authority;
  - (c) discuss and identify progress as against the Mobilisation Plan.
- 7.4 The frequency of the Mobilisation Meetings may vary depending on the progress made by the Contractor during the Mobilisation Period and as against the Mobilisation Plan.
- 7.5 The Contractor shall maintain minutes of the Mobilisation Meetings and issue copies of such minutes, containing agreed actions, to the Authority as soon as reasonably practicable after the Mobilisation Meetings.
- 7.6 The final Mobilisation Meeting will be held no later than ten (10) Working Days prior to the Services Commencement Date, and will review in full the ability of the Contractor to provide the Services and implement and perform in accordance with the terms of this Contract as at the Services Commencement Date. The Contractor will provide the Authority with such information and reports as the Authority may reasonably require in advance of such meeting. The Authority will confirm to the Contractor in writing when the Contractor has demonstrated (to the satisfaction of the Authority) that all elements of the Service are fully implemented and ready to be performed and the Contractor may commence performing the Services.

## **8 MOBILISATION PROGRESS REPORTS**

- 8.1 The Contractor shall submit weekly Mobilisation Progress Reports to the Authority to demonstrate progress in accordance with the Mobilisation Plan.
- 8.2 The Contractor shall include the following in the Mobilisation Progress Reports:
  - (a) the progress of and outlook for the Contractor's activities in relation to the Mobilisation Plan;
  - (b) key items for discussion with the Authority, including any actions or decisions required by the Authority;
  - (c) an assessment of overall progress;
  - (d) other such matters as the Authority may reasonably require.

## **9 MOBILISATION PAYMENTS**

- 9.1 Mobilisation Payment shall be made to the Contractor in accordance with Paragraph 10 of Schedule 3 (*Charges*) except where the provisions of Paragraph 9.2 below apply.
- 9.2 The Authority shall have the right to withhold all or any of the Mobilisation Payment (at its sole discretion) in the following circumstances where the delay in the progress of mobilisation attributable to the Contractor:
  - (a) the Contractor has notified the Authority, in accordance with Paragraph 10 below, that there is, or there is reasonably likely to be, a delay in the delivery of any task as specified in the Mobilisation Plan;



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- (b) following a review of the Mobilisation Plan and assessment of work undertaken, it is of the reasonable view that there is or is reasonably likely to be a delay in the delivery of any task as set out in the Mobilisation Plan; or
- (c) the Authority has reasonable grounds to believe that the Services will not be available in full as from the Services Commencement Date.

9.3 If any of the factors in Paragraph 9.2 apply the Authority shall:

- (a) notify the Contractor in writing of the reasons it believes that there will be a delay to mobilisation; and
- (b) the amount (if any) of the Mobilisation Payment it intends to withhold.

9.4 The amount of the Mobilisation Payment withheld by the Authority shall be released to the Contractor if:

- (a) the Contractor redresses the delay to the reasonable satisfaction of the Authority; and, in any event,
- (b) the Services commence in full on the Services Commencement Date.

9.5 If the Services do not commence in full on the Services Commencement Date the Authority, in addition to any other remedy it may have, shall be entitled to retain the amount of the Mobilisation Payment withheld. Where Services commence on the Services Commencement Date but the Authority has agreed to revised timelines for tasks or mobilisation deliverables that are outstanding, the Authority shall be entitled to retain the amount of the Mobilisation Payment withheld.

## **10 DELAY IN MOBILISATION**

10.1 If the Contractor becomes aware that there is, or there is reasonably likely to be, a delay to any of the matters specified in the Mobilisation Plan, it shall:

- (a) notify the Authority as soon as practically possible and no later than within two (2) Working Days from becoming aware of the delay or anticipated delay;
- (b) include in its notification an explanation of the actual or anticipated impact of the delay;
- (c) comply with the Authority's instructions in order to address the impact of the delay or anticipated delay; and
- (d) use its best endeavours to eliminate or mitigate the consequences of any delay or anticipated delay.

10.2 Time in relation to the achievement of the Services Commencement Date shall be of the essence and failure to achieve the Services Commencement Date shall be a Default and the Authority shall have the right to terminate the Contract. The Authority may, at its discretion, withhold from termination at this stage and may elect to follow the provisions set out in



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Paragraphs 3 (*Improvement Notices and Improvement Plan*) and 4 (*Rectification*) of Schedule 14 (*Key Performance Indicators and Performance Management*).

- 10.3 Where the Contractor fails to achieve the Services Commencement Date due to Authority's failure to fulfil an Authority Responsibility by the relevant date, the Services Commencement Date shall be postponed by a period equal to the period of delay the Contractor can demonstrate was caused by the Authority's failure.

## **11 FAILURE TO ACHIEVE THE SERVICE COMMENCEMENT DATE**

- 11.1 In the event of any initial or further failure and/or delay to achieve the Services Commencement Date, without prejudice to its other rights and remedies, the Authority shall be entitled to recover its Losses incurred as a result of or in connection with such delay and such amount shall include without limit:
- (a) the cost of providing and/or purchasing emergency careers information, advice and guidance services (the Contractor acknowledges that short periods of delay can result in the Authority needing to enter arrangements for such alternative supply over periods longer than the actual delay) provided that the Authority agrees to minimise such costs as far as reasonably possible;
  - (b) any additional employment costs arising as a result of the delay including costs relating to any transfers under the Employment Regulations; and
  - (c) the administration cost of the Authority arising as a result of or in connection with the delay.

## **12 PERSONNEL**

- 12.1 The Contractor shall appoint a Mobilisation Project Manager in order to manage the effective implementation of the Mobilisation Plan.
- 12.2 The Contractor shall agree and establish mobilisation teams with the Outgoing Contractor(s).
- 12.3 The Contractor shall provide the Authority with an organisational chart for the personnel referred to in this Paragraph 12.



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## **APPENDIX 1: OUTLINE MOBILISATION PLAN**

[REDACTED Section 43 of the FOIA: Commercial Interests]

# **SCHEDULE 22 – REPORTING REQUIREMENTS**



**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****1 DEFINITIONS**

In this Schedule 22, the following words shall have the following meanings and they shall supplement Schedule 1 (*Definitions*):

<b>"Financial Transparency Objectives"</b>	has the meaning given to it in Paragraph 3.2 of this Schedule 22;
<b>"Onerous Contract"</b>	means a contract in which the unavoidable costs of meeting the obligations under the contract exceed the economic benefits expected to be received under it, as defined under International Accounting Standard 37;
<b>"Onerous Contract Report"</b>	means a report provided by the Contractor pursuant to Paragraph 4.10 of Part A to this Schedule 22;
<b>"Report"</b>	means the reports identified in this Schedule 22;
<b>"Table 1"</b>	means the table as set out below Paragraph 5 of this Schedule 22;
<b>"Transparency PPN"</b>	means the Procurement Policy Note Transparency Principles now updated by Cabinet Office to the Transparency of Suppliers and Government to the Public published (2023-03-27 which can be accessed via the link in Schedule 28 ( <i>Policies and Procedures</i> ); and
<b>"Transparency Reports"</b>	has the meaning given to it in Paragraph 4.9 of this Schedule 22.

**2 INTRODUCTION**

- 2.1 The Contractor shall provide periodic, ad hoc and other Reports in respect of this Contract, the Services and the Specification in accordance with this Contract including Paragraph 4 and Appendix 1 of this Schedule 22.
- 2.2 The Contractor shall provide the Management Information in respect of this Contract, the Services and the Specification in accordance with this Contract including Paragraph 5 and Table 1 of this Schedule 22.
- 2.3 The audit rights under this Contract are detailed in Clause F4 (*Audit*) and Paragraph 6 of this Schedule 22.

**Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****3 TRANSPARENCY PRINCIPLES AND FINANCIAL TRANSPARENCY OBJECTIVES**

3.1 The Contractor recognises that the Authority is subject to the Transparency PPN and shall comply with the provisions of this Schedule 22 in order to assist the Authority with its compliance with its obligations under the Transparency PPN.

3.2 The Contractor acknowledges that the provisions of this Schedule 22 are designed (inter alia) to facilitate the following objectives and the Contractor shall co-operate with the Authority to achieve these.

3.2.1 Understanding the Charges

(a) for the Authority to understand any payment sought from it by the Contractor including an analysis of the costs, overhead recoveries (where relevant), time spent by Staff in providing the Services and the Contractor profit margin;

(b) for both Parties to be able to understand the financial model and cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques.

3.2.2 Agreeing the impact of Change

(a) for both Parties to agree the quantitative impact of any Changes that affect ongoing costs and to identify how these could be mitigated and/or reflected in the Charges;

(b) for both Parties to be able to review, address issues with and re-forecast progress in relation to the provision of the Services.

3.2.3 Continuous Improvement

(c) for the Parties to challenge each other with ideas for efficiency and improvements; and

(d) to enable the Authority to demonstrate that it is achieving value for money for the taxpayer relative to current market prices,

(together the “**Financial Transparency Objectives**”).

**4 REPORTS**

4.1 Appendix 1 of this Schedule 22:

(a) sets out a list of Reports which the Contractor is required to submit to the Authority under this Contract which have been identified at the Effective Date;

(b) provides a high-level summary of the content of the Report;

(c) indicates the format required for the Report (and if it is to be provided by the Authority);

(d) describes the frequency at which the Contractor must submit Reports; and

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(e) refers to the relevant Schedules where the details of the relevant Reports are set out.

- 4.2 The Contractor shall as soon as practicable and in any event, within three (3) Months of the Effective Date, unless otherwise agreed in writing by the Authority or such earlier timescale as set out elsewhere in this Contract, submit to the Authority for Approval (such Approval shall not be withheld or delayed) draft reports in accordance with Appendix 1 to this Schedule 22.
- 4.3 If the Authority rejects any draft Report submitted by the Contractor, the Contractor shall submit a revised version of the relevant report for further Approval within five (5) Working Days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the Report provided by the Authority. If the Parties fail to agree on a draft Report the Authority shall determine what shall be included.
- 4.4 The Contractor shall provide accurate and up-to-date versions of each Report to the Authority at the frequency referred to in Appendix 1 to this Schedule 22.
- 4.5 Any disagreement in connection with Reports, other than under Paragraph 4.3 above in relation to the contents of a Report, shall be referred to the Dispute Resolution Procedure.
- 4.6 The requirements for Reports are in addition to any other reporting requirements in this Contract.
- 4.7 The Authority may amend the Reports' format from time to time and notify the Contractor of such a change.

**4.8 OTHER REPORTS**

The Authority may require additional reporting requirements as notified to the Contractor at any time including any or all of the following reports:

- (a) delay reports;
- (b) reports which the Contractor is required to supply as part of the Management Information;
- (c) annual reports on the insurances included in Schedule 18 (*Insurances*);
- (d) security reports; and
- (e) Force Majeure Event reports.

**4.9 TRANSPARENCY REPORTS**

When requested by the Authority, the Contractor shall provide any reports that will assist with the Authority's obligations under the Transparency PPN including Appendix 2 (*Supply Chain Transparency Information Template*) ("**Transparency Reports**").

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**4.10 ONEROUS CONTRACTS**

4.10.1 If the Contractor publicly designates this Contract as an Onerous Contract (including where the Contractor has identified the Contract as such in any published accounts or public reports and announcements), the Contractor shall promptly notify the Authority of the designation and shall prepare and deliver to the Authority within the timescales agreed by the Parties (an in any event, no later than two (2) Months following the publication of the designation) a draft Onerous Contract Report which includes the following:

- (a) an initial root cause analysis of the issues and circumstances which may have contributed to this Contract being designated as an Onerous Contract;
- (b) an initial risk analysis and impact assessment on the provision of the Services as a result of the Contractor's designation of this Contract as an Onerous Contract;
- (c) the measures which the Contractor intends to put in place to minimise and mitigate any adverse impact on the provision on the Services;
- (d) details of any other options which could be put in place to remove the designation of this Contract as an Onerous Contract and/or which could minimise and mitigate any adverse impact on the provision of the Services.

4.10.2 Following receipt of the Onerous Contract Report, the Authority shall review and comment on the report as soon as reasonably practicable and the Parties shall cooperate in good faith to agree the final form of the report, which shall be submitted to the Escalation Board, such final form report to be agreed no later than one (1) Month following the Authority's receipt of the draft Onerous Contract Report.

4.10.3 The Escalation Board shall meet within fourteen (14) Working Days of the final Onerous Contract Report being agreed by the Parties to discuss the contents of the report and the Parties shall procure the attendance at the meeting of any key participants where reasonably required (including: the Cabinet Office Markets and Supplier's Team where the Contractor is a Strategic Supplier; representatives from any Key Sub-Contractors; and the project's senior responsible officers (or equivalent) for each Party).

4.10.4 The Contractor acknowledges and agrees that the Onerous Contract Report is submitted to the Authority and Escalation Board on an information only basis and the Authority and Escalation Board's receipt of and comments in relation to the Onerous Contract Report shall not be deemed to be an acceptance or rejection of the Onerous Contract Report nor shall it relieve the Contractor of any liability under this Contract. Any Changes to be agreed by the Parties pursuant to the report shall be subject to the Change Control Procedure.

**5 MANAGEMENT INFORMATION**

5.1 The Contractor shall update the Authority's ICT System to maintain the Management Information listed in Part A of the Table 1 below. The Management Information shall be entered on to the Authority's ICT System no later than the date shown in Table 1.

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- 5.2 The Contractor will maintain a record of the Management Information listed in Part B of Table 1 below and provide this to the Authority in accordance with the reporting frequency in the Table 1.

**TABLE 1: MANAGEMENT INFORMATION**

<b>Part A: Management Information to be uploaded to the Authority's ICT System</b>	
Where the Contractor uploads Management Information to the Authority's ICT System the Authority will provide a template or give direction as to how the data should be entered so that it can be accessed for the compilation and download of reports. The Contractor will assist the Authority in the preparation and downloading of reports based on this Management Information where required. This shall include the Management Information needed for the collation of the Key Performance Indicators as referred to in Schedule 14 ( <i>Key Performance Indicators and Performance Management</i> ).	
<b>Description of the Management Information</b>	<b>When this needs to be uploaded to the Authority's ICT System</b>
Number of completed Induction Sessions held in each Prison.	Within five (5) Working Days of each Induction Session
Number of completed Review Sessions held in each Prison. This shall also designate whether such Review Session is a Pre-Release Session.	Within five (5) Working Days of each Induction Session
Number of Peer Mentors engaged in supporting the delivery of CIAG in each Prison.	Within five (5) days of the end of each Month
Number of Peer Mentors per Prison funded to complete a recognised peer mentoring/CIAG qualification.	Within five (5) days of the end of each Month
Number of Peer Mentors who have attained a recognised peer mentoring/CIAG qualification and the level attained.	Within five (5) days of the end of each Month
Number of employer sector events (as defined in Schedule 2 ( <i>Specification</i> )) in each Prison.	Within five (5) days of the end of each Month
Number of Prisoners who engaged in each employer sector event in each Prison.	Within five (5) days of the end of each Month

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Number of Prisoners with a CV, cover letter and disclosure letter prior to release from Prison per Prison.	Within five (5) days of the end of each Month
<b>Part B: Management Information to be provided to the Authority</b>	
<b>Description of the Management Information</b>	<b>When this needs to be provided to the Authority</b>
The total number of Staff involved in the delivery of the Services and the number of Staff with the each of following qualifications: levels 3, 4, 5 and 6 in Information Advice and Guidance.	Quarterly

## **6 AUDIT RIGHTS**

6.1 The Authority, acting by itself or through its audit agents, shall have the right during the Term and for a period of eighteen (18) months thereafter, to assess compliance by the Contractor and/or its Key Sub-Contractors of the Contractor's obligations under this Contract, including for the following purposes:

- (a) to verify the integrity and content of any financial report;
- (b) to verify the accuracy of the Charges and any other amounts payable by the Authority under this Contract (and proposed or actual variations to such Charges and payments);
- (c) to verify the costs (including the amounts paid to all Sub-Contractors and any third party suppliers);
- (d) to verify the Open Book Data;
- (e) to verify the Contractor's and each Key Sub-Contractor's compliance with this Contract and applicable Law;
- (f) to identify or investigate actual or suspected fraud, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Authority shall have no obligation to inform the Contractor of the purpose or objective of its investigations;
- (g) to identify or investigate any circumstances which may impact upon the financial stability of the Contractor, the Guarantor and/or any Key Sub-Contractors or their ability to perform the Services;
- (h) to obtain such information as is necessary to fulfil the Authority's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;

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- (i) to review any books of account and the internal contract management accounts kept by the Contractor in connection with this Contract;
- (j) to carry out the Authority's internal and statutory audits and to prepare, examine and/or certify the Authority's annual and interim reports and accounts;
- (k) to enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
- (l) to verify the accuracy and completeness of any Management Information delivered or required by this Contract;
- (m) to review any performance monitoring reports and/or other records relating to the Contractor's performance of the Services and to verify that these reflect the Contractor's own internal reports and records;
- (n) to inspect the ICT Environment (or any part of it) and the wider service delivery environment (or any part of it);
- (o) to review the accuracy and completeness of the Registers;
- (p) to review the Contractor's quality management systems (including all relevant quality plans and any quality manuals and procedures);
- (q) to review the Contractor's compliance with the Standards;
- (r) to inspect the assets, including the Authority's IPRs, equipment and facilities, for the purposes of ensuring that the assets are secure and that any register of assets is up to date; and/or
- (s) to review the integrity, confidentiality and security of the Authority Data.

6.2 Except where an audit is imposed on the Authority by a regulatory body or where the Authority has reasonable grounds for believing that the Contractor has not complied with its obligations under this Contract, the Authority may not conduct an audit of the Contractor or of the same Key Sub-Contractor more than twice in any Contract Year.

6.3 Nothing in this Contract shall prevent or restrict the rights of the Comptroller and/or Auditor General and/or their representatives from carrying out an audit, examination or investigation of the Contractor and/or any of the Key Sub-Contractors for the purposes of and pursuant to applicable Law.

**6.4 CONDUCT OF AUDITS**

6.4.1 The Authority shall during each audit comply with those security, sites, systems and facilities operating procedures of the Contractor that the Authority deems reasonable and use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the provision of the Services.

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- 6.4.2 Subject to the Authority's obligations of confidentiality, the Contractor shall on demand provide the Authority and the audit agents with all reasonable co-operation and assistance (and shall procure such co-operation and assistance from its Sub-Contractors) in relation to each audit, including:
- (a) all information requested by the Authority within the permitted scope of the audit;
  - (b) reasonable access to any sites and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
  - (c) access to the Contractor System; and
  - (d) access to Staff.
- 6.4.3 The Contractor shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Contractor's performance of the Services against the applicable Key Performance Indicators at a level of detail sufficient to verify compliance with the Key Performance Indicators.
- 6.4.4 The Authority shall endeavour to (but is not obliged to) provide at least fifteen (15) Working Days' notice of its intention to conduct an audit.
- 6.4.5 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Paragraph 6, unless the audit identifies a material Default by the Contractor in which case the Contractor shall reimburse the Authority for all the Authority's reasonable costs incurred in connection with the audit.

**6.5 USE OF THE CONTRACTOR'S INTERNAL AUDIT TEAM**

- 6.5.1 As an alternative to the Authority's right pursuant to Paragraph 6.1 to exercise an audit either itself or through its audit agents, the Authority may require in writing that an audit is undertaken by the Contractor's own internal audit function for any of the purposes set out in Paragraph 6.1.
- 6.5.2 Following the receipt of a request from the Authority under Paragraph 6.5.1 above, the Contractor shall procure that the relevant audit is undertaken as soon as reasonably practicable and that the Authority has unfettered access to:
- (a) the resultant audit reports; and
  - (b) all relevant members of the Contractor's internal audit team for the purpose of understanding such audit reports.

**6.6 RESPONSE TO AUDITS**

- 6.6.1 If an audit undertaken pursuant to Paragraphs 6.1 or 6.5 identifies that:
- (a) the Contractor has committed a Default, the Authority may (without prejudice to any rights and remedies the Authority may have) require the Contractor to correct such Default as soon as reasonably practicable;





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- (b) there is an error in a financial report, the Contractor shall promptly rectify the error;
- (c) the Authority has overpaid any Charges, the Contractor shall pay to the Authority:
  - (i) the amount overpaid;
  - (ii) interest on the amount overpaid at the applicable rate under the *Late Payment of Commercial Debts (Interest) Act 1998*, accruing on a daily basis from the date of overpayment by the Authority up to the date of repayment by the Contractor; and
  - (iii) the reasonable costs incurred by the Authority in undertaking the audit,and the Authority may exercise its right to deduct such amount from the Charges if it prefers; and
- (d) the Authority has underpaid any Charges, the Contractor shall not be entitled to increase the Charges paid or payable by the Authority.

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**APPENDIX 1: REPORTS**

**Note:** all the Reports listed in the Table below shall be prepared at Lot level with the exception of the Operational Performance Report.

<b>TITLE</b>	<b>CONTENT</b>	<b>FORMAT</b>	<b>FREQUENCY</b>	<b>SCHEDULE(S) WHERE THIS IS REFERRED TO</b>
Staff development strategy	Sets out the Contractor's staff development strategy and includes a Staff competency framework in line with the standards set by the Career Development Institute.	To be agreed between the Parties	Annually	2
Sustainability Report	To include the key sustainability impacts identified and the improvements planned or delivered. Also, to include the risks to the Services of climate change, including mitigation, adaptation and continuity plans employed by the Contractor in response to those risks.	The Authority will provide a template for the document to be completed by the Contractor.	Annually on the anniversary of the Effective Date	9
Annual Slavery and Trafficking Report	Setting out the steps taken to ensure that slavery and trafficking is not taking place in any of its supply chains or in any part of its business.	To be agreed between the Parties	Annually	9
The Data Protection Roadmap	Detailed plans to comply with obligations under Schedule 10 ( <i>Data Processing</i> ) and its obligations under Data Protection Legislation.	To be agreed between the Parties	Ad-hoc	10
Business Continuity and	Details the processes and arrangements that the	To be agreed	Ad-hoc	11

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<b>TITLE</b>	<b>CONTENT</b>	<b>FORMAT</b>	<b>FREQUENCY</b>	<b>SCHEDULE(S) WHERE THIS IS REFERRED TO</b>
Disaster Recovery (BCDR) Plan	Contractor shall follow to ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Services (including where caused by an Insolvency Event of the Contractor, Guarantor and/or any Sub-Contractor); and the recovery of the Services in the event of a disaster.	between the Parties		
Review Report	<p>The Contractor shall review and update the BCDR Plan (and the risk analysis on which it is based) as a minimum once every six (6) Months.</p> <p>The review should assess its suitability having regard to any change to the Services or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan.</p> <p>The Review Report should set out findings, changes and proposed amendments.</p>	To be agreed between the Parties	Minimum once every six (6) Months	11
BCDR Test Plan Report	The Contractor shall, within 20 Working Days of the conclusion of each test, provide to the Authority a report setting out: the outcome of the test, any	To be agreed between the Parties	No less than once a year	11

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<b>TITLE</b>	<b>CONTENT</b>	<b>FORMAT</b>	<b>FREQUENCY</b>	<b>SCHEDULE(S) WHERE THIS IS REFERRED TO</b>
	failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test and the Contractor's proposals for remedying any such failures.	Parties		
Provider Performance Report	A report setting out the Contractor's actual performance against the Contract, including identification of any performance that does not meet expectations and actions being taken to resolve.	The Authority will provide a template for the document to be completed by the Contractor.	To be provided prior to the Contract Review Meeting which will be monthly for the first three months of the Contract and thereafter (unless requested by the Authority) shall be Quarterly	13
Improvement Plan	Within twenty (20) Working Days of the date of issue of an Improvement Notice the Contractor shall deliver to the Authority an Improvement Plan that provides an explanation of the reduced performance and actions to remedy the reduction.	The Contractor shall prepare the Improvement Plan in line with the requirements set out in Paragraph 3 of Schedule 14 ( <i>Key Performance</i>	Ad hoc	14

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<b>TITLE</b>	<b>CONTENT</b>	<b>FORMAT</b>	<b>FREQUENCY</b>	<b>SCHEDULE(S) WHERE THIS IS REFERRED TO</b>
		<i>Indicators and Performance Management)</i>		
Rectification Plan	Set out the Contractor's proposals for carrying out the actions necessary to ensure that the issues identified in the Outstanding Issues Notice are rectified and do not re-occur and a programme for undertaking such actions and the date by which they will be completed.	To be agreed between the Parties	Ad hoc	14
Joint Collaboration Plan	A set of actions to address areas of priority for improvement and innovation that are identified, prepared and agreed by the Provider Level Collaboration Forum.	To be agreed between the Parties	At least annually	24
Operational Performance Report	A report setting out the Contractor's actual performance against performance measures in a given month. Note that this is to be provided prior to the Operational Performance Meeting and is to be collated on an individual prison basis unless otherwise agreed with the Authority.	The Authority will provide a template for the document to be completed by the Contractor	Monthly	13
Exit Plan	Will set out the Contractor's proposed methodology for achieving an orderly transition of the relevant	To be agreed between the Parties	Annually Quarterly	20

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<b>TITLE</b>	<b>CONTENT</b>	<b>FORMAT</b>	<b>FREQUENCY</b>	<b>SCHEDULE(S) WHERE THIS IS REFERRED TO</b>
	Services from the Contractor to the Authority and/or its Replacement Contractor on the partial termination, expiry or termination of this Contract (to include handover plan and migration plan).	Parties	during the final year of the Contract	

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## APPENDIX 2: SUPPLY CHAIN TRANSPARENCY INFORMATION TEMPLATE

	Financial 2025/26		Year	
	Under this Contract		Contractor as a whole	
	£	%	£	%
Estimated total contract revenue (£) to be received in this Financial Year	[REDACTED Section 43 of the FOIA: Commercial Interests]	[REDACTED Section 43 of the FOIA: Commercial Interests]	[REDACTED Section 43 of the FOIA: Commercial Interests]	[REDACTED Section 43 of the FOIA: Commercial Interests]
Total value of sub-contracted revenues (£) in this Financial Year	£0	[ ]	£0	[ ]
Total value of sub-contracted revenues to SMEs (£) in this Financial Year	£0	[ ]	£0	[ ]
Total value of sub-contracted revenues to VCSEs (£) in this Financial Year	£0	[ ]	£0	[ ]

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# **SCHEDULE 23 – AUTHORITY RESPONSIBILITIES**





## OFFICIAL SENSITIVE

### Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

## 1 INTRODUCTION

- 1.1 The responsibilities of the Authority set out in this Schedule 23 shall constitute the Authority Responsibilities under this Contract. Any obligations of the Authority in Schedule 2 (*Specification*) and Schedule 27 (*Contractor's Tender*) shall not be Authority Responsibilities and the Authority shall have no obligation to perform any such obligations unless they are specifically stated to be "Authority Responsibilities" and cross referenced in Paragraph 3 and the table in Paragraph 4.
- 1.2 The responsibilities specified within this Schedule 23 shall be provided to the Contractor free of charge, unless otherwise agreed between the Parties.

## 2 DEFINITIONS

- 2.1 In this Schedule 23, the following words shall have the following meanings and they shall supplement Schedule 1 (*Definitions*):

"Functional Skills Tests"	has the meaning given to it at row 'Reference Number' 5 in the table in Annex 1 ( <i>Authority Responsibilities Table</i> ) of this Schedule 23.
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## 3 GENERAL OBLIGATIONS

- 3.1 The Authority shall:
- (a) perform those obligations of the Authority which are set out in the Clauses of this Contract and the Paragraphs of the Schedules (except Schedule 2 (*Specification*) and Schedule 27 (*Contractor's Tender*));
  - (b) use its reasonable endeavours to provide the Contractor with access to appropriate members of the Authority's staff including Key Stakeholders, as such access is reasonably requested by the Contractor in order for the Contractor to discharge its obligations throughout the Term and the Termination Assistance Period;
  - (c) provide sufficient and suitably qualified staff to fulfil the Authority's roles and duties under this Contract;
  - (d) use its reasonable endeavours to provide such documentation, data and/or other information that the Contractor reasonably requests that is necessary to perform its obligations under the terms of this Contract provided that such documentation, data and/or information is available to the Authority and is authorised for release by the Authority; and
  - (e) subject to terms of the Contract including Schedule 8 (*Access to Prisons*), permit the Contractor to access and use the Premises (as a licensee only) including the CIAG Space or equivalent alternative areas as agreed with the Authority (such agreement not to be unreasonably withheld or delayed) and in accordance with Clause B8 (*Licence to Occupy*) to the extent reasonably required for Contractor to comply with its obligations under this

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Contract during the Authority's normal working hours on each Working Day (or as otherwise agreed).

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**4 SPECIFIC OBLIGATIONS**

- 4.1 The Authority shall, in relation to this Contract perform the specific Authority's responsibilities identified as such in this Contract the details of which are set out below in Annex 1 (*Authority Responsibilities Table*).

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**ANNEX 1 – AUTHORITY RESPONSIBILITIES TABLE**

<b>CIAG – Authority Responsibilities</b>		
<b>Reference Number</b>	<b>Reference</b>	<b>Description of the Authority Responsibility</b>
1.	<b>Key Stakeholders</b>	The Authority shall be responsible for advising the Contractor if there is a change in the operator of a Privately Managed Prison.
2.		The Authority shall ensure there is provision of a Key Worker for each Prisoner (usually a Prison officer) who will signpost and direct each Prisoner to CIAG services.
3.		The Authority shall liaise with the following stakeholders to assist the Contractor in providing the Services: (a) the DWP in relation to the provision of DWP Prison Work Coaches and arranging interviews at the job centre for Prisoners being released; (b) the DWP Prison Work Coaches in relation to arranging benefit support for Prisoners and the Prison Employment Lead to undertake job search and matching; (c) the New Futures Network who will operate an employment brokerage to connect Prisons with employers to help businesses fill job vacancies and Prisoners to find employment; and (d) the Probation Services in relation to re-settlement services.
4.	<b>Induction Sessions</b>	The Authority shall provide (a) a list of Prisoners commencing their Induction Programme (i.e. prior to the Screening and Assessment Process) and (b) reasonable access to the Authority's ICT System to enable the Contractor to identify In-Scope Prisoners due to have an Induction Session.
5.		The Authority shall procure arrangements for Prisoners to undertake mathematics and, English and digital skills tests ( <b>Functional Skills Tests</b> ) during the Induction Period to determine literacy and numeracy and provide the relevant information from the Functional Skills Tests to the Contractor to assist in determining appropriate education and work opportunities.
6.		The Authority shall provide a pro-forma Data Privacy Notice to the Contractor and hold a record of all Data Privacy Notices the Contractor inputs on the Authority's ICT System.

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7.		The Authority shall, if they are aware, inform the Contractor a Prisoner has neurodivergent needs or a disability which may impact on their work preferences.
8.		The Authority shall provide the Contractor a current version of the ESW curriculum and ESW provider offer for each Prison on the Authority's ICT System or such other form as the Authority is able to provide.
9.		The Authority shall provide: (a) access information for the PLP and Employment Readiness Checklist; and (b) reasonable access to the PLP and Employment Readiness Checklist on the Authority's ICT System, to the Contractor.
10.	<b>Review Sessions</b>	The Authority shall provide reasonable access to the Authority's ICT System to enable the Contractor to identify In-Scope Prisoners due to have a Review Session.
11.	<b>Pre-Release Sessions</b>	The Authority shall provide reasonable access to the Authority's ICT System to enable the Contractor to identify In-Scope Prisoners due to have a Pre-Release Session.
12.	<b>Peer Mentoring</b>	In Prisons where Peer Mentors will be used, the Authority shall decide which Prisoners shall be Peer Mentors.
13.		The Authority shall undertake appropriate risk assessment to select Peer Mentors. The Authority shall use reasonable care, as is appropriate to the prison environment.
14.		The Authority shall be responsible for the payment of Peer Mentors for the services undertaken in relation to CIAG.
15.		The Authority shall enable Peer Mentors to access the relevant CIAG Space (as permitted by and in accordance with the security requirements of the Prison).
16.		The Authority, where notified by the Contractor, shall be responsible for any disciplinary action / reprimand of any Peer Mentors.
17.	<b>Digital Support</b>	The Authority will arrange for the Contractor's authorised personnel to have access to the Authority's ICT System as may be strictly necessary for the Contractor to provide the Services during Working Hours (or such alternative hours as specifically agreed with the Authority). This shall include access to the Authority Software including, but not limited to, Curious, learning management system, data collection systems related to CIAG, the Labour Market Information Tool, screening and assessment tools, Prison-NOMIS, the library management system, Digital Prison Services, OASys.

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18.	The Authority shall be responsible for maintaining this Authority Software and applying all necessary updates to ensure it continues in a functioning state.
19.	The Authority will provide all reasonably required end-user devices with the Microsoft Windows operating system, which is within mainstream and extended support from Microsoft. The Authority will deliver updates and security patches remotely to all end-user devices provided by the Authority on a regular basis to ensure systems are secure and up to date.
20.	The Authority will provide hardware infrastructure necessary for the Contractor and authorised Staff to access the Authority's ICT System within the CIAG Space or such other areas as allocated areas in the Premises. The IT hardware equipment shall include a computer terminal together with the monitor, keyboard and mouse.
21.	The Authority shall allow the Contractor access to at least one printer in the Education area and/or Employment Hub (to be shared with the Authority and other stakeholders) and shall pay for the maintenance and all consumables for this shared machine.
22.	The Authority will host and maintain the Authority Software and ensure that any necessary licences are in place to enable the Contractor to access the same.
23.	The Authority will conduct all necessary security checks on the Authority's ICT System.
24.	The Authority will ensure that relevant licences and agreements are in place to enable the Contractor to access the Labour Market Information Tool and the CV Builder that are available to the Authority.
25.	The Authority will manage Authority's ICT System security including in relation to role-based access, account monitoring, category-based internet access and session monitoring, recording and auditing to support the detection, management and resolution of any security incidents.
26.	The Authority will provide access to a secure area for digital data for the Contractor to store data required to deliver the Services provided that the Contractor adheres to Paragraph 12.5.4 of Schedule 2 ( <i>Specification</i> ).
27.	The Authority will provide the management of the Allow List. The Authority will manage the URL links within the Allow List, where identified. The Authority will manage the security requirements of the Allow List and reserves the right to remove access, including immediately where this is determined as required by the Authority.

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28.	<b>Quality Delivery</b>	The Authority shall provide a copy of any OFSTED report to the Contractor in so far as it relates to the delivery of the Services in the Premises.
29.		The Authority shall provide the Contractor with a version of the QI Templates developed by the Authority where relevant.
30.	<b>Staff</b>	The Authority shall ensure provision and management of Authority personnel to escort Prisoners (as required by the security classification of the Prison) to and from the CIAG Space and such other places within the Prison as the Services are being delivered.
31.	<b>Data Management</b>	The Authority will collate data (as input to the relevant system by the Contractor and others) to calculate the KPIs.
32.		The Authority will ensure that appropriate data sharing agreements are in place with the operators of PMP's, the Probation Services and the Department of Work and Pensions so data can be transferred as set out in Schedule 2 ( <i>Specification</i> ).
33.	<b>CIAG Space</b>	The Authority shall provide the Contractor with a CIAG Space, or alternative space in the Premises where the Services can be provided. This will include the provision of furniture, the supply and payment for heating and lighting, building facilities and maintenance services and access to toilet and welfare facilities for the Staff working in the Premises.
34.		The Authority will provide any the internet / wi-fi connectivity (as permitted by the security constraints of the individual Prison) in the CIAG Space, the Education Hub, and/or the Employment area.
35.	<b>Equalities</b>	The Authority will provide Interpretation Services as referred to in Schedule 2 ( <i>Specification</i> ) to arrange for translation services for Prisoners including other language interpretation, British Sign Language Interpreters, deaf relays, speech to text reporters, lip speakers and deafblind interpreters.
36.	<b>Excluded Prisoners</b>	The Authority shall notify the Contractor if a Prisoner is an Excluded Prisoner. The notification may be by direct communication or, subject to the development of the Authority's ICT System, be an update of the records that the Contractor can access.

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## **SCHEDULE 24 – COLLABORATION**



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**1 DEFINITIONS**

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

<b>"Accession Letter"</b>	has the meaning given to it in the Collaboration Agreement;
<b>"Authority Digital"</b>	means the directorate within MoJ responsible for delivery of the Authority's ICT System;
<b>"CIAG Contractors"</b>	means those suppliers of CIAG services who are a party to the Collaboration Agreement (from time to time);
<b>"Collaboration Agreement"</b>	means the collaboration agreement between the Contractor, CIAG Contractors and the Authority signed on or around the Effective Date and any further CIAG Contractor who accedes pursuant to Clause 5 ( <i>Accession Arrangements</i> ) of the Collaboration Agreement by entering into an Accession Letter, the agreed form of said Collaboration Agreement being appended to this Schedule 24;
<b>"Collaboration Behaviours"</b>	means the behaviours set out in Paragraph 5 of this Schedule 24;
<b>"Collaboration Delivery Partners"</b>	means the Local Parties, Regional Parties and National Parties (the Contractor is included/not included as the context may require);
<b>"Collaboration Sponsor"</b>	means a person appointed pursuant to Paragraph 4.2(d) of this Schedule 24;
<b>"Collaborative Intention"</b>	has the meaning given to it in Paragraph 5.5 of this Schedule 24;
<b>"Collaborative Objectives"</b>	has the meaning given to it in Paragraph 3.3 of this Schedule 24;
<b>"Core Education Provider"</b>	means any supplier of services for educational or related services including at the Authority's discretion the Locally Commissioned Core Education Provider
<b>"DPS Provider"</b>	means any dynamic purchasing system (" <b>DPS</b> ") supplier;
<b>"Joint Collaboration Plan"</b>	has the meaning given to it in Paragraph 6.1 of this Schedule 24;

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<b>"Library Provider"</b>	means any supplier of library services;
<b>"Local Parties"</b>	means those parties identified in Paragraph 2.2.1 of this Schedule;
<b>"Locally Commissioned Core Education Provider"</b>	means a supplier who delivers core education services in a prison which is part of the locally commissioned prison project;
<b>"National Parties"</b>	means those parties identified in Paragraph 2.2.3 and 2.2.4 of this Schedule 24;
<b>"Parties"</b>	has the same meaning under this Contract but for the avoidance of doubt means the Contractor and the Authority;
<b>"PES Contractors"</b>	means the Contractor, Core Education Contractors and CIAG Providers;
<b>"Prisoner Education Service" or "PES"</b>	means the Prisoner Education Service which includes the provision of educational services, library services and CIAG; and
<b>"Regional Parties"</b>	means those parties identified in Paragraph 2.2.2 of this Schedule 24.

## **2 BACKGROUND**

- 2.1 The Authority recognises that increased collaboration improves individuals' ability to problem solve and leads to greater innovation, more efficient processes, and improved communication. The Authority therefore acknowledges that enabling and supporting collaboration will improve the Contractor's ability to deliver the Services to the highest quality. The Authority also acknowledges that enabling and supporting collaboration will ensure that the Authority, the Contractor, and all Collaboration Delivery Partners will deliver a PES that is continually improving and is greater than the sum of its parts.
- 2.2 Accordingly, the Authority expects the Contractor to work collaboratively with the Authority and all Collaboration Delivery Partners in delivering the Services at the local, regional, and national level. More specifically:
- (a) *Locally*, in each Prison, amongst the Contractor, the Core Education Provider for the Prison, the Library Provider for the Prison and the Prison. Plus, any other parties that it would be beneficial to collaborate with, at the discretion of the Authority, such as the Locally Commissioned Core Education Provider, local DPS Providers, local employers and/or Authority Digital.
  - (b) *Regionally*, in each Lot, amongst the Contractor, the Core Education Provider for the Lot, the Library Provider(s) for the Lot and the Authority. Plus, any

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other parties that it would be beneficial to collaborate with, at the discretion of the Authority, such as Locally Commissioned Core Education Provider (even though such provider is appointed to provide services to one prison only), regional DPS Providers, regional employers, and/or Authority Digital.

- (c) *Nationally*, amongst CIAG Contractors and the Authority.
- (d) *Nationally*, amongst PES Contractors and the Authority. Plus, any other parties that it would be beneficial to collaborate with, at the discretion of the Authority, such as large DPS Providers, large employers, independent inspectorates, and/or Authority Digital.

**3 COLLABORATION PRINCIPLES AND COLLABORATIVE OBJECTIVES**

- 3.1 The aim of this Paragraph 3 is to identify the high-level collaboration principles which underpin the delivery of the Parties' obligations under this Contract (and the Collaboration Agreement) and to set out the key factors for a successful relationship between the Parties.
- 3.2 The collaboration principles referred to in Paragraph 3.1 are to:
  - (a) enable and encourage partnership working between the Contractor, Collaboration Delivery Partners, and the Authority at the local, regional and national level;
  - (b) co-develop a shared vision for the Prisoner Education Service, with focus on achieving the best outcomes for Learners, including driving higher quality standards and the best value for money;
  - (c) collectively identify ways to support each other to overcome common issues, jointly develop solutions, drive continuous improvement, and learn from best practice, recognising each other's abilities and limitations; and
  - (d) develop openness and trust in a transparent "no surprises" information and data sharing environment.
- 3.3 This Schedule 24 sets out the obligations of the Authority and Contractor to work cooperatively and collaboratively with each other and others in order to achieve:
  - (a) enhanced quality of the CIAG services Prisoners receive during their time in custody;
  - (b) an integrated approach so Prisoners are aware of the educational opportunities open to them and understand how these will support achievement of their aspirations and secure sustainable employment on release as described in the Specification;

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- (c) the best value for money;
- (d) a shared sense of ownership for the delivery of the CIAG Services;
- (e) a culture of collaboration, innovation and continuous improvement, in order to ensure a joint approach to quality improvement; and
- (f) a service accessible to all, tackling unequal Prisoner access, experience and outcomes,

(together, the "**Collaborative Objectives**").

**4 COLLABORATION ACROSS PES**

4.1 In the course of delivering the Services, there is benefit to the Prisoners and Collaboration Delivery Partners in the Contractor sharing appropriate information, developing quality relationships and/or services and generally working cooperatively and collaboratively with, the Authority, the Collaboration Delivery Partners and others.

4.2 Accordingly, the Authority and the Contractor agree and commit themselves to:

- (a) work collaboratively at the local, regional and national levels in the Collaboration Forums (as more specifically detailed in Schedule 13 (*Governance*)), in order to:
  - (i) *Locally*: solve problems that arise; co-develop the CIAG service and participate in a multi-agency approach to its provision; learn from the experience of others; identify and implement local efficiencies and innovation; and ensure the co-ordination of CIAG services across the Prison.
  - (ii) *Regionally*: solve problems that are common across the Lot; ensure the co-ordination of CIAG services across the Lot; identify and implement efficiencies and innovation at a Lot level; and share case studies and best practice.
  - (iii) *Nationally, amongst CIAG Contractors*: solve problems that are common across the CIAG service; identify and implement national efficiencies and innovation; share case studies and best practice; and determine shared priorities within a Joint Collaboration Plan (as more particularly described in Paragraph 6).
  - (iv) *Nationally*: spotlight and celebrate collaboration successes at a local and regional level; identify national barriers experienced by all Collaboration Delivery Partners and develop strategies to address them; undertake wider forward look and horizon scanning exercises; and drive a whole system approach to the Prisoner Education Service;



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- (b) entering into a Collaboration Agreement between the Authority, the Contractor, and the CIAG Contractors and the Authority may, in its discretion, request any further CIAG Contractors to accede to the Collaboration Agreement by entering into an Accession Letter pursuant to clause 5 (*Accession Arrangements*) of the Collaboration Agreement;
- (c) demonstrating the Collaboration Behaviours (as described in Paragraph 5);
- (d) each appointing a Collaboration Sponsor, who will be an executive level representative tasked with the remit of championing collaboration and innovation at all levels including but not limited to attending the National Level Collaboration Forums (for the Contractor, as described in Schedule 15 (*Key Personnel*));
- (e) preparing for, attending and actively engaging in the Collaboration Forums (in accordance with Schedule 13 (*Governance*)) and any other meetings in connection with the Collaborative Objectives, as may be notified by the Authority to the Contractor from time to time.

## 5 COLLABORATION BEHAVIOURS

5.1 The Contractor agrees and undertakes to collaborate by demonstrating on a regular and continuous basis the following behaviours to a standard satisfactory to the Authority to deliver the Collaborative Objectives:

- (a) innovation and intellectual property sharing and development with:
  - (i) the Authority and wherever possible, the CIAG Contractors; and
  - (ii) the Core Education Providers, the Library Providers and the DPS Providers, where to do so would be of benefit to the Prisoner Education Service;
- (b) knowledge and data sharing through the Collaboration Forums (including, but not limited to, performance data efficiencies, innovation activity, plans and outputs), using best practice to support:
  - (i) CIAG Contractors exhibiting poor performance; and
  - (ii) continuous improvement of PES Contractors and of the Prisoner Education Service more broadly;
- (c) developing quality relationships through openness, flexibility and proactive engagement with the Authority and Collaboration Delivery Partners; and
- (d) showing Collaborative Intention, including proactively suggesting solutions to problems and willingness to try new approaches,



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(the "**Collaboration Behaviours**"), as more particularly described below in Paragraphs 5.2 to 5.5.

#### 5.2 Innovation and Intellectual Property Sharing

- (a) The Contractor shall encourage, identify, implement, capitalise on and share with Collaboration Delivery Partners, opportunities to jointly develop and improve products, services, processes, technologies and intellectual property (for the Contractor in accordance with Clause E1 (*Intellectual Property Rights*)) and/or ideas to deliver better solutions and performance throughout the relationship lifecycle.
- (b) The Contractor shall act responsively to change and shall proactively identify situations where change may be appropriate and empower staff to consider and take managed risks.
- (c) The Contractor shall recognise exceptional performance across the system, regardless of who is responsible for such performance, and where applicable implement processes to achieve such recognition.

#### 5.3 Knowledge and Data Sharing

- (a) The Contractor shall share information, knowledge and data related to the Services and the PES programme with Collaboration Delivery Partners in a spirit of trust and mutual confidence, using best practice to support:
  - (i) the Contractor's efficient delivery of high-quality Services;
  - (ii) the delivery of high-quality education services by other Collaboration Delivery Partners; and
  - (iii) the continuous improvement of PES as a whole.
- (b) The Contractor shall share with Collaboration Delivery Partners information, knowledge and data related to the Services and the PES programme including but not limited to:
  - (i) performance data;
  - (ii) efficiencies;
  - (iii) innovation activity;
  - (iv) plans; and
  - (v) outputs.
- (c) The Contractor shall assess with Collaboration Delivery Partners any information, knowledge and data shared in accordance with Paragraph 5.3(a)



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and utilise it to achieve value and ensure the orderly provision of seamless end to end high quality Services.

- (d) The Contractor shall treat any information, knowledge and data shared in accordance with Paragraph 5.3 as Confidential Information belonging to the divulging Collaboration Delivery Partners and shall not disclose any Confidential Information belonging to any Collaboration Delivery Partners to any other person without the relevant Collaboration Delivery Partner's consent, except to such person and to such extent as may be necessary for the performance of the Collaboration Delivery Partner's obligations under their respective contracts.
- (e) The Contractor shall comply with their respective obligations under the Data Protection Legislation.

#### **5.4 Developing Quality Relationships through Openness, Flexibility and Proactive Engagement**

- (a) The Contractor shall provide cooperation, support, information and assistance to Collaboration Delivery Partners in a proactive, transparent and open way and in a spirit of trust and mutual confidence, to achieve the Collaborative Objectives.
- (b) The Contractor shall act as "one team" with the Collaboration Delivery Partners (i.e. "leave company badges at the door") and collaborate to deliver the Collaborative Objectives, including by:
  - (i) maintaining a genuine cooperative approach through working openly and collaboratively with the Collaboration Delivery Partners to resolve any problems that arise;
  - (ii) engaging in regular and open communication with Collaboration Delivery Partners and avoiding working in "silos";
  - (iii) preparing for and ensuring the attendance and contribution of appropriately qualified and empowered representatives at all meetings (whether held virtually or in-person) in connection with the collaborative operating model, including but not limited to meetings of the Collaboration Forums;
  - (iv) demonstrating a willingness and ability to:
    - (A) listen to Collaboration Delivery Partners' concerns and consider in good faith all constructive feedback without triggering escalation; and
    - (B) provide constructive feedback to Collaboration Delivery Partners where appropriate; and

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- (v) behaving in a supportive and considerate manner to all personnel, regardless of organisation.
- (c) The Contractor shall identify and adopt appropriate types and styles of communications, behaviours and engagement activities with the Collaboration Delivery Partners. This includes the identification of clear lines of engagement and authorities in support of decision making and actively working with Collaboration Delivery Partners to develop and improve the working relationships between delivery teams to promote the Collaborative Objectives.
- (d) The Contractor shall promptly and proactively:
  - (i) identify factors which may compromise or enhance the solution or performance;
  - (ii) analyse the impact and likelihood of such factors;
  - (iii) escalate and mitigate emerging risks; and
  - (iv) exploit opportunities to enhance the solution or performance.

**5.5 Collaborative Intention**

- (a) At all times, the Contractor shall demonstrate:
  - (i) a cooperative and open approach to solution provision;
  - (ii) a willingness to undertake new approaches;
  - (iii) decision-making based on the option that will best support and ensure the efficient delivery of high-quality Services, and the achievement of the Collaborative Objectives,

**("Collaborative Intention").**

**6 JOINT COLLABORATION PLAN**

- 6.1 The Authority acknowledges that the identification of areas for improvement within the Services, and the design and delivery of ways to address them, will be most successful when developed collaboratively by the Authority and the CIAG Contractors.
- 6.2 Through the Provider Level Collaboration Forum, the Contractor (along with other CIAG Contractors, the Authority, and Authority Digital (where relevant)) will prepare and agree a set of actions to address areas of priority for improvement and innovation identified by the Provider Level Collaboration Forum members (the "**Joint Collaboration Plan**"). The setting and delivery of a Joint Collaboration Plan will support the CIAG Contractors to collaborate effectively and deliver higher CIAG



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services within their Lots. The actions agreed within the plan are intended to drive efficiencies and innovation, and support CIAG Contractors to improve their performance and deliver strongly against their KPIs.

6.3 In contributing to the process outlined in Clause 6.2, the Contractor shall:

- (b) on at least an annual basis, bring to the Provider Level Collaboration Forum their ideas for priority areas of improvement and innovation to include within the Joint Collaboration Plan, and/or ideas for specific actions to help achieve these;
- (c) actively contribute to the Provider Level Collaboration Forum members' selection of their preferred priority actions, and to the development of corresponding SMART (specific, measurable, achievable, relevant and time-bound) actions and milestones, to collectively form the core content of the Joint Collaboration Plan;
- (d) deliver its obligations in respect of the agreed Joint Collaboration Plan;
- (e) attend all quarterly Provider Level Collaboration Forums to proactively update the Authority and Core Education Contractors on the progress made against actions over the previous quarter, and any blockers faced; and
- (f) provide written evidence that demonstrates how the agreed outputs within the Joint Collaboration Plan have been successfully delivered to the Authority on an annual basis, or at more frequent intervals by exception if requested by the Authority.

6.4 The Authority will monitor the Contractor's delivery against the Joint Collaboration Plan through internal evaluation mechanisms which will consider both collective, and individual, contributions to achieving the priority actions. The contractual obligation to engage in the process as outlined in Clauses 6.1 to 6.3 means that if the Authority considers (acting reasonably) that the Contractor is not participating, collaborating, or meeting the actions or outputs to a satisfactory level, the Authority may issue an Improvement Notice in accordance with Paragraph 3 in Part B of Schedule 14 (*Key Performance Indicators and Performance Management*) (wherein further details regarding Improvement Notices and the relevant process are outlined).

6.5 The Authority recognises that the true national collaboration described in this Schedule 24 may in some circumstances require national funding. The Authority has created an Innovation & Change Pot which the Authority may, in its absolute discretion, award the Contractor funding from, in accordance with Clause F4 (*Innovation & Change Pot*).

## **7 PRESERVATION OF THE CONTRACTOR'S OBLIGATIONS**

This Schedule 24 is intended to incentivise collaboration between, but not limited to, the Contractor with the Authority, the Prison and the parties identified in Paragraph 2.2. The Contractor's obligations under the Contract shall not be reduced, discharged

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or otherwise adversely affected by this Schedule 24 (including by any variation of this Schedule 24).

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## Appendix 1 – FORM OF COLLABORATION AGREEMENT

# Form of Collaboration Agreement

### Dated

### Between

- (1) The Secretary of State for Justice (the “**MoJ**”); and
- (2) **Each CIAG Contractor** that, in each case, has separately entered into a valid Accession Letter in the form set out in Schedule 2 (*Accession*) of this Collaboration Agreement.

### Recitals

- A The Prisons Strategy 2021 White Paper sets out the MoJ commitment to delivering a transformed Prisoner Education Service (“**PES**”). New education contracts from April 2025 are intended to provide the final stage of transformation and build on the work delivered by MoJ in the 2022-2025 Spending Review period to deliver on the White Paper commitments.
- B PES has three overarching strategic priorities: 1) improving the numeracy and literacy of all prisoners who need it; 2) incentivising prisoners to improve their qualifications and skills to increase their prospects of finding work and integrating back into society; and 3) ensuring that governors and their teams have the knowledge, tools, support, and accountabilities that they need to lead this work.
- C MoJ, as part of this programme of work, has engaged numerous Collaboration Delivery Partners including CIAG Contractors to deliver various components of PES. MoJ want to fully embrace a whole-system approach to improving prisoner education and collectively maximise its effort and impact to ensure that the service delivered that is greater than the sum of its individual parts.
- D By putting collaboration firmly at the heart of education, skills and work delivery, MoJ alongside the Collaboration Delivery Partners will drive collective success and improve the learning environment and experience of prisons, staff and most importantly

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prisoners. In order to promote the seamless collaborative delivery of PES, the Parties have recognised the need to work together on the terms set out in this Collaboration Agreement.

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It is agreed

**2 DEFINITIONS AND INTERPRETATION****2.1 Definitions**

**“Accession Letter”** means a letter substantially in the form set out in Schedule 2 (*Accession*) of this Collaboration Agreement.

**“CIAG Contractors”** has the meaning given to it in Schedule 1 (*Agreed Form Schedule 24 (Collaboration)*) of this Collaboration Agreement.

**“Collaboration Delivery Partners”** has the meaning given to it in Schedule 1 (*Agreed Form Schedule 24 (Collaboration)*) of this Collaboration Agreement.

**“Collaboration Software”** has the meaning given to it in the Services Agreement.

**“Collaboration Specific IPR”** has the meaning given to it in the Services Agreement.

**“Commencement Date”** means the date of execution by MoJ of this Collaboration Agreement.

**“Confidential Information”** has the meaning given to it in the Services Agreement.

**“Dispute”** has the meaning given to it in the relevant Services Agreement.

**“Dispute Resolution Procedure”** has the meaning given to it in the relevant Services Agreement.

**“Expiry Date”** means the date on which this Collaboration Agreement expires which shall be the date on which all of the Services Agreements have been terminated (for any reason whatsoever) or have expired.

**“Know-How”** has the meaning given to it in the relevant Services Agreement.

**“Party”** means any person who is a party to this Collaboration Agreement being, at the Commencement Date, MoJ and the CIAG Contractor(s).

**“Services Agreements”** means the agreements entered into between MoJ and each CIAG Contractor (respectively) for the purpose of PES.

**2.2 Interpretation**

In this Collaboration Agreement, except where the context otherwise requires:

- (g) the singular includes the plural and vice versa;

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- (h) a reference in this Collaboration Agreement to any Clause, Paragraph, Schedule or Annex is, except where it is expressly stated to the contrary, a reference to such clause, paragraph, schedule or annex of this Collaboration Agreement;
- (i) save where otherwise provided in this Collaboration Agreement, any reference to this Collaboration Agreement or to any other document shall include any permitted variation, amendment, or supplement to such document;
- (j) any reference to a person includes firms, partnerships and corporations and their successors and permitted assignees or transferees;
- (k) headings are for convenience of reference only;
- (l) words preceding **include**, **including** and **included** shall be construed without limitation by the words which follow those words;
- (m) any obligation on a Party to do any act, matter or thing includes, unless expressly stated otherwise, an obligation to procure that it is done;
- (n) subject to any express provisions of this Collaboration Agreement to the contrary, the obligations of any Party are to be performed at that Party's own cost and expense;
- (o) the Schedules and Appendices to this Collaboration Agreement (and the Annexes to such Schedules and Appendices) form part of this Collaboration Agreement; and
- (p) in the event of and only to the extent of any conflict between the provisions of the Services Agreements and this Collaboration Agreement, the conflict shall be resolved in accordance with the following order of precedence:
  - (i) the relevant Services Agreement; and then
  - (ii) this Collaboration Agreement.

**3 PURPOSE**

- 3.1 Collaboration and partnership working will be crucial across the education, skills and work landscape for successful delivery of a reformed service. To help enable this, it will be fundamentally important that all those involved in the delivery and operation of prisoner education feel, act and behave as if they are part of a single service. MoJ want their Collaboration Delivery Partners, prisons, regions, and national teams to have a shared vision and endeavour to meaningfully collaborate to deliver this.
- 3.2 Increased collaboration improves the way all parties work together, improves the ability to collectively problem solve, leads to greater innovation, more efficient processes and

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improved communication. MoJ expect prisons to be of the centre of that collaboration - leading by example to demonstrate collaborative behaviours and taking a joint approach to problem solving and sharing best practice.

3.3 MoJ expect their Collaboration Delivery Partners to take a proactive approach to identifying and implementing local efficiencies and innovation, sharing a common sense of purpose and striving to achieve the same shared objectives:

- (a) enhancing the quality of the education prisoners receive during their time in custody;
- (b) embedding a golden thread of learning, avoiding the repetition of education stages each time prisoners move between prisons, thereby ensuring a more efficient provision of services;
- (c) delivering the best value for money;
- (d) developing a shared sense of ownership for the delivery of the Prisoner Education Service;
- (e) embedding a culture of collaboration, innovation and continuous improvement, in order to ensure a joint approach to quality improvement; and
- (f) delivering a service accessible to all, tackling unequal prisoner access, experience and outcomes,

(together, the "**Collaborative Objectives**").

**4 COLLABORATION REQUIREMENTS**

4.1 In order to achieve the Collaborative Objectives, each CIAG Contractor shall comply with the obligations as set out in the Schedule 24 (*Collaboration*) to the Services Agreement, the agreed form as appended to this Collaboration Agreement in Schedule 1 (*Agreed Form Schedule 24 (Collaboration)*).

4.2 Where there is any Collaboration Software and/or Collaboration Specific IPR (except for any Know-How, trade secrets or Confidential Information) developed as a part of this Collaboration Agreement, this shall be the property of MoJ, as more fully detailed in the Services Agreement.

**5 VARIATIONS**

No variation of this Collaboration Agreement will be valid unless it is in writing and signed by or on behalf of all Parties.

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Following the Commencement Date, MoJ may, in its discretion, request any further CIAG Contractors to accede to this Collaboration Agreement by entering into an Accession Letter.

**7 ASSIGNMENT**

The rights and obligations of any Party under this Collaboration Agreement shall not be assigned, novated or otherwise transferred to any person other than a person acquiring the rights and obligations of the relevant Party under any of the Services Agreements unless otherwise agreed by the Parties in writing.

**8 TERMINATION**

8.1 This Collaboration Agreement may be terminated prior to the Expiry Date:

- (a) by the written agreement of all of the Parties; or
- (b) by MoJ serving not less than 120 days' written notice upon the other Parties stating that MoJ is terminating this Collaboration Agreement.

8.2 A CIAG Contractor shall cease to be a party to this Collaboration Agreement:

- (a) upon the termination (howsoever caused) or expiry of its Services Agreement; or
- (b) by the written agreement of all of the Parties (including the CIAG Contractor concerned).

**9 NOTICES**

All notices required to be issued under this Collaboration Agreement shall be in writing and served by sending the same by first class post or by hand, leaving the same at the relevant address specified in this Collaboration Agreement or a relevant Accession Letter.

**10 DISPUTE RESOLUTION PROCEDURE**

10.1 If a Dispute arises out of or in connection with this Collaboration Agreement:

- (a) if the Dispute is between MoJ and a CIAG Contractor, the affected Parties shall follow the Dispute Resolution Procedure set out in the relevant Services Agreement;
- (b) if the Dispute is between MoJ and two or more CIAG Contractors, the affected Parties shall follow the same process for resolving disputes as detailed in the Dispute Resolution Procedure set out in the relevant Services Agreement, save



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that any references to "the Contractor" shall be deemed amended to say "the CIAG Contractor(s)", as appropriate in the context; and

- (c) if the Dispute is between two or more CIAG Contractors, the affected Parties shall follow the same process for resolving disputes as detailed in the Dispute Resolution Procedure set out in the relevant Services Agreement, save that any references to "the Authority" or "the Contractor" shall be deemed amended to say "each Party" or "the other Party(ies)" as appropriate in the context.

**11 GOVERNING LAW AND JURISDICTION**

- 11.1 This Collaboration Agreement and any contractual or non-contractual obligations arising from or connected with it shall be governed by English law and this Collaboration Agreement shall be construed in accordance with English law.
- 11.2 Each of the Parties irrevocably submits to the exclusive jurisdiction of the English courts and waives any objection to proceedings in such courts on the grounds of venue or on the grounds that proceedings have been brought in an inappropriate forum.

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**Schedule 1 – Agreed Form Schedule 24 (*Collaboration*)**

**OFFICIAL SENSITIVE****Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****Schedule 2 - Accession**

To: The Secretary of State for Justice (“**MoJ**”) and [Enter names of existing CIAG Contractor]

From: [Enter name of new CIAG Contractor] (“**New CIAG Contractor**”).

Dated: [\*\* ]

- (a) We refer to the Collaboration Agreement dated [ ] (the “**Collaboration Agreement**”) a copy of which is annexed to this letter. This is an Accession Letter as referred to in Clause 5 of the Collaboration Agreement. Terms defined in the Collaboration Agreement have the same meaning in this Accession Letter unless given a different meaning in this Accession Letter.
- (b) The New CIAG Contractor, as requested by the MoJ, agrees to become a Party to the Collaboration Agreement and to be bound by the terms of the Collaboration Agreement as a CIAG Contractor pursuant to Clause 5 (*Accession Arrangements*) of the Collaboration Agreement.
- (c) The New CIAG Contractor is a company duly incorporated under the laws of [name of relevant jurisdiction].
- (d) For the purposes of Clause 8 (*Notices*), the New CIAG Contractor's administrative details are as follows:

Address: \*\*

Fax: \*\*

Attention: \*\*

- (e) This Accession Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

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## **SCHEDULE 25 – FINANCIAL DISTRESS**

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**Part 1– FINANCIAL DISTRESS MECHANICS**

**1 DEFINITIONS**

1.1 In this Schedule 25, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Accounting Reference Date"</b>	means in each year the date to which the Contractor prepares its annual audited financial statements;
<b>"Assurance"</b>	means written confirmation from a Relevant Authority to the Contractor that the CRP Information is approved by the Relevant Authority;
<b>"Cabinet Office Markets and Suppliers Team"</b>	means the UK Government's team responsible for managing the relationship between government and its Strategic Suppliers, or any replacement or successor body carrying out the same function;
<b>"Credit Rating Threshold"</b>	the minimum credit rating level as set out in Appendix 2 for the Contractor and the Guarantor (if applicable) and for each Key Sub-Contractor (if applicable);
<b>"Critical National Infrastructure"</b>	means those critical elements of UK national infrastructure (namely assets, facilities, systems, networks or processes and the essential workers that operate and facilitate them), the loss or compromise of which could result in: <ul style="list-style-type: none"> <li>(a) major detrimental impact on the availability, integrity or delivery of essential services – including those services whose integrity, if compromised, could result in significant loss of life or casualties – taking into account significant economic or social impacts; and/or</li> <li>(b) significant impact on the national security, national defence, or the functioning of the UK;</li> </ul>
<b>"Critical Service Contract"</b>	means the overall status of the Services provided under this Contract as determined by the Authority and specified in Paragraph 7.1 of Part 2 to this Schedule 25;
<b>"CRP Information"</b>	means the Corporate Resolution Planning Information which the Contractor is obliged to provide under Paragraph 8 of Part 2 of this Schedule 25 including the: <ul style="list-style-type: none"> <li>(a) Exposure Information (Contracts List);</li> </ul>

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- (b) Corporate Resolvability Assessment (Structural Review); and
- (c) Financial Information and Commentary;

**"Financial Distress Event"**

the occurrence or one or more of the following events:

- (a) the credit rating of the Contractor, the Guarantor (if applicable) or any Key Sub-Contractor dropping below the applicable Credit Rating Threshold;
- (b) the Contractor, the Guarantor (if applicable) or any Key Sub-Contractor issuing a profits warning to a stock exchange or making any other public announcement about a material deterioration in its financial position or prospects;
- (c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of the Contractor, or the Guarantor (if applicable) or any Key Sub-Contractor;
- (d) the Contractor, the Guarantor (if applicable) or any Key Sub-Contractor committing a material breach of covenant to its lenders;
- (e) a Key Sub-Contractor (where applicable) notifying the Authority that the Contractor has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute;
- (f) a qualified audit opinion in respect of any of the Contractor, the Guarantor (if applicable) or any Key Sub-Contractor is included in the annual accounts of them as filed at Companies House;
- (g) the Contractor, the Guarantor (if applicable) or any Key Sub-Contractor extending the filing period for filing its accounts with the Registrar of Companies so that the filing period ends more than nine (9) months after its Accounting Reference Date without an explanation to the Authority which the Authority (acting reasonably) considers to be adequate;
- (h) the Contractor, the Guarantor (if applicable) or any Key Sub-Contractor being late to file its annual accounts without a public notification or an explanation to the



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Authority which the Authority, acting reasonably, considers to be adequate;

- (i) any of the following:
- i) the Contractor, the Guarantor (if applicable) or any Key Sub-Contractor making a public announcement which contains adverse commentary with regards to the Contractor's or the Guarantor's liquidity and trading and trading prospects, such as but not limited to, a profit warning or ability to trade as a going concern;
  - ii) commencement of any litigation against the Contractor, the Guarantor (if applicable) or any Key Sub-Contractor with respect to financial indebtedness greater than two million pounds sterling (£2 million) or obligations under a service contract with a total contract value greater than two million pounds sterling (£2 million);
  - iii) non-payment by the Contractor, the Guarantor (if applicable) or any Key Sub-Contractor of any financial indebtedness;
  - iv) any financial indebtedness of the Contractor, the Guarantor (if applicable) or any Key Sub-Contractor becoming due as a result of an event of default; or
  - v) the cancellation or suspension of any financial indebtedness in respect of the Contractor, the Guarantor (if applicable) or any Key Sub-Contractor,

in each case which the Authority reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance and delivery of the Services in accordance with this Contract; and

- (j) any one of the Financial Indicators set out at Paragraph 5.1 for any one of the Contractor, the Guarantor (if applicable) or any Key Sub-Contractor failing to meet the required Financial Target Threshold;

**“Financial Distress Remediation Plan”**

a plan setting out how the Contractor will ensure the continued performance and delivery of the Services in accordance with this Contract in the event that a Financial Distress Event occurs. This plan should include what the

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Authority would need to put in place to ensure performance and delivery of the Services in accordance with this Contract up to and including any Insolvency Event in respect of the Contractor, the Guarantor (if applicable) or any Key Sub-Contractor and may refer to the Insolvency Continuity Plan in this regard;

<b>"Parent Undertakings"</b>	has the meaning set out in section 1162 of the Companies Act 2006;
<b>"Public Sector Dependant Contractor"</b>	means a contractor where that contractor, or that contractor's group has Annual Revenue of fifty million pounds sterling (£50 million) or more of which over 50% is generated from UK Public Sector Business;
<b>"Rating Agencies"</b>	means the rating agencies listed in Appendix 1;
<b>"Relevant Authority"</b>	means the Authority and the Cabinet Office Markets and Suppliers Team or, where the Contractor is a Strategic Supplier, the Cabinet Office Markets and Suppliers Team;
<b>"Strategic Supplier(s)"</b>	means those contractors to government listed at <a href="https://www.gov.uk/government/publications/strategic-suppliers">https://www.gov.uk/government/publications/strategic-suppliers</a> ;
<b>"UK Public Sector Business"</b>	means any goods, service or works provision to UK public sector bodies, including central Government departments (" <b>Departments</b> ") and their arm's length bodies and agencies, non-departmental public bodies, NHS bodies, local authorities, health bodies, police, fire and rescue, education bodies and devolved administrations; and
<b>"Valid"</b>	means in respect of an Assurance, has the meaning given to it in Paragraph 8.7 of Part 2 to this Schedule 25.



**OFFICIAL SENSITIVE****Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****2 INTRODUCTION**

- 2.1 The Parties shall comply with the provisions of this Schedule 25 in relation to the assessment of the financial standing of the Contractor, the Guarantor (if applicable) and any Key Sub-Contractor and the consequences of a change to that financial standing.

**3 WARRANTY AND DUTY TO NOTIFY**

- 3.1 The Contractor warrants and represents to the Authority for the benefit of the Authority that as at the Effective Date:
- (a) the long-term credit ratings issued for the Contractor, the Guarantor (if applicable) and any Key Sub-Contractor by each of the Rating Agencies are as set out in Appendix 2 of this Schedule 25; and
  - (b) the financial position or, as appropriate, the financial performance of each of the Contractor, the Guarantor (if applicable) and any Key Sub-Contractor satisfies the Financial Target Thresholds.
- 3.2 If for any reason the financial standing of the Contractor, the Guarantor (if applicable) or any Key Sub-Contractors changes for any reason from that assessed at the Invitation to Tender stage in accordance with the financial viability and risk assessment ratios used at that stage, then the Contractor shall promptly notify the Authority. The Authority will then be entitled to undertake an assessment of whether the notified circumstances are an indicator of financial distress.
- 3.3 Without prejudice to Paragraph 3.2 above, the Contractor shall promptly (and in any event within five (5) Working Days of the occurrence of the downgrade) notify (or shall procure that its auditors promptly notify) the Authority in writing if there is any downgrade in the credit rating issued by any Rating Agency for the Contractor, the Guarantor (if applicable) or any Key Sub-Contractor.
- 3.4 The Contractor shall:
- (a) regularly monitor:
    - (i) the credit ratings of the Contractor, the Guarantor (if applicable) and each Key Sub-Contractor with the Rating Agencies; and
    - (ii) and report on the Financial Indicators for each of the Contractor, the Guarantor (if applicable) and any Key Sub-Contractor against the Financial Target Thresholds at least at the frequency set out for each at Paragraph 5.1 (where specified) and in any event, on a regular basis and no less than once a year within one hundred and twenty (120) days after the Accounting Reference Date;
  - (b) promptly notify (or shall procure that its auditors promptly notify) the Authority in writing following the occurrence of a Financial Distress Event or any fact,



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circumstance or matter which could cause a Financial Distress Event (and in any event, ensure that such notification is made within ten (10) Working Days of the date on which the Contractor first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event).

- 3.5 For the purposes of determining whether a Financial Distress Event has occurred pursuant to limb (a) of the definition of a Financial Distress Event, and for the purposes of determining relief under Paragraph 6.1, the credit rating of the Contractor, the Guarantor (if applicable) or any Key Sub-Contractor (as the case may be) shall be deemed to have dropped below the applicable Credit Rating Threshold if:
- (a) any of the Rating Agencies have given a credit rating level for that entity which is below the applicable Credit Rating Threshold; or
  - (b) a Rating Agency that is specified as holding a credit rating for entity as set out at Appendix 2 of this Schedule 25 ceases to hold a credit rating for that entity.
- 3.6 Each report submitted by the Contractor pursuant to Paragraph 3.4(a)(ii) shall:
- (a) be a single report with separate sections for each of the Contractor, the Guarantor (if applicable) and any Key Sub-Contractor;
  - (b) contain a sufficient level of information to enable the Authority to verify the calculations that have been made in respect of the Financial Indicators;
  - (c) include key financial and other supporting information (including any accounts data that has been relied on) as separate appendices;
  - (d) be based on the audited accounts for the date or period on which the Financial Indicator is based or, where the Financial Indicator is not linked to an accounting period or an accounting reference date, on unaudited management accounts prepared in accordance with their normal timetable; and
  - (e) include a history of the Financial Indicators reported by the Contractor in graph form to enable the Authority to easily analyse and assess the trends in financial performance.

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- 4.1 Immediately upon notification by the Contractor of a Financial Distress Event (or if the Authority becomes aware of a Financial Distress Event without notification and brings the event to the attention of the Contractor), the Contractor shall have the obligations and the Authority shall have the rights and remedies as set out in Paragraphs 4.3 to 4.6.
- 4.2 In the event of a late or non-payment of a Key Sub-Contractor pursuant to limb (e) of the definition of a Financial Distress Event, the Authority shall not exercise any of its rights or remedies under Paragraph 4.3 without first giving the Contractor ten (10) Working Days to:
- (a) rectify such late or non-payment; or
  - (b) demonstrate to the Authority's reasonable satisfaction that there is a valid reason for late or non-payment.
- 4.3 The Contractor shall (and shall procure that the Guarantor (if applicable) and/or any relevant Key Sub-Contractor shall):
- (a) at the request of the Authority, meet the Authority as soon as reasonably practicable (and in any event within three (3) Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Authority may permit or notify to the Contractor in writing) to review the effect of the Financial Distress Event on the continued performance and delivery of the Services in accordance with this Contract; and
  - (b) where the Authority reasonably believes (taking into account the discussions and any representations made under Paragraph 4.3(a)) that the Financial Distress Event could impact on the continued performance and delivery of the Services in accordance with this Contract:
    - (i) submit to the Authority for its Approval, a draft Financial Remediation Plan as soon as reasonably practicable (and in any event, within ten (10) Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Authority may permit and notify to the Contractor in writing); and
    - (ii) to the extent that it is legally permitted to do so and subject to Paragraph 4.8, provide such information relating to the Contractor, the Guarantor (if applicable) and/or any Key Sub-Contractor as the Authority may reasonably require.

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- 4.4 The Authority shall not withhold its approval of a draft Financial Distress Remediation Plan unreasonably. If the Authority does not (acting reasonably) approve the draft Financial Distress Remediation Plan, it shall inform the Contractor of its reasons and the Contractor shall take those reasons into account in the preparation of a further draft Financial Distress Remediation Plan, which shall be resubmitted to the Authority within five (5) Working Days of the rejection of the first or subsequent draft(s) (as the case may be). This process shall be repeated until the Financial Distress Remediation Plan is:
- (a) Approved by the Authority;
  - (b) referred, by notice sent by either Party to the other Party explaining why it thinks the Financial Distress Remediation Plan has not been approved, to commercial negotiation led by senior representatives who have authority to agree the Financial Distress Remediation Plan to be held within twenty-eight (28) days of the date of the notice; or
  - (c) finally rejected by the Authority.
- 4.5 The Authority reserves the right to require that the Contractor include the provision of a guarantee (in the form set out in Schedule 19 (*Parent Company Guarantee*)) by a suitable guarantor as part of its consideration of the Financial Distress Remediation Plan.
- 4.6 Following Approval of the Financial Distress Remediation Plan by the Authority, the Contractor shall:
- (a) on a regular basis (which shall not be less than fortnightly):
    - (i) review and make any updates to the Financial Distress Remediation Plan as the Contractor may deem reasonably necessary and/or as may be reasonably requested by the Authority, so that the plan remains adequate, up to date and ensures the continued performance and delivery of the Services in accordance with this Contract; and
    - (ii) provide a written report to the Authority setting out its progress against the Financial Distress Remediation Plan, the reasons for any changes made to the Financial Distress Remediation Plan by the Contractor and/or the reasons why the Contractor may have decided not to make any changes;
  - (b) where updates are made to the Financial Distress Remediation Plan in accordance with Paragraph 4.6(a), submit an updated Financial Distress Remediation Plan to the Authority for its approval, and the provisions of Paragraphs 4.4 and 4.6(a) shall apply to the review and approval process for the updated Financial Distress Remediation Plan; and

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- (c) comply with the Financial Distress Remediation Plan (including any updated Financial Distress Remediation Plan) and ensure that it achieves the financial and performance requirements set out in the Financial Distress Remediation Plan.
- 4.7 Where the Contractor reasonably believes that the relevant Financial Distress Event under Paragraph 4.1 (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Authority and subject to the agreement of the Parties, the Contractor may be relieved of its obligations under Paragraph 4.6.
- 4.8 The Contractor shall use reasonable endeavours to put in place the necessary measures to ensure that the information specified at Paragraph 4.3(b)(ii) is available when required and on request from the Authority and within reasonable timescales. Such measures may include:
  - (a) obtaining in advance written authority from Key Sub-Contractors and/or the Guarantor (if applicable) authorising the disclosure of the information to the Authority and/or entering into confidentiality agreements which permit disclosure;
  - (b) agreeing in advance with the Authority, Key Sub-Contractors and/or the Guarantor (if applicable) a form of confidentiality agreement to be entered by the relevant parties to enable the disclosure of the information to the Authority;
  - (c) putting in place any other reasonable arrangements to enable the information to be lawfully disclosed to the Authority (which may include making price sensitive information available to Authority nominated personnel through confidential arrangements, subject to their consent); and
  - (d) disclosing the information to the fullest extent that it is lawfully entitled to do so, including through the use of redaction, anonymisation and any other techniques to permit disclosure of the information without breaching a duty of confidentiality.

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## **5 FINANCIAL INDICATORS**

5.1 Subject to the calculation methodology set out at Appendix 3 of this Schedule 25, the Financial Indicators and the corresponding calculations and thresholds used to determine whether a Financial Distress Event has occurred in respect of those Financial Indicators, shall be as follows:

<b>Financial Indicator</b>	<b>Calculation<sup>1</sup></b>	<b>Financial Target Threshold:</b>	<b>Monitoring and Reporting Frequency (if different from the default position set out in Paragraph 3.4(a)(ii))</b>
<b>1</b> <b>Net Interest Paid Cover</b>	<i>Net Interest Paid Cover = Earnings Before Interest and Tax / Net Interest Paid</i>	<i>&lt; 3.0 times</i>	<i>Tested and reported yearly in arrears within ninety (90) days of each Accounting Reference Date based upon figures for the twelve (12) Months ending on the relevant Accounting Reference Date</i>
<b>2</b> <b>Acid Ratio</b>	<i>Acid Ratio = (Current Assets – Inventories) / Current Liabilities</i>	<i>&lt; 0.8 times</i>	<i>Tested and reported yearly in arrears within ninety (90) days of each Accounting Reference Date based upon figures for the twelve (12) Months ending on the relevant Accounting Reference Date</i>
<b>3</b> <b>Net Asset Value</b>	<i>Net Asset Value = Net Assets</i>	<i>&lt; £0</i>	<i>Tested and reported yearly in arrears within ninety (90) days of each Accounting Reference Date based upon figures for the twelve (12) Months ending on the relevant Accounting Reference Date</i>
<b>4</b> <b>Group Exposure Ratio</b>	<i>Group Exposure = Balances owed by Group Undertakings + Contingent liabilities assumed in support of Group Undertakings</i>	<i>&gt;50 %</i>	<i>Tested and reported yearly in arrears within ninety (90) days of each Accounting Reference Date based upon figures for the twelve (12) Months ending on the relevant Accounting Reference Date</i>

<sup>1</sup> Key: See Appendix 3 of this Schedule 25 which sets out the calculation methodology to be used in the calculation of each Financial Indicator.

**OFFICIAL SENSITIVE****Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))****6 PRIMACY OF CREDIT RATINGS**

6.1 Without prejudice to the Contractor's obligations and the Authority's rights and remedies under Paragraph 3, if, following the occurrence of a Financial Distress Event pursuant to limbs (b) to (j) of the definition of a Financial Distress Event, the Rating Agencies review and report subsequently that the credit ratings of the Contractor, the Guarantor (if applicable) and/or any Key Sub-Contractor does not drop below the relevant Credit Rating Threshold, then:

- (a) the Contractor shall be relieved automatically of its obligations under Paragraphs 4.3 to 4.6; and
- (b) the Authority shall not be entitled to require the Contractor to provide financial information in accordance with Paragraph 4.3(b)(ii).

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- 7.1 This Contract is a Critical Service Contract.
- 7.2 The Contractor shall notify the Authority in writing within five (5) Working Days of the Effective Date and throughout the Term within one hundred and twenty (120) days after each Accounting Reference Date as to whether or not it is a Public Sector Dependant Contractor.

**8 PROVISION OF CORPORATE RESOLUTION PLANNING (CRP) INFORMATION**

- 8.1 Paragraphs 8 and 9 of this Part 2 shall apply if this Contract has been specified as a Critical Service Contract under Paragraph 7.1 of this Part 2 or the Contractor is or becomes a Public Sector Dependant Contractor.
- 8.2 Subject to Paragraphs 8.6, 8.10 and 8.11 of this Part 2:
- (a) where this Contract is a Critical Service Contract, the Contractor shall provide the Relevant Authority with the CRP Information within sixty (60) days of the Effective Date; and
  - (b) except where it has already been provided in accordance with Paragraph 8.2(a) of this Part 2, where the Contractor is a Public Sector Dependant Contractor, it shall provide the Relevant Authority with the CRP Information within sixty (60) days of the date of the Relevant Authority's request.
- 8.3 The Contractor shall ensure that the CRP Information:
- (a) is full, comprehensive, accurate and up to date;
  - (b) is split into two parts:
    - (i) Group Structure Information and Resolution Commentary (see Appendix 4); and
    - (ii) UK Public Service / CNI Contract Information (see Appendix 5),
- and is structured and presented in accordance with the requirements and explanatory notes set out at Appendix I of the latest published version of the Resolution Planning Guidance published by the Cabinet Office Government Commercial Function and available at <https://www.gov.uk/government/publications/the-outsourcing-playbook> and contains the level of detail required (adapted as necessary to the Contractor's circumstances);





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- (c) incorporates any additional commentary, supporting documents and evidence which would reasonably be required by the Relevant Authority to understand and consider the information for approval;
  - (d) provides a clear description and explanation of the Contractor's and its Affiliates' members that have agreements for goods, services or works provision in respect of UK Public Sector Business and/or Critical National Infrastructure and the nature of those agreements; and
  - (e) complies with the requirements set out at Appendix 4 (*Group Structure Information and Resolution Commentary*) and Appendix 5 (*UK Public Sector/CNI Contract Information*) respectively.
- 8.4 Following receipt by the Relevant Authority of the CRP Information pursuant to Paragraphs 8.2, 8.8 and 8.9 of this Part 2, the Contractor and the Relevant Authority shall discuss in good faith the contents of the CRP Information and:
- (a) where the Authority is the Relevant Authority, the Authority shall; or
  - (b) where the Cabinet Office Markets and Suppliers Team is the Relevant Authority, the Authority shall use reasonable endeavours to procure that the Cabinet Office Markets and Suppliers Team shall,
- no later than sixty (60) days after the date on which the CRP Information was delivered by the Contractor either provide an Assurance to the Contractor that it approves the CRP Information or that it rejects it.
- 8.5 If the Relevant Authority rejects the CRP Information:
- (a) the Authority shall (and shall procure that the Cabinet Office Markets and Suppliers Team shall) inform the Contractor in writing of its reasons for its rejection; and
  - (b) the Contractor shall revise the CRP Information, taking reasonable account of the Relevant Authority's comments, and shall re-submit the CRP Information to the Relevant Authority for approval within thirty (30) days of the date of the Relevant Authority's rejection. The provisions of Paragraph 8.3 to 8.5 of this Part 2 shall apply again to any resubmitted CRP Information provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

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- 8.6 Where the Contractor has already provided CRP Information to a Department (or, in the case of a Strategic Supplier, to the Cabinet Office Markets and Suppliers Team) and has received an Assurance of its CRP Information from that Department (or, in the case of a Strategic Supplier, from the Cabinet Office Markets and Suppliers Team), then provided that the Assurance remains Valid, the Contractor shall not be required to provide the CRP Information or updated CRP Information under Paragraphs 8.2 and 8.8(a) to 8.8(c) of this Part 2 if it provides a copy of the Valid Assurance to the Authority on or before the date on which the CRP Information would otherwise have been required.
- 8.7 An Assurance shall be deemed Valid for the purposes of Paragraph 8.6 of this Part 2 if:
- (a) in respect of the Contractor's obligations under Paragraph 8.2:
    - (i) the CRP Information on which the Assurance was based was provided to the Department providing the Assurance (or, in the case of Strategic Suppliers, to the Cabinet Office Markets and Suppliers Team) within the twelve (12) Months prior to the deadline by which the CRP Information would otherwise have been required under Paragraph 8.2; and
    - (ii) no Change of Control or Financial Distress Events (or events which would be deemed to be a Change of Control or Financial Distress Events if this Contract had then been in force) have occurred since the date on which the CRP Information was provided; and
  - (b) in respect of the Contractor's obligations under Paragraphs 8.8(a) to 8.8(c), the CRP Information on which the Assurance was based was provided to the Department providing the Assurance (or, in the case of Strategic Suppliers, to the Cabinet Office Markets and Suppliers Team) after the date of the event triggering the obligation to provide the CRP Information under Paragraphs 8.8(a) to 8.8(c).
- 8.8 Subject to Paragraph 8.6, if this Contract is a Critical Service Contract, the Contractor shall provide an updated version of the CRP Information (or, in the case of Paragraph 8.8(c) of this Part 2 its initial CRP Information) to the Relevant Authority:
- (a) within fourteen (14) days of the occurrence of a Financial Distress Event (along with any additional highly confidential information no longer exempted from disclosure under Paragraph 8.11 of this Part 2) unless the Contractor is relieved of the consequences of the Financial Distress Event under Paragraph 6.1 of this Schedule 25;
  - (b) within thirty (30) days of a Change of Control unless not required pursuant to Paragraph 8.10;
  - (c) within thirty (30) days of the date that:

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- (i) the credit rating(s) of each of the Contractor and its Parent Undertakings fail to meet any of the criteria specified in Paragraph 8.10; or
    - (ii) none of the credit rating agencies specified at Paragraph 8.10 hold a public credit rating for the Contractor or any of its Parent Undertakings; and
  - (d) in any event, within six (6) Months after each Accounting Reference Date or within fifteen (15) months of the date of the previous Assurance received from the Relevant Authority (whichever is the earlier), unless:
    - (i) updated CRP Information has been provided under any of Paragraphs 8.8(a), 8.8(b) or 8.8(c) since the most recent Accounting Reference Date (being no more than twelve (12) Months previously) within the timescales that would ordinarily be required for the provision of that information under this Paragraph 8.8(d); or
    - (b) unless not required pursuant to Paragraph 8.10.
- 8.9 Where the Contractor is a Public Sector Dependant Contractor and this Contract is not a Critical Service Contract, then on the occurrence of any of the events specified in Paragraphs 8.8(a) to 8.8(d) of this Part 2, the Contractor shall provide at the request of the Relevant Authority and within the applicable timescales for each event as set out in Paragraph 8.8 (or such longer timescales as may be notified to the Contractor by the Authority), the CRP Information to the Relevant Authority.
- 8.10 Where the Contractor or a Parent Undertaking of the Contractor has a credit rating of either:
- (a) A2 or better from Moody's;
  - (b) AA- or better from Standard and Poors;
  - (c) A- or better from Fitch;
  - (d) 1A - or better from Dun and Bradstreet,
- the Contractor will not be required to provide the CRP Information unless or until either (i) a Financial Distress Event occurs (unless the Contractor is relieved of the consequences of the Financial Distress Event under Paragraph 6.1 of this Schedule 25) or (ii) the Contractor and its Parent Undertakings cease to fulfil the criteria set out in this Paragraph 8.10, in which cases the Contractor shall provide the updated version of the CRP Information in accordance with Paragraph 8.8.
- 8.11 Subject to Paragraph 4, where the Contractor demonstrates to the reasonable satisfaction of the Relevant Authority that a particular item of CRP Information is highly confidential, the Contractor may, having orally disclosed and discussed that information with the Relevant Authority, redact or omit that information from the CRP Information provided that if a Financial Distress Event occurs, this exemption shall no

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longer apply and the Contractor shall promptly provide the relevant information to the Relevant Authority to the extent required under Paragraph 8.8.

**9 CONFIDENTIALITY AND USAGE OF CRP INFORMATION**

- 9.1 The Authority agrees to keep the CRP Information confidential and use it only to understand the implications of an Insolvency Event of the Contractor and/or Contractor and its Affiliates' members on its UK Public Sector Business and/or services in respect of CNI and to enable contingency planning to maintain service continuity for end users and protect CNI in such eventuality.
- 9.2 Where the Relevant Authority is the Cabinet Office Markets and Suppliers Team, at the Contractor's request, the Authority shall use reasonable endeavours to procure that the Cabinet Office enters into a confidentiality and usage agreement with the Contractor containing terms no less stringent than those placed on the Authority under Paragraph 9.1 of this Part 2 and Clause D3 (*Confidential Information*).
- 9.3 The Contractor shall use reasonable endeavours to obtain consent from any third party which has restricted the disclosure of the CRP Information to enable disclosure of that information to the Relevant Authority pursuant to Paragraph 8 of this Part 2 subject, where necessary, to the Relevant Authority entering into an appropriate confidentiality agreement in the form required by the third party.
- 9.4 Where the Contractor is unable to procure consent pursuant to Paragraph 9.3 of this Part 2, the Contractor shall use all reasonable endeavours to disclose the CRP Information to the fullest extent possible by limiting the amount of information it withholds including by:
- (a) redacting only those parts of the information which are subject to such obligations of confidentiality;
  - (b) providing the information in a form that does not breach its obligations of confidentiality including (where possible) by:
    - (i) summarising the information;
    - (ii) grouping the information;
    - (iii) anonymising the information; and
    - (iv) presenting the information in general terms.
- 9.5 The Contractor shall provide the Relevant Authority with contact details of any third party which has not provided consent to disclose CRP Information where that third party is also a public sector body and where the Contractor is legally permitted to do so.

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**Appendix 1 – RATING AGENCIES**

- (a) Dun and Bradstreet; or
- (b) Such other rating agency as may be agreed by the Authority.

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**Appendix 2 – CREDIT RATINGS & CREDIT RATING THRESHOLDS**

<b>Entity</b>	<b>Credit rating (long term)</b>	<b>Credit Rating Threshold</b>
<b>Contractor</b>	<i>1A (Dun and Bradstreet): seven hundred thousand pounds sterling (£700,000) to one million, four hundred ninety-nine thousand, nine hundred ninety-nine pounds sterling (£1,499,999) in Tangible Net Worth or Equity</i>	<i>1A (Dun and Bradstreet): seven hundred thousand pounds sterling (£700,000) to one million, four hundred ninety-nine thousand, nine hundred ninety-nine pounds sterling (£1,499,999) in Tangible Net Worth or Equity</i>
<b>Guarantor (if applicable)</b>	<b>Not applicable</b>	<b>Not applicable</b>

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**Appendix 3 – CALCULATION METHODOLOGY FOR FINANCIAL INDICATORS**

The Contractor shall ensure that it uses the following general and specific methodologies for calculating the Financial Indicators against the Financial Target Thresholds:

**General methodology**

- 1 *Terminology:* The terms referred to in this Appendix 3 are those used by UK companies in their financial statements. Where the entity is not a UK company, the corresponding items should be used even if the terminology is slightly different (for example a charity would refer to a surplus or deficit rather than a profit or loss).
- 2 *Groups:* Where the entity is the holding company of a group and prepares consolidated financial statements, the consolidated figures should be used.
- 3 *Foreign currency conversion:* Figures denominated in foreign currencies should be converted at the exchange rate in force at the relevant date for which the Financial Indicator is being calculated.
- 4 *Treatment of non-underlying items:* Financial Indicators should be based on the figures in the financial statements before adjusting for non-underlying items.

**Specific Methodology**

Financial Indicator	Specific Methodology
1 <b>Net Interest Paid Cover</b>	<p><b><i>“Earnings Before Interest and Tax” = Operating profit</i></b></p> <p><b><i>“Net Interest Paid” = Interest paid – Interest received</i></b></p> <p>Operating profit should be shown on the face of the Income Statement in a standard set of financial statements and, for the purposes of calculating this Financial Indicator, should include the entity’s share of the results of any joint ventures or Associates.</p> <p>Interest received and interest paid should be shown on the face of the Cash Flow statement.</p> <p>Where Net interest paid is negative (i.e., the entity has net interest received), the relevant Financial Target Threshold should be treated as having been met.</p>
2 <b>Acid Ratio</b>	<p>All elements that are used to calculate the Acid Ratio are available on the face of the Balance Sheet in a standard set of financial statements.</p>

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Financial Indicator	Specific Methodology
<p>3</p> <p><b>Net Asset value</b></p>	<p>Net Assets are shown (but sometimes not labelled) on the face of the Balance Sheet of a standard set of financial statements. Net Assets are sometimes called net worth or 'Shareholders' Funds'. They represent the net assets available to the shareholders. Where an entity has a majority interest in another entity in which there are also minority or non-controlling interests (i.e. where it has a subsidiary partially owned by outside investors), Net Assets should be taken inclusive of minority or non-controlling interests (as if the entity owned 100% of such entity).</p>
<p>4</p> <p><b>Group Exposure Ratio</b></p>	<p><b>"Group Exposure"</b> = <i>Balances owed by Group Undertakings + Contingent liabilities assumed in support of Group Undertakings</i></p> <p><b>"Gross Assets"</b> = <i>Fixed Assets + Current Assets</i></p> <p><u>Group Exposure</u>: Balances owed by (i.e. receivable from) Group Undertakings are shown within Fixed assets or Current assets either on the face of the Balance Sheet or in the relevant notes to the financial statements. In many cases there may be no such balances, in particular where an entity is not a member of a group or is itself the ultimate holding company of the group.</p> <p>Contingent liabilities assumed in support of Group Undertakings are shown in the Contingent Liabilities note in a standard set of financial statements. They include the value of guarantees and security given in support of the borrowings of other group companies, often as part of group borrowing arrangements. Where the contingent liabilities are capped, the capped figure should be taken as their value. Where no cap or maximum is specified, the outcome of the test should automatically be regarded as 'High risk'.</p> <p>In many cases an entity may not have assumed any contingent liabilities in support of Group Undertakings, in particular where an entity is not a member of a group or is itself the ultimate holding company of the group.</p> <p><u>Gross Assets</u>: Both Fixed assets and Current assets are shown on the face of the Balance Sheet.</p>



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**Appendix 4 – GROUP STRUCTURE INFORMATION AND RESOLUTION COMMENTARY**

The Contractor shall:

- (a) provide sufficient information to allow the Relevant Authority to understand the implications on the Contractor and its Affiliates' UK Public Sector Business and CNI contracts listed pursuant to Appendix 5 if the Contractor or another member of the Contractor and/or its Affiliates is subject to an Insolvency Event;
- (b) ensure that the information is presented so as to provide a simple, effective and easily understood overview of the Contractor and its Affiliates; and
- (c) provide full details of the importance of each member of the Contractor and/or its Affiliates to the Contractor's and its Affiliates' UK Public Sector Business and CNI contracts listed pursuant to Appendix 5 and the dependencies between each.

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**Appendix 5 – UK PUBLIC SECTOR / CNI CONTRACT INFORMATION**

1.1 The Contractor shall:

- (a) provide details of all agreements held by members of the Contractor and/or its Affiliates' where those agreements are for goods, services or works provision and:
  - i) are with any UK public sector bodies including: central Government departments and their arms-length bodies and agencies, non-departmental public bodies, NHS bodies, local authorities, health bodies, police fire and rescue, education bodies and the devolved administrations;
  - ii) are with any private sector entities where the end recipient of the service, goods or works provision is any of the bodies set out in Paragraph 1.1(a)i) of this Appendix 5 and where the member of the Contractor's and/or its Affiliates' is acting as a key sub-contractor under the agreement with the end recipient; or
  - iii) involve or could reasonably be considered to involve CNI.
- (b) provide the Relevant Authority with a copy of the latest version of each underlying contract worth more than five million pounds sterling (£5 million) per Contract Year and their related key sub-contracts, which shall be included as embedded documents within the CRP Information or via a directly accessible link.

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## **SCHEDULE 26 – PREMISES**

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Details of the Premises (as defined in Schedule 1 (*Definitions*)) are set out below. Where these are Privately Managed Prisons this is indicated next to the name of the Prison.

**1 LOT 10 - WEST MIDLANDS GROUP**

Lot 10 consists of the following Prisons:

- (a) HMP Birmingham, Winson Green Road, Birmingham, B18 4AS;
- (b) HMP Brinsford, New Road, Featherstone, Wolverhampton, WV10 7PY;
- (c) HMP Featherstone, New Road, Featherstone, Wolverhampton, WV10 7PU;
- (d) HMP Hewell, Hewell Lane, Redditch, Worcestershire, B97 6QS;
- (e) HMP Oakwood, a Privately Managed Prison, Oaks Drive, Featherstone, West Midlands, WV10 7QD;
- (f) HMP Stafford, 54 Gaol Road, Stafford, Staffordshire, ST16 3AW;
- (g) HMP Stoke Heath, Market Drayton, Shropshire, TF9 2JL; and
- (h) HMP Swinfen Hall, Lichfield, Staffordshire, WS14 9QS.

# **SCHEDULE 27 – CONTRACTOR'S TENDER**

[REDACTED Section 43 of the FOIA: Commercial Interests]

# **SCHEDULE 27 – CONTRACTOR'S TENDER**

## **Preface to the Schedule of Commitments**

The attached Schedule of Commitments has been agreed by the Authority and the Contractor.

The Contractor's Tender contains a number of commitments made by the Contractor in relation to the delivery of the Services. The Schedule of Commitments contains some further details in relation to these commitments and provides guidance on how delivery of these commitments is to be reported.

[REDACTED Section 43 of the FOIA: Commercial Interests]



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# **SCHEDULE 28 - POLICIES AND PROCEDURES**



## Contract for the Provision of Prisoner Education Services (Careers Information Advice and Guidance (CIAG))

This Schedule 28 is a non-exhaustive indicative list intended to provide useful links to policies and procedures for the Contractor, but it does not have contractual effect. The Contractor will not be able to rely on any error or omissions in the list in any defence as to whether the Contractor has complied with its obligations under this Contract.

Name	Link	Reference
Government Buying Standards	<a href="https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs">https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs</a>	Schedule 1 (Definitions) and Schedule 9 (Statutory Obligations and Corporate Responsibility)
Greening Government Commitments	<a href="https://www.gov.uk/government/collections/greening-government-commitments">https://www.gov.uk/government/collections/greening-government-commitments</a>	Schedule 1 (Definitions)
Modern Slavery Helpline	<a href="https://www.modernslaveryhelpline.org/report">https://www.modernslaveryhelpline.org/report</a>	Schedule 1 (Definitions)
Information Security Policy Framework	<a href="https://www.gov.uk/government/publications/information-security-policy-framework">https://www.gov.uk/government/publications/information-security-policy-framework</a>	Schedule 1 (Definitions) and Schedule 7 (Baseline Security Requirements)
PSI 10/2012 (Conveyance and Possession of Prohibited Items and other Related Offences)	<a href="https://www.justice.gov.uk/offenders/psis/prison-service-instructions-2012">https://www.justice.gov.uk/offenders/psis/prison-service-instructions-2012</a>	Schedule 1 (Definitions)
MoJ Digital Strategy 2025 (Authority's IT Strategy)	Ministry of Justice Digital Strategy 2025 - GOV.UK ( <a href="http://www.gov.uk">www.gov.uk</a> )	Schedule 1 (Definitions)
PSI 07/2014 (Security Vetting)	<a href="https://www.justice.gov.uk/offenders/psis/prison-service-instructions-2014">https://www.justice.gov.uk/offenders/psis/prison-service-instructions-2014</a>	Schedule 1 (Definitions) and Schedule 8 (Access to Prisons)
PSI 27/2014 (Security vetting of ex-offenders)	<a href="https://www.gov.uk/government/publications/security-vetting-additional-risk-criteria-for-ex-offenders-pi-232014">https://www.gov.uk/government/publications/security-vetting-additional-risk-criteria-for-ex-offenders-pi-232014</a>	Schedule 1 (Definitions) and Schedule 8 (Access to Prisons)





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Name	Link	Reference
Security Policy Framework	Security policy framework - GOV.UK ( <a href="http://www.gov.uk">www.gov.uk</a> )	Schedule 1 (Definitions)
SME definitions	SME definition ( <a href="http://europa.eu">europa.eu</a> )	Schedule 1 (Definitions)
Searching Policy Framework	<a href="https://www.gov.uk/government/publications/searching-policy-framework">https://www.gov.uk/government/publications/searching-policy-framework</a>	Schedule 1 (Definitions)
Whistleblowing: list of prescribed people and bodies'	<a href="https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies-2/whistleblowing-list-of-prescribed-people-and-bodies">https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies-2/whistleblowing-list-of-prescribed-people-and-bodies</a>	Schedule 1 (Definitions)
Government Security Classifications	Government Security Classifications Policy June 2023.docx ( <a href="http://publishing.service.gov.uk">publishing.service.gov.uk</a> )	Schedule 7 (Baseline Security Requirements)
Information handling Procedures	Information Security Policy Framework ( <a href="http://publishing.service.gov.uk">publishing.service.gov.uk</a> )	Schedule 7 (Baseline Security Requirements)
End User Devices Security	<a href="https://www.gov.uk/government/collections/end-user-devices-security-guidance">https://www.gov.uk/government/collections/end-user-devices-security-guidance</a>	Schedule 7 (Baseline Security Requirements)
Counter Corruption and Reporting Wrongdoing Policy Framework	<a href="https://assets.publishing.service.gov.uk/media/627b8d308fa8f57d7fe4e147/counter-corruption-pf.pdf">https://assets.publishing.service.gov.uk/media/627b8d308fa8f57d7fe4e147/counter-corruption-pf.pdf</a>	Schedule 8 (Access to Prisons)
PSI 06/2010 Conduct and Discipline	<a href="https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/11/HMIP-Code-of-Conduct-2020-web.pdf">https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2020/11/HMIP-Code-of-Conduct-2020-web.pdf</a>	Schedule 8 (Access to Prisons)
Searching Policy Framework	<a href="https://www.gov.uk/government/publications/searching-policy-framework">https://www.gov.uk/government/publications/searching-policy-framework</a>	Schedule 8 (Access to Prisons)
Government Buying Standards	<a href="https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs">https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs</a>	Schedule 9 (Statutory Obligations and Corporate Responsibility) and Schedule 4 (Change Control Procedure)



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Name	Link	Reference
Environmental Policy	<a href="https://www.gov.uk/government/publications/environmental-principles-policy-statement/environmental-principles-policy-statement#definitions">https://www.gov.uk/government/publications/environmental-principles-policy-statement/environmental-principles-policy-statement#definitions</a>	Schedule 9 (Statutory Obligations and Corporate Responsibility)
Modern Slavery Helpline	<a href="https://www.modernslaveryhelpline.org/report">https://www.modernslaveryhelpline.org/report</a>	Schedule 9 (Statutory Obligations and Corporate Responsibility)
Prescribed Person (whistleblowing)	<a href="https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies-2/whistleblowing-list-of-prescribed-people-and-bodies">https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies-2/whistleblowing-list-of-prescribed-people-and-bodies</a>	Schedule 9 (Statutory Obligations and Corporate Responsibility)
Supplier Code of Conduct	<a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf</a>	Schedule 9 (Statutory Obligations and Corporate Responsibility)
Data sharing policy	Information Sharing Policy Framework - GOV.UK (www.gov.uk), the Security Policy Framework	Schedule 10 (Data Processing)
Disaster Recovery System	ISO 22301:2019 - Security and resilience — Business continuity management systems — Requirements	Schedule 11 (Business Continuity and Disaster Recovery)
Accord between Government and civil society organisations	The_20Compact.pdf (publishing.service.gov.uk)	Schedule 16 (Approved Sub-Contractors and Authority Market Stewardship Principles)
New Fair Deal, HMT Guidance	<a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/262490/PU1571_Fair_Deal_for_staff_pensions.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/262490/PU1571_Fair_Deal_for_staff_pensions.pdf</a>	Schedule 17 (TUPE, Employees and Pensions)
Old Fair Deal, HMT Guidance	Fair Deal for staff pensions: staff transfer from central government (publishing.service.gov.uk)	Schedule 17 (TUPE, Employees and Pensions)
Transparency Principles	<a href="https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles">https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles</a>	Schedule 22 (Reporting Requirements)
Strategic Suppliers	<a href="https://www.gov.uk/government/publications/strategic-suppliers">https://www.gov.uk/government/publications/strategic-suppliers</a>	Schedule 25 (Financial Distress)
Resolution Planning Guidance	<a href="https://www.gov.uk/government/publications/the-outsourcing-playbook">https://www.gov.uk/government/publications/the-outsourcing-playbook</a>	Schedule 25 (Financial Distress)



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<b>Name</b>	<b>Link</b>	<b>Reference</b>
Government's Standard Hub	<a href="http://standards.data.gov.uk/">http://standards.data.gov.uk/</a>	General Information
Civil Service Diversity and Inclusion Strategy 2022-2025	<a href="https://www.gov.uk/government/publications/civil-service-diversity-and-inclusion-strategy-2022-to-2025">https://www.gov.uk/government/publications/civil-service-diversity-and-inclusion-strategy-2022-to-2025</a>	General Information
HM Government's Technology Code of Practice	<a href="https://www.gov.uk/service-manual/technology/code-of-practice.html">https://www.gov.uk/service-manual/technology/code-of-practice.html</a>	General Information
UK Government's Open Standard Principles	<a href="https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles">https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles</a>	General Information
MOJ Security Policy	<a href="https://security-guidance.service.justice.gov.uk/#information-security-policies">https://security-guidance.service.justice.gov.uk/#information-security-policies</a>	General Information
MOJ Equality and Diversity Policy	Equality and diversity - Ministry of Justice - GOV.UK ( <a href="http://www.gov.uk">www.gov.uk</a> )	General Information
MOJ Guidance on Climate Change and Sustainability	Ministry of Justice Climate Change and Sustainability - GOV.UK ( <a href="http://www.gov.uk">www.gov.uk</a> )	General Information