

18/09/2025
DATED _____

(1) THE SECRETARY OF STATE FOR JUSTICE

(2) UNIVERSITY OF PORTSMOUTH

**CON_25332 AGREEMENT FOR THE
PROVISION OF APPRENTICESHIP TRAINING
SERVICES**

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THIS AGREEMENT is made on

BETWEEN:

- (1) **THE SECRETARY OF STATE FOR JUSTICE** of Ministry of Justice, 102 Petty France, London, SW1H 9AJ (the "**Authority**"); and
- (2) **UNIVERSITY OF PORTSMOUTH**, a Higher Education Corporation under section 121 of the Education Reform Act 1988 and exempt from registration at Charities Commission, whose registered office is at Mercantile House, University of Portsmouth, Hampshire Terrace, Portsmouth, PO1 2EG ("**Training Provider**")

(each of the Training Provider and the Authority being a "**Party**" and together the Training Provider and the Authority are the "**Parties**").

BACKGROUND:

- (A) The Authority is a ministerial department of the UK Government headed by the Secretary of State for Justice and Lord Chancellor. The Authority works to protect the public and reduce reoffending, providing a more effective, transparent, and responsive criminal justice system for victims and the public.
- (B) The Authority has responsibility for various parts of the justice system, including the courts, prisons, probation services and attendance centres. The Authority would like to provide an apprenticeship training programme to support His Majesty's Prison and Probation Service in qualifying probation practitioners to the required level.
- (C) The Training Provider conducts the business of delivering apprenticeship training programmes.
- (D) The Parties have agreed that the Training Provider shall deliver apprenticeship training programmes to the Authority on the terms set out in this Agreement.

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following words and phrases shall have the following meanings:-

"Additional FDE Group Member" means the EPAO

"Adult Skills Fund Funding Rules" means the "Adult skills fund: funding and performance management rules 2024 to 2025" and "DFE funded adult skills fund: funding rates and formula 2024 to 2025" guidance, as revised and amended from time to time and as of the Commencement Date available at:

- (a) <https://www.gov.uk/government/publications/adult-skills-fund-funding-rules-for-2024-to-2025/adult-skills-fund-funding-rules-2024-to-2025#section-2-esfa-funded-asf>; and
- (b) <https://www.gov.uk/government/publications/adult-skills-fund-funding-rates-and-formula/esfa-funded-adult-skills-fund-funding-rates-and-formula-2024-to-2025>

"Apprentice(s)"	means a person who works under an Apprenticeship Agreement entered into with the Authority in connection with which they are required to undertake the Apprenticeship Programme
"Apprenticeship"	means the training and (where applicable) end-point assessment for an employee to which the Apprenticeship Programme relates as part of a job with an accompanying skills development programme
"Apprenticeship Agreement"	means (a) an approved English apprenticeship agreement; or (b) an apprenticeship agreement within the meaning given in section 32 of the Apprenticeship, Skills, Children and Learning Act 2009 as it applies in relation to England by virtue of provision made under section 115(9) of the Deregulation Act 2015
"Apprenticeship Funding Rules"	means the Apprenticeship Funding Rules for employers and training providers, as revised and amended from time to time and as of the Commencement Date available at: https://www.gov.uk/guidance/apprenticeship-funding-rules
"Apprenticeship Programme"	means the programme of study to which the Training relates as further detailed in a Statement of Work
"Apprenticeship Programme Completion Date"	means the date on which the last Apprentice in each Cohort who, at the point of expiry of the Termination Notice (or termination of this Agreement), is undertaking an Apprenticeship and the Apprenticeship Programme, or has been made and accepted an offer (conditional or otherwise) of admission to, but has not yet started the Apprenticeship Programme, successfully completes the relevant End-Point Assessment (including following any resits necessary for such successful completion)
"Apprenticeship Provider and Assessment Register" or "APAR"	means the list of organisations maintained by DFE who are eligible for DFE funding to train Apprentices, and a list of End-Point Assessment Organisations that have been assessed as being suitable to conduct independent End-Point Assessments
"Approved Apprenticeship Standard"	has the meaning given in section A1 of the Apprenticeships, Skills, Children and Learning Act 2009 as applicable to the Apprenticeship, and shall include the associated assessment plan
"Assessment Plan"	means the requirements set out in the approved and published assessment plan for the relevant Approved Apprenticeship Standard
"Audit"	the Authority's right to: <ul style="list-style-type: none"> (a) verify the integrity and content of any Financial Report; (b) verify the accuracy of the Charges and any other amounts payable by the Authority under this Agreement (including proposed or actual

variations to them in accordance with this Agreement);

- (c) verify the costs of the Training Provider (including the costs of the EPAO, all Subcontractors and any third party suppliers) in connection with the provision of the Services;
- (d) verify the Open Book Data;
- (e) verify the Training Provider's, EPAO's and each Subcontractor's compliance with the applicable Law;
- (f) identify or investigate actual or suspected breach, 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 Training Provider of the purpose or objective of its investigations;
- (g) identify or investigate any circumstances which may impact upon the financial stability of the Training Provider, EPAO, and/or any Subcontractors;
- (h) 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;
- (i) review any books of account and the internal contract management accounts kept by the Training Provider in connection with this Agreement;
- (j) 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; or
- (k) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources

"Auditor"	<p>means:</p> <ul style="list-style-type: none"> (a) the Authority's internal and external auditors; (b) the Authority's statutory or regulatory auditors; (c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office; (d) HM Treasury or the Cabinet Office; (e) any party formally appointed by the Authority to carry out audit or similar review functions; (f) DfE; and (g) successors or assigns of any of the above
"Authority Assets"	means the Authority's infrastructure, data, software, materials, assets, 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 of the Services which remain the property of the Authority throughout the term of this Agreement
"Authority Cause"	means any material breach of the obligations of the Authority or any other default, act, omission, negligence or statement of the Authority, of its employees, servants, agents in connection with or in relation to the subject-matter of this Agreement and in respect of which the Authority is liable to the Training Provider
"Authority Authorised Representative"	the representative appointed by the Authority from time to time in relation to this Agreement
"Authority Materials"	means any materials, data, information, or equipment owned by or licensed to the Authority made available to the Training Provider for use in the provision of the Training
"Authority Premises"	premises owned, controlled or occupied by the Authority which are made available for use by the Training Provider, EPAO, or its Subcontractors for the provision of the Services;
"Authority's Apprenticeship Service Account"	means the part of DfE's apprenticeship service which shows the amount of Funding available to the Authority to spend on Training of Apprentices
"Beneficiary"	a Party having (or claiming to have) the benefit of an indemnity under this Agreement

"Break in Learning"

means a period of time where no active learning with the Authority will take place in a calendar month during an Apprenticeship, where at the time of notification the Apprentice intends to resume participation in the Apprenticeship at some point in the future. By way of example only, this may be due to illness, pregnancy or other reason which makes them temporarily unable to continue with the Apprenticeship

"Business Day"

means Monday to Friday, excluding any public holidays in England and Wales or any other day that the Authority is closed for business

“Candidate Information”

means the following information in relation to a candidate for an Apprenticeship Programme:

- (a) whether the candidate's current role links to the apprenticeship programme;
- (b) whether the candidate has lived in the UK or the European Economic Area for the past three years;
- (c) whether the candidate is currently studying another formal qualification;
- (d) whether the candidate has achieved GCSE (or equivalent) in Mathematics and English at grade C/4 or above;
- (e) first name;
- (f) surname;
- (g) date of birth (dd/mm/yyyy);
- (h) National Insurance number;
- (i) current home address;
- (j) prior employment status;
- (k) next of kin contact details;
- (l) work email address;
- (m) work phone number;
- (n) job title;
- (o) staff number;
- (p) contracted hours per week;
- (q) contract type;
- (r) country of work;
- (s) work postcode;
- (t) work address;
- (u) line manager's name and surname;
- (v) line manager's email address;
- (w) line manager's work number; and
- (x) any reasonable adjustments required to support the candidate's learning

"Change of Control"	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010
"Change in Law"	any change in Law which impacts on the supply of the Services and performance of this Agreement which comes into force after the Commencement Date
"Charges"	<p>means the full cost, as set out in the Apprenticeship Programme, of the Services provided in connection with each Apprentice undertaking the Apprenticeship Programme including, as set out in Clause 12 of this Agreement:-</p> <ul style="list-style-type: none"> (a) the costs payable below the limit of the Funding Band (the "Costs Below the Funding Cap") (b) the costs, if any, payable above the limit of the Funding Band (the "Costs Above the Funding Cap"), which may not be recovered from DFE; (c) the costs for Apprentices who are not eligible to be levy funded (including those from the devolved nations) ("Non Levy Funding"); (d) the costs of any resits payable under Clause 6.1.10 and additional costs payable under Clause 45 ("Additional Costs"); and (e) the costs of delivering Functional Skills where funding cannot be drawn down from the Adult Skills Fund ("Functional Skills Costs")
"Claim"	any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Agreement
"Cohort"	means a group of Apprentices who undertake the Apprenticeship Programme at the same time
"Commencement Date"	means 18 August 2025
"Commercially Sensitive Information"	the Confidential Information listed in Schedule 20 (Commercially Sensitive Information) (if any) comprising of commercially sensitive information relating to the Training Provider, its IPR or its business or which the Training Provider has indicated to the Authority that, if disclosed by the Authority, would cause the Training Provider significant commercial disadvantage or material financial loss
"Comparable Supply"	the supply of Services to another customer of the Training Provider that are the same or similar to the Services

"Confidential Information"	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Authority or the Training Provider, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as " confidential ") or which ought reasonably to be considered to be confidential
"Conflict of Interest"	a conflict between the financial or personal duties of the Training Provider or the Training Provider Staff and the duties owed to the Authority under this Agreement, in the reasonable opinion of the Authority
"Contract Year"	a consecutive period of twelve (12) months commencing on the Commencement Date or each anniversary thereof
"Costs"	<p>the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Training Provider in providing the Services:</p> <ul style="list-style-type: none"> (a) the cost to the Training Provider, calculated per Work Day, of engaging the Training Provider Staff, including: <ul style="list-style-type: none"> (i) base salary paid to the Training Provider Staff; (ii) employer's National Insurance contributions; (iii) pension contributions; (iv) car allowances; (v) any other contractual employment benefits; (vi) staff training; (vii) work place accommodation; (viii) work place IT equipment and tools reasonably necessary to provide the Services (but not including items included within limb (b) below); and (ix) reasonable recruitment costs, as agreed with the Authority; (b) costs incurred in respect of Training Provider Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Training Provider Assets by the Training Provider to the Authority or (to the extent that risk and title in any Training Provider Asset is not held by the Training Provider) any cost actually incurred by the Training Provider in respect of those Training Provider Assets; (c) operational costs which are not included within (a) or (b) above, to the extent that such costs are

	necessary and properly incurred by the Training Provider in the provision of the Services; and
	(d) Reimbursable Expenses to the extent these are incurred in delivering any Services;
	but excluding:
	(a) Overheads;
	(b) financing or similar costs;
	(c) maintenance and support costs to the extent that these relate to maintenance and/or support Services provided beyond the Term whether in relation to Training Provider Assets or otherwise;
	(d) taxation;
	(e) fines and penalties; and
	(f) non-cash items (including depreciation, amortisation, impairments and movements in provisions)
"Crown Body"	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the Welsh Government), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf
"Deductions"	any deduction which the Authority is paid or is payable to the Authority under this Agreement
"Default"	any breach of the obligations of the Training Provider (including abandonment of this Agreement in breach of its terms) or any other default (including Material Default), act, omission, negligence or statement of the Training Provider, of the EPAO, of its Subcontractors or any Training Provider Staff howsoever arising in connection with or in relation to the subject-matter of this Agreement and in respect of which the Training Provider is liable to the Authority
"DfE"	Means the Department for Education, a ministerial department whose principal address is at Sanctuary Buildings, Great Smith Street, London, SW1P 3BT. The ESFA (Education and Skills Funding Agency) was an executive agency of DfE but was close in April 2025 with all key functions being integrated into DfE.
"Disclosing Party"	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 42

"Dispute"	any claim, dispute or difference (whether contractual or non-contractual) arising out of or in connection with this Agreement or in connection with the negotiation, existence, legal validity, enforceability or termination of this Agreement, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts
"EIR"	means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations
"End-Point Assessment"	means the assessment (and any results of that assessment) of the Apprentice's knowledge, skills and behaviours carried out by the End-Point Assessment Organisation at the end of the Apprenticeship to confirm that the Apprentice has met the requirements of any relevant Approved Apprenticeship Standard
"End-Point Assessment Organisation" or "EPAO"	means any organisation on the APAR which is selected by a training provider (or employer if they have chosen to) and contracted by a training provider to carry out End-Point Assessments except where the Apprenticeship relates to an Integrated Standard in which case the End-Point Assessment Organisation may be the Training Provider
"Environmental Policy"	means in relation to conservation of energy, water, wood, paper and other resources, reduction of 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
"Escalation Meeting"	means a meeting between the Parties to address issues that have arisen during the process set out in Clause 16
"ESFA"	means the Secretary of State for Education, acting through the Education and Skills Funding Agency, an executive agency of the Department for Education, whose principal address is at Cheylesmore House, Quinton Road, Coventry, CV1 2WT, or such other statutory or non-statutory body responsible for carrying out its functions from time to time
"FDE Group"	the Training Provider and any Additional FDE Group Member

“Financial Distress Event” means the occurrence of one or more the following events:

- (a) the credit rating of any FDE Group entity drops below the applicable Credit Rating Threshold (as defined in Schedule 14 (Financial Difficulties)) of the relevant Rating Agency (as defined in Schedule 14 (Financial Difficulties));
- (b) any FDE Group entity issues a profits warning to a stock exchange or makes any other public announcement, in each case about a material deterioration in its financial position or prospects;
- (c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of any FDE Group entity;
- (d) any FDE Group entity commits a material breach of covenant to its lenders;
- (e) an EPAO notifies the Authority that the Training Provider has not paid any material sums properly due under a specified invoice and not subject to a genuine dispute;
- (f) any FDE Group entity extends the filing period for filing its accounts with the Registrar of Companies so that the filing period ends more than nine (9) months after its accounting reference date without an explanation to the Authority which the Authority (acting reasonably) considers to be adequate;
- (g) any FDE Group entity is late to file its annual accounts without a public notification or an explanation to the Authority which the Authority (acting reasonably) considers to be adequate;
- (h) the directors and/or external auditors of any FDE Group entity conclude that a material uncertainty exists in relation to that FDE Group entity’s going concern in the annual report including in a reasonable but plausible downside scenario. This includes, but is not limited to, commentary about liquidity and trading prospects in the reports from directors or external auditors;
- (i) any of the following:
 - (i) any FDE Group entity makes a public announcement which contains commentary with regards to that FDE Group entity’s liquidity and trading and trading prospects, such as but not limited to, a profit warning or ability to trade as a going concern;
 - (ii) commencement of any litigation against any FDE Group entity with respect to financial indebtedness greater than £5m or obligations under a service contract

with a total contract value greater than £5m;

- (iii) non-payment by any FDE Group entity of any financial indebtedness;
- (iv) any financial indebtedness of any FDE Group entity becoming due as a result of an event of default;
- (v) the cancellation or suspension of any financial indebtedness in respect of any FDE Group entity; or
- (vi) an external auditor of any FDE Group entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that FDE Group entity,

in each case which the Authority reasonably believes (or would be likely reasonably to believe) could directly impact on the continued provision of the Services in accordance with this Agreement; or

- (vii) any one of the Financial Indicators set out in Part C of Annex 2 of Schedule 14 for any of the FDE Group entities failing to meet the required Financial Target Threshold (as defined in Schedule 14 (Financial Difficulties))

"Financial Report"

a report provided by the Training Provider to the Authority that:

- (a) to the extent permitted by Law, provides a true and fair reflection of the Costs and Training Provider Profit Margin forecast by the Training Provider;
- (b) to the extent permitted by Law, provides detail of a true and fair reflection of the costs and expenses to be incurred by Subcontractors (as requested by the Authority);
- (c) is in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Authority to the Training Provider on or before the Commencement Date for the purposes of this Agreement; and
- (d) is certified by the Training Provider's Chief Financial Officer or Director of Finance;

"Financial Transparency Objectives"

means:

- (a) the Authority having a clear analysis of the Costs, Overhead recoveries (where relevant), time spent by Training Provider Staff in providing the Services and the Training Provider Profit

Margin so that it can understand any payment sought by the Training Provider;

- (b) the Parties being able to understand Cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;
- (c) the Parties being able to understand the quantitative impact of any Variations that affect ongoing Costs and identifying how these could be mitigated and/or reflected in the Charges;
- (d) the Parties being able to review, address issues with and re-forecast progress in relation to the provision of the Services;
- (e) the Parties challenging each other with ideas for efficiency and improvements; and
- (f) enabling the Authority to demonstrate that it is achieving value for money for the tax payer relative to current market prices

“FOIA”

means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government departments in relation to such legislation

“Force Majeure Event”

any event, circumstance, matter or cause affecting the performance by either Party of its obligations arising from:

- (a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of a Party which prevent or materially delay the Party from performing its obligations under the Agreement;
- (b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare;
- (c) acts of a Crown Body, local government or regulatory bodies;
- (d) fire, flood or any disaster; or
- (e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding:
 - (i) any industrial dispute relating to the Training Provider, the Training Provider Staff (including any subsets of them) or any other failure in the Training Provider or the Subcontractor's supply chain;
 - (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

	<p>(iii) any failure of delay caused by a lack of funds,</p> <p>and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;</p>
"Force Majeure Notice"	a written notice served by a Party on the other Party stating that it believes that there is a Force Majeure Event
"Functional Skills"	means applied practical skills in English, Mathematics and digital that provide the learner with the essential knowledge, skills and understanding to enable them to operate effectively and independently in life and work
"Funding"	means the funding paid to the Training Provider on behalf of the Authority towards the cost of Training and End-Point Assessment in accordance with this Agreement
"Funding Band"	means the funding band applicable to the Apprenticeship Programme as set out in the Apprenticeship Programme
"General Anti-Abuse Rule"	<p>(a) the legislation in Part 5 of the Finance Act 2013; and</p> <p>(b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;</p>
"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 Training Provider) or which affects or relates to a Comparable Supply
"Halifax Abuse Principle"	the principle explained in the CJEU Case C-255/02 Halifax and others
"ICT Policy"	the Authority's policy in respect of information and communications technology, which is in force as at the Commencement Date (a copy of which has been supplied to the Training Provider), as updated from time to time in accordance with the Variation Procedure
"Indemnifier"	a Party from whom an indemnity is sought under this Agreement
"Individual Learner Record" or "ILR"	means the primary data collection requested from the Training Provider for further education and work based learning
"Impact Assessment"	<p>an assessment of the impact of a Variation request by the Authority completed in good faith, including:</p> <p>(a) details of the impact of the proposed Variation on the Services and the Training Provider's ability to meet its other obligations under this Agreement;</p> <p>(b) details of the cost of implementing the proposed Variation;</p>

- (c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;
- (d) a timetable for the implementation, together with any proposals for the testing of the Variation; and
- (e) such other information as the Authority may reasonably request in (or in response to) the Variation request

"Insolvency Event"

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 or an 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, an LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;
- (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, an 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 person;
 - (iii) (being a company or an LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or
 - (iv) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or
 - (v) 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

"Integrated Standard"

means an Approved Apprenticeship Standard in which the End-Point Assessment is incorporated into the main learning aim as defined in the Apprenticeship Funding Rules

"Information"

has the meaning given under section 84 of FOIA

"Intellectual Property Rights" or "IPR"

means:

- (a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;
- (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

"Institute for Apprenticeships and Technical Education (IfATE)"

means the Institute for Apprenticeships and Technical Education, being an executive non-departmental public body sponsored by the Department for Education responsible for ensuring that high quality Approved Apprenticeship Standards are developed, advising government on funding for each Approved Apprenticeship Standard and ensuring that all End-Point Assessments are quality assured, or such other statutory or non-statutory body responsible for the same from time to time

"IPR Claim"

any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Services or otherwise provided and/or licensed by the Training Provider (or to which the Training Provider has provided access) to the Authority in the fulfilment of its obligations under this Agreement

"Law"

means all statutes, statutory instruments, regulations, byelaws, rules, judicial rulings and orders made under any statute, directive or by any competent legislative or judicial body in England and Wales

"Management Information"

means the following information:

- (a) a detailed breakdown of the Cohort;
- (b) the Apprentice names for each Cohort;
- (c) details of the Apprentices' academic progress and progress reports;
- (d) details of the Training Provider's performance against the Service Levels;
- (e) details of any withdrawal and Break in Learning requests;
- (f) details of completion data; and
- (g) the invoice reference which the breakdown of the Cohort relates to.

"Material Default"	a single serious Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied)
"National Insurance"	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004)
"Occasion of Tax Non – Compliance"	<p>where:</p> <ul style="list-style-type: none"> (a) any tax return of the Training Provider submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of: <ul style="list-style-type: none"> (i) a Relevant Tax Authority successfully challenging the Training Provider under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; (ii) the failure of an avoidance scheme which the Training Provider was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or (b) any tax return of the Training Provider submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Commencement Date or to a civil penalty for fraud or evasion
"OfS"	means the Office for Students or such other statutory or non-statutory body responsible for regulating the higher education sector from time to time
"Ofsted"	means the Office for Standards in Education, Children's Services and Skills Piccadilly Gate, Store Street, Manchester, M1 2WD or such other statutory or non-statutory body responsible for carrying out its functions from time to time (including but not limited to the regulation of the further education sector and teacher training in the higher education sector)

"Open Book Data"

complete and accurate financial and non-financial information which is sufficient to enable the Authority to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of this Agreement, including details and all assumptions relating to:

- (a) the Training Provider's Costs broken down against each Apprenticeship Programme, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Services;
- (b) operating expenditure relating to the provision of the Services including an analysis showing:
 - (i) the unit costs and quantity of goods and any other consumables and bought-in Services;
 - (iii) manpower resources broken down into the number and grade/role of all Training Provider Staff (free of any contingency) together with a list of agreed rates against each manpower grade;
 - (iv) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Training Provider Profit Margin; and
 - (v) Reimbursable Expenses;
- (c) Overheads;
- (d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Services;
- (e) the Training Provider Profit achieved over the Term and on an annual basis;
- (f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Training Provider;
- (g) 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
- (h) the actual Costs profile during the Term

"Overheads"

those amounts which are intended to recover a proportion of the Training Provider's indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Training Provider Staff and accordingly included within limb (a) of the definition of "Costs"

"Prescribed Person"	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in "Whistleblowing: list of prescribed people and bodies", 24 November 2016, available online at: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies
"Prevent"	means the guidance for specified authorities in England and Wales on the duty in the Counter-Terrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism
"Programme Specification"	has the meaning given to it in Clause 13.1
"Prohibited Act"	<ul style="list-style-type: none"> (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority or any other public body a financial or other advantage to: <ul style="list-style-type: none"> (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 Agreement; or (c) committing any offence: <ul style="list-style-type: none"> (iii) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or (iv) under legislation or common law concerning fraudulent acts; or (v) defrauding, attempting to defraud or conspiring to defraud the Authority or other public body; or (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK
"Recipient Party"	the Party which receives or obtains directly or indirectly Confidential Information

"Rectification Plan"	<p>the Training Provider's plan (or revised plan) to rectify its breach using the template set out in Schedule 5 which shall include:</p> <ul style="list-style-type: none"> (a) full details of the Material Default that has occurred, including a root cause analysis; (b) the actual or anticipated effect of the Material Default; and (c) the steps which the Training Provider proposes to take to rectify the Material Default (if applicable) and to prevent such Material Default from recurring, including timescales for such steps and for the rectification of the Material Default (where applicable)
"Regulations"	means the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires)
"Reimbursable Expenses"	<p>the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Authority's expenses policy current from time to time, but not including:</p> <ul style="list-style-type: none"> (a) travel expenses incurred as a result of Training Provider Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Authority otherwise agrees in advance in writing; and (b) subsistence expenses incurred by Training Provider Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed
"Relevant Requirements"	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010
"Relevant Tax Authority"	means HMRC, or, if applicable, the tax authority in the jurisdiction in which the Training Provider is established
"Replacement Services"	any services which are substantially similar to any of the Services and which the Authority receives in substitution for any of the Services, whether those goods are provided by the Authority internally and/or by any third party
"Replacement Training Provider"	any third party provider of Replacement Services appointed by or at the direction of the Authority from time to time or where the Authority is providing Replacement Services for its own account, shall also include the Authority

"Request for Information"	means a request for information or an apparent request relating to this Agreement for the provision of the Services or an apparent request for such information under the FOIA or the EIRs
"Required Action"	means the action the Authority will take and what Services it will control during the Step-In Process
"Security Policy"	the Authority's security policy in force as at the Commencement Date (a copy of which has been supplied to the Training Provider), as updated from time to time and notified to the Training Provider
"Service Levels"	means the service levels applicable to the provision of the Services under this Agreement as set out in Schedule 4
"Services"	means the provision of the Training
"Sites"	any premises (including the Authority's premises, the Training Provider's premises or third party premises) from, to or at which: <ul style="list-style-type: none"> (a) the Services are (or are to be) provided; or (b) the Training Provider manages, organises or otherwise directs the provision or the use of the Services
"Specification"	means the Authority's requirements for the provision of the Services under this Agreement as set out in Schedule 7
"Specific Change in Law"	means a Change in Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Services is not reasonably foreseeable at the Commencement Date
"Statement of Work"	means any order for Services for a specific Apprenticeship Programme or a number of Apprenticeship Programmes agreed by the Training Provider and Authority in writing, an example of which is set out at Schedule 1
"Step-In Process"	the process set out in Clause 22

"Step-In Trigger Event"	<p>means:</p> <ul style="list-style-type: none"> (a) the Training Provider committing a Material Default which is irremediable; (b) where a right of termination is expressly reserved in this Agreement; (c) an Insolvency Event occurring in respect of the Training Provider; (d) a Default by the Training Provider that is materially preventing or materially delaying the provision of the Services or any material part of them; (e) the Authority considers that the circumstances constitute an emergency despite the Training Provider not being in breach of its obligations under this Agreement; (f) the Authority being advised by a regulatory body (including the DFE) that the exercise by the Authority of its rights under Clause 22 is necessary; (g) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Services; and/or (h) a need by the Authority to take action to discharge a statutory duty
"Step-Out Plan"	means the Training Provider's plan that sets out how the Training Provider will resume the provision of the Services and perform all its obligations under this Agreement following the completion of the Step-In Process
"Subcontracting Policy"	has the meaning given to it in Clause 5.8.22
"Subcontracting Rationale"	has the meaning given to it in Clause 5.8.21
"Sub-Contract"	<p>any contract or agreement (or proposed contract or agreement), other than this Agreement, pursuant to which a third party:</p> <ul style="list-style-type: none"> (a) provides the Services (or any part of them); (b) provides facilities or services necessary for the provision of the Services (or any part of them); and/or (c) is responsible for the management, direction or control of the provision of the Services (or any part of them)
"Subcontractor"	means a person or organisation selected by the Training Provider to deliver part of the Training on behalf of the Training Provider under this Agreement, which for the avoidance of doubt shall include the EPAO
"Tender Response"	the tender submitted by the Training Provider to the Authority and set out in Schedule 17

"Term"	means a period of 6 years commencing on the Commencement Date
"Termination Notice"	has the meaning given to it in Clause 25.3
"Training"	means the delivery of training and on-programme assessment by the Training Provider to the Apprentices in respect of the Apprenticeship Programme and Functional Skills (if applicable) as further detailed in this Agreement and each Statement of Work
"Training Plan"	means a document separate from the Apprenticeship Agreement, as defined by and compliant with the Apprenticeship Funding Rules, which sets out the plan for learning and the responsibilities of the Training Provider, the Authority and the Apprentice, which shall be substantially in the same form as that set out in Schedule 2
"Training Provider Assets"	all assets and rights used by the Training Provider to provide the Services in accordance with this Agreement but excluding the Authority Assets
"Training Provider Materials"	means all materials developed, written, prepared or sourced by the Training Provider (or on its behalf), their employees, agents or subcontractors (whether individually, collectively or jointly with the Authority and on whatever media) for use by the Training Provider in relation to the Training
"Training Provider Non-Performance"	where the Training Provider has failed to: <ul style="list-style-type: none"> (a) provide the Services in accordance with the Service Levels; and/or (b) comply with an obligation under this Agreement
"Training Provider Profit"	in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of this Agreement for the relevant period
"Training Provider Profit Margin"	in relation to a period, the Training Provider Profit for the relevant period divided by the total Charges over the same period and expressed as a percentage
"Training Provider's Policies"	means the Training Provider's policies, procedures regulations, and codes of practice (including the conditions of use of computing and network facilities) as amended, extended or re-enacted from time to time
"Training Provider Staff"	all directors, officers, employees, agents, consultants and contractors of the Training Provider (including Tutors) and/or of any Subcontractor engaged in the performance of the Training Provider's obligations under this Agreement

"Transparency Information"	the Transparency Reports and the content of this Agreement, including any changes to this Agreement agreed from time to time, except for – <ul style="list-style-type: none"> (a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Authority; and (b) Commercially Sensitive Information
"Tutor"	means a tutor engaged by the Training Provider to provide any part of the Training
"Variation"	means a variation to this Agreement
"Variation Form"	the form set out in Schedule 10 (Variation Form);
"Variation Procedure"	the procedure set out in Clause 45
"VAT"	means value added tax at the rate prevailing at the time of the relevant supply charged in accordance with the provisions of the Value Added Tax Act 1994
"Work Day"	7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day
"Work Hours"	the hours spent by the Training Provider Staff properly working on the provision of the Services including time spent travelling (other than to and from the Training Provider's offices, or to and from the Sites) but excluding lunch breaks
"Worker"	any one of the Training Provider Staff which the Authority, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) (https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees) applies in respect of the Services

- 1.2 References to Clauses, Schedules and Appendices are (unless otherwise provided) references to the Clauses, Schedules and Appendices in this Agreement. Clause, Schedule and Appendix headings do not affect the interpretation of this Agreement.
- 1.3 Unless the context otherwise requires, words in the singular shall include the plural and vice versa.
- 1.4 **"Including"** means including without limitation.
- 1.5 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time, and shall include all successor or subordinate legislation made from time to time.
- 1.6 Words or phrases defined in the Apprenticeship Funding Rules shall, unless the context otherwise requires, have the same meaning in this Agreement.

2. COMMENCEMENT AND DURATION

- 2.1 This Agreement shall commence with effect from the Commencement Date and the Training shall commence during the month appearing in the 'First Cohort Start Date' set out in each Statement of Work.
- 2.2 The Agreement will, subject to earlier termination in accordance with its terms, continue for the Term whereupon it shall terminate automatically.

3. STATEMENTS OF WORK

- 3.1 For each Apprenticeship Programme, the Parties will agree and set out in a Statement of Work the total cost including the Training costs, any sub-contracted training, the cost of the End-Point Assessment (including the cost of external quality assurance) and how off-the-job training required by DfE will be delivered for each Apprenticeship Programme.
- 3.2 At any time during the Term:
 - 3.2.1 the Authority may provide the Training Provider with a request for Services requiring the Training Provider to submit a corresponding draft Statement of Work;
 - 3.2.2 the Training Provider shall, at its cost and expense, submit a Statement of Work to the Authority within five (5) Business Days of the date of the request made pursuant to Clause 3.2.1; and
 - 3.2.3 the Authority shall consider, and update and amend the draft Statement of Work, and shall then submit this to the Training Provider, which shall be deemed accepted by the Training Provider, regardless of whether the Statement of Work has been signed by the Parties.
- 3.3 Each Statement of Work shall be deemed to be an order for Services under, and shall form part of, this Agreement (and shall not constitute a separate contract) and the provisions of this Agreement shall apply (as applicable) to the Services provided under the Statement of Work.
- 3.4 Unless otherwise agreed between the Parties, Statements of Work will be substantially in the form set out in Schedule 1.
- 3.5 Any new/additional work undertaken by the Training Provider in relation to an Apprenticeship or Apprenticeship Programme in advance of the Parties amending an existing Statement of Work or signing a new Statement of Work (including in preparing the draft Statement of Work) will be undertaken at the Training Provider's risk and cost.
- 3.6 The Authority anticipates that it will require Services for Apprentices up to the volumes specified in Schedule 21, however in the event that the Authority has reason to believe that the number of Apprentices will exceed those specified in Schedule 21 it will discuss its requirements with the Training Provider to ensure the Training Provider has the capability to provide the Services for the additional Apprentices. The volumes specified in Schedule 21 are a forecast only and do not constitute an obligation on the Authority to purchase the Services.

4. APPLICATIONS ELIGIBILITY OFFERS AND TRANSFERS

- 4.1 The Training Provider will supply the Services to the Authority in respect of Apprentices employed by the Authority into Apprenticeships from the Commencement Date onwards and who, as part of their Apprenticeship, are admitted to, register on and undertake the Apprenticeship Programme.
- 4.2 The Authority will, at its discretion, interview and put forward candidates for admission to the Apprenticeship Programme to the Training Provider. The Authority shall then forward to the

Training Provider copies of the originals of qualifications certificates, and ID, and details of the Candidate Information. The Training Provider then reviews this documentation and the Candidate Information alongside the standard entry requirements for the Apprenticeship Programme and raises any queries in relation to it with the Authority.

- 4.3 Following completion of the activities described in Clause 4.2, the Training Provider will make offers of Apprenticeship to the candidates, and of admission to the Apprenticeship Programme, provided always that all Apprentices must meet:-

4.3.1 the Training Provider's eligibility criteria for admission to and registration on the Apprenticeship Programme;

4.3.2 the eligibility criteria set out in the Apprenticeship Funding Rules.

- 4.4 In order to be eligible to be admitted to, and register on, the Apprenticeship Programme, each Apprentice must accept the offer or offer of Apprenticeship to be made to them. Apprentices who accept the Training Provider's offer of admission to the Apprenticeship Programme will be subject to the Training Provider's normal administration and registration processes, prior to commencing the Apprenticeship Programme.

- 4.5 The Training Provider shall, with the Authority's prior consent, be entitled to take steps to arrange for any person who applies for an Apprenticeship or for admission to the Apprenticeship Programme (and is unsuccessful in such application), to receive an offer of admission to any other programme of study (including a programme of study associated with an apprenticeship offered by a different employer).

5. **TRAINING PROVIDER OBLIGATIONS**

- 5.1 The Training Provider shall supply the Services to the Authority:-

5.1.1 in accordance with and for the duration of the Apprenticeship Programme undertaken by each Apprentice;

5.1.2 in accordance with the Specification and the Tender Response;

5.1.3 using all due reasonable care and skill;

5.1.4 in compliance with the Apprenticeship Funding Rules and Adult Skills Fund Funding Rules;

5.1.5 in compliance with the Law and associated codes and guidance relevant to the Services (whether legally binding or not) from time to time in force; and

5.1.6 in compliance with the quality codes and guidance issued by the IfATE, Ofqual, DFE and/or Ofsted or other relevant regulatory body or accreditation institution (as the case may be).

- 5.2 The Training Provider shall enter into written agreements with any and all relevant:-

5.2.1 Subcontractors pre-approved by the Authority in accordance with Clause 50.1 and those specified in the Apprenticeship Programme; and

5.2.2 EPAOs (except where the Apprenticeship relates to an Integrated Standard and the Training Provider is the EPAO) as specified in the Apprenticeship Programme and upon the Authority's reasonable request provide a copy of the written agreement with the EPAO. The Training Provider must have contracted with an EPAO to deliver End-Point Assessments for all Apprentices under this Agreement, within 6 months of the Commencement Date to ensure the timely delivery of the End-Point

Assessments. In the event the Training Provider fails to comply with the requirements of this Clause 5.2.2, this will be deemed a Material Default for the purposes of this Agreement.

- 5.3 The Training Provider shall be responsible for paying the EPAOs for undertaking the End-Point Assessments and shall keep records of all such payments.
- 5.4 The Training Provider shall during the Term maintain a minimum Ofsted rating of:
 - 5.4.1 grade 2 (good); or
 - 5.4.2 grade 3 (requires improvement) provided the Training Provider has a grade 2 (good) rating in the "Quality of Education" criteria.
- 5.5 In the event the Training Provider receives an Ofsted rating which does not comply with the requirements set out in Clause 5.4:
 - 5.5.1 the Training Provider shall notify the Authority as soon as reasonably practicable of the change in Ofsted rating; and
 - 5.5.2 this will be deemed a Material Default for the purposes of this Agreement.
- 5.6 The Training Provider shall notify the Authority as soon as reasonably practicable if it terminates its written agreement with an EPAO and appoints a replacement EPAO.
- 5.7 Subject to the Authority fulfilling the obligations set out in Clauses 6 and 8, the Training Provider shall use all reasonable endeavours to recover from the DFE those parts of the Charges which may lawfully be recovered from it and shall only use the Charges for Apprentices who are eligible under the Apprenticeship Funding Rules.
- 5.8 The Training Provider shall:-
 - 5.8.1 monitor the quality of Training delivered and Training Provider Materials provided by any Subcontractor through such means as it considers appropriate which may include regular meetings, audits and observations of teaching, learning and assessment;
 - 5.8.2 ensure it remains listed on the APAR for the Term;
 - 5.8.3 confirm promptly on request by providing signed declarations to the Authority:-
 - (a) each Apprentice's eligibility for apprenticeship funding under the Apprenticeship Funding Rules; and
 - (b) any eligibility for 16-18 or 19-24 year old incentive payments (as per the Apprenticeship Funding Rules and if applicable);
 - 5.8.4 ensure that its Tutors will possess the appropriate skills, are up to date with current probation practice, and will be sufficiently qualified to deliver the Training to the Apprentices;
 - 5.8.5 hold a funding agreement with the DFE throughout the Term, where required;
 - 5.8.6 promptly prepare and redistribute the Individual Learning Plan and Training Plan to each Apprentice prior to the commencement of the Apprenticeship Programme;
 - 5.8.7 extend the actual end-date of the Apprenticeship Programme if the working hours of an Apprentice fall below 30 hours a week;

- 5.8.8 carry out a thorough assessment within 5 days of an Apprentice's induction to identify any additional learning support an Apprentice may need and if appropriate record in the Individual Learning Plan that an Apprentice has a learning support need;
- 5.8.9 agree and record the outcomes of an additional learning support assessment, deliver support in line with the Apprentice's identified needs, record all outcomes in an Evidence Pack (as defined in Clause 12.6), and retain all evidence of the assessment;
- 5.8.10 provide relevant training and course materials of sufficient quality to the Apprentice in respect of the Apprenticeship;
- 5.8.11 provide to all Apprentices a comprehensive handbook in physical and/or electronic form, which includes the Training Provider's written complaints and dispute resolution procedure, process and policy;
- 5.8.12 apply for the apprenticeship completion certificate within one months of completion of the Apprenticeship Programme (if appropriate);
- 5.8.13 email the Management Information to the Authority at ApprenticeshipInfo@justice.gov.uk by the second Thursday of each month;
- 5.8.14 complete an annual self-assessment report and quality improvement plan and share this with the Authority;
- 5.8.15 work with the Authority to provide a safe and healthy environment which meets Apprentices' specific needs;
- 5.8.16 promptly record all required details of the Apprenticeship with the DFE through the Authority's Apprenticeship Service Account;
- 5.8.17 request from the Authority "Enhanced Level 1 Clearance" for Training Provider Staff who require access to the Authority Premises and make such request at least 6 weeks in advance of such date when access is required by the Training Provider Staff;
- 5.8.18 cooperate in good faith with the Authority and/or EPAO to enable the successful delivery of the Training and the completion of each Apprenticeship;
- 5.8.19 to the extent the Training, or any part of the Training, is provided on the Training Provider's premises, be responsible (at its own cost) for ensuring that the Training Provider's premises are suitable for the Training;
- 5.8.20 publish on its website its rationale for subcontracting the Services (to the extent applicable) (the "**Subcontracting Rationale**");
- 5.8.21 before agreeing the use of a Subcontractor, the Training Provider must prepare and publish a policy (the "**Subcontracting Policy**") which:
 - (a) provides the Authority with details of the services it will provide when subcontracting the Training;
 - (b) explains how it will determine the associated costs of subcontracting;
 - (c) sets out its full range of fees retained and charges that apply, including
 - (i) funding retained for quality assurance and oversight; and

- (ii) funding retained for administrative functions such as data returns;
 - (d) sets out how it has determined that each cost claimed by a Subcontractor is reasonable and proportionate to the delivery of the subcontract teaching or learning and how each cost contributes to delivering high quality learning;
- 5.8.22 review the Subcontracting Rationale and Subcontracting Policy before each funding year (1 August – 31 July), and publish the updated Subcontracting Rationale and Subcontracting Policy by 31 October each funding year;
- 5.8.23 ensure that all Apprentices who receive Training delivered by a Subcontractor are aware of the Training Provider's relationships with its Subcontractors, and the Subcontractors' roles and responsibilities in delivering the Apprenticeship Programme; and
- 5.8.24 ensure that each Apprentice is prepared for and understands the End-Point Assessment process.
- 5.9 The Training Provider acknowledges that in order for the Authority's Apprenticeship Service Account to be funded, the information submitted by the Training Provider to the DFE each month through the Individual Learning Record must correspond with the data entered into the Authority's Apprenticeship Service Account. The Training Provider shall ensure that all data submitted through the Individual Learning Record matches the information in the Authority's Apprenticeship Service Account provided that the information in the Authority's Apprenticeship Service Account as entered by the Authority is correct. Any errors found in the Individual Learning Record or the Authority's Apprenticeship Service Account shall be promptly corrected by the Party responsible for such data entry.
- 5.10 Where any payments are withheld by the DFE as a result of any non-matching data entered by the Authority pursuant to Clause 5.9, the Training Provider shall be entitled to recover from the Authority any direct losses suffered as a result of such withholding (subject always to the Training Provider mitigating any losses it suffers).
- 5.11 The Parties acknowledge that eligible Apprentices will receive a £1,000 payment if they have either a Education, Health and Care (EHC) plan provided by their local authority and/or have been in the care of the local authority in the UK (the criteria for which is set out in the Apprenticeship Funding Rules). This bursary payment, due to the Apprentice, will be generated to the Training Provider 60 days after they start their Apprenticeship and the Training Provider must pass this on in full to the Apprentice within 30 days of receiving this funding from the DFE.
- 6. **AUTHORITY OBLIGATIONS**
- 6.1 The Authority shall:-
 - 6.1.1 from the commencement of each Apprentice's Apprenticeship, employ and pay the Apprentice in accordance with the Law, and all agreed employment terms and conditions, for the duration of the Apprenticeship, which shall be not less than the duration of the relevant Apprenticeship Programme (subject to earlier termination of this Agreement in accordance with its terms and/or the Apprentice's employment contract);

- 6.1.2 promptly do all acts and not omit to do anything reasonably requested of the Authority by the Training Provider or the DFE for the purposes of the Training Provider's:-
- (a) compliance with the Apprenticeship Funding Rules;
 - (b) obtaining any payment to which it or the Training Provider may be entitled under the Apprenticeship Funding Rules;
 - (c) comply with the quality codes and guidance issued by the OfS, the DFE and/or Ofsted (as the case may be);
- 6.1.3 provide the Training Provider with any Authority Materials required by the Training Provider to develop the Apprenticeship Programmes and Training Provider Materials;
- 6.1.4 comply with the Law and associated codes and guidance relevant to the Services (whether legally binding or not) from time to time in force;
- 6.1.5 enter into and procure that each Apprentice enters into:-
- (a) an Apprenticeship Agreement with the Authority; and
 - (b) a Training Plan, with the Authority and the Training Provider as required by the Apprenticeship Funding Rules and ensure the Training Plan is signed prior to the commencement of the Apprenticeship Programme,
- each of which must be in place for the entire length of the Apprenticeship and meet the requirements of the Apprenticeship Funding Rules;
- 6.1.6 provide such training and/or carry out such actions as are assigned to the Authority in the Approved Apprenticeship Standard and/or in the Apprenticeship Programme (including in each case any actions which relate to the End-Point Assessment) and/or as reasonably requested of the Authority by the Training Provider, and in any event support each Apprentice in their learning and development to the reasonable satisfaction of the Training Provider;
- 6.1.7 notify in writing the Training Provider of any Break in Learning;
- 6.1.8 confirm promptly on request by providing signed declarations to the Training Provider:-
- (a) the average number of employees employed by the Authority in the three hundred and sixty five (365) days immediately preceding the first day of an Apprenticeship and (if applicable) the Authority's eligibility for small employer incentive payment;
 - (b) any other matters on which the Training Provider requires written evidence that is in the possession of the Authority in order for the Training Provider to comply with the Apprenticeship Funding Rules (including evidence of the Apprentice's average weekly hours, any changes to working patterns and eligibility at the start of the Apprenticeship);
 - (c) the address or addresses where the Apprentice shall be carrying out their working hours; and
 - (d) whether learning support is available to support Apprentices with additional learning needs.

6.1.9 ensure, and on request confirm in writing, that:-

- (a) each Apprentice is employed for a minimum of 30 hours per week and that training both on and off the job is included in those hours of employment or where the Apprentice is employed for less than 30 hours per week the duration of the Apprenticeship has been extended proportionately in accordance with the Apprenticeship Funding Rules (with the Authority keeping a record of the circumstances which has led it to believe that a reduction in hours is appropriate);
- (b) the funding for the Apprenticeship is not used to pay Apprentices' wages;
- (c) each Apprentice is eligible to work in England;
- (d) each Apprentice will spend at least 50% of their working hours in England over the duration of the Apprenticeship;
- (e) each Apprentice is enabled to complete the Apprenticeship within their normal working hours, which are the hours for which the Apprentice would normally be paid (excluding overtime) and make available time for the Apprentice to be able to complete the Apprenticeship Programme including:-
 - (i) permitting Apprentice's to spend at least 20% of their usual working hours to be used on off-the-job-training (for Apprentices that work more than 30 hours per week, this minimum amount of off-the-job training is calculated assuming they work 30 hours per week);
 - (ii) releasing each Apprentice to the Training Provider for undertaking such training and courses with the Training Provider as set out in the Apprenticeship Programme;
 - (iii) providing each Apprentice the use of equipment necessary to enable the Apprentice to undertake the Training;
 - (iv) cooperating with the Training Provider to arrange for any necessary End-Point Assessment and allowing each Apprentice to attend the same;

6.1.10 provide payment for second resits (as the first resit shall be included within the Costs Below the Funding Cap) for qualifications or End-Point Assessment required by the Approved Apprenticeship Standard where no extra learning takes place before the re-take;

6.1.11 use reasonable endeavours to procure that each Apprentice complies with the Training Provider's Policies;

6.1.12 ensure that each Apprentice is prepared for and understands the End-Point Assessment process;

6.1.13 notify the Training Provider in writing if it undergoes or is reasonably likely to undergo a Change of Control;

6.1.14 promptly notify (but in any event within 10 Business Days) the Training Provider if the Apprentice will change employers but continue the Apprenticeship;

- 6.1.15 immediately notify the Training Provider if the Apprentice's employment with the Authority ceases; and
- 6.1.16 if the Apprentice is made redundant:
 - (a) immediately notify the Training Provider;
 - (b) provide a copy of the redundancy notice stating the reason for dismissal as redundancy; and
 - (c) provide evidence that it has made reasonable efforts to find the Apprentice a replacement employer.
- 6.2 In the event an Apprentice fails a second resit of their End-Point Assessment, then the Parties shall discuss the academic progress of the Apprentice, and the Authority may (at its discretion) decide to withdraw the Apprentice from the Apprenticeship Programme.
- 6.3 The Authority shall use reasonable endeavours to grant Training Provider Staff who require access to the Authority Premises with "Enhanced Level 1 Clearance" within 6 weeks of receipt of a request from the Training Provider. Training Provider Staff shall not be granted access to the Authority Premises without first receiving "Enhanced Level 1 Clearance" and the Authority shall grant "Enhanced Level 1 Clearance" at its absolute discretion.
- 6.4 The Authority shall secure an efficient working relationship with the Training Provider and in order to protect the interests of each Apprentice the Authority shall:-
 - 6.4.1 cooperate in good faith with the Training Provider and any Subcontractor and/or EPAO to enable the successful delivery of the Training and the completion of each Apprenticeship;
 - 6.4.2 provide to the Training Provider on request all necessary log-in information to enable the Training Provider to access the Authority's Apprenticeship Service Account for the purposes of confirming the Funding available in respect of an Apprentice and uploading on behalf of the Authority information required pursuant to the Apprenticeship Funding Rules relating to the Apprentice, the Apprenticeship Programme, the Apprenticeship and/or other relevant matters. For the avoidance of doubt, the on-line administration tasks to be performed by the Training Provider shall exclude confirming the spending of Funding from the Authority's Apprenticeship Service Account (which act may, under the Apprenticeship Funding Rules, only be carried out by the Authority); and
 - 6.4.3 allow the Training Provider, the Training Provider Staff, auditors, contractors or agents, access to each Apprentice, the Authority's premises and any relevant records or documents, including health and safety records, to allow the Training Provider to comply with the Training Provider's obligations under this Agreement. Such access shall be as reasonably agreed between the Parties or on reasonable written notice from the Training Provider.
- 6.5 Holiday arrangements for Apprentices will be confirmed between the Authority and the Apprentices as soon as reasonably practicable. The Authority will inform the Training Provider as soon as reasonably practicable.
- 6.6 The Authority warrants and will at all times ensure that all Apprenticeships created by it meet the DFE's requirements (including those relating to Apprenticeships comprising 'genuine jobs').
- 6.7 The Authority acknowledges that in order to qualify into certain professions the Apprentice may need to meet the requirements of the relevant professional body. Participating in the Training will not automatically result in acceptance of the Apprentice by the relevant professional body. It is the Apprentice's responsibility to ensure that they meet the eligibility

requirements of the relevant professional body. The Training Provider will not be liable for any failure of the Apprentice to be accepted into their chosen profession.

- 6.8 The Authority shall be responsible for all disciplinary and capability issues relating to the employment of each Apprentice. The Authority shall, at its own cost, inform the Training Provider immediately if it has cause to believe that there may be any disciplinary and capability issues relating to the employment of any Apprentice, and the Training Provider will provide the Authority with reasonable assistance in investigating the issue.

7. FUNCTIONAL SKILLS

- 7.1 The Training Provider shall:

- 7.1.1 be responsible for carrying out a Functional Skills initial assessment within 8 weeks of an Apprentice enrolling and being on-boarded on an Apprenticeship Programme;
- 7.1.2 deliver the Functional Skills programme (including providing academic support and invigilating Functional Skills exams) where an Apprentice does not already hold a suitable equivalent qualification;
- 7.1.3 comply with the Adult Skills Fund Funding Rules;
- 7.1.4 ensure that Apprentices complete their Functional Skills programme (if applicable) within 10 months of commencement of their Apprenticeship Programme;
- 7.1.5 provide Apprentices with three opportunities to pass their Functional Skills assessment which shall be funded via the Adult Skills Fund or the Functional Skills Costs (as applicable); and
- 7.1.6 be responsible for funding the delivery of the Functional Skills for English Apprentices by drawing down on the Adult Skills Fund via completion of an Apprentice's Individual Learner Record.

- 7.2 The Training Provider agrees and acknowledges that the Functional Skills Costs are capped at £500 per Apprentice per Functional Skill, with the total charges capped at £10,000. In the event the Training Provider anticipates that the total Functional Skills Costs will exceed £10,000, the Parties will discuss the matter at a monthly or quarterly meeting in accordance with Clause 46.1 and agree a new budget.

- 7.3 In the event an Apprentice does not complete their Functional Skills assessment in three attempts, then the Parties shall discuss the academic progress of the Apprentice, and the Authority may (at its discretion) decide to withdraw the Apprentice from the Apprenticeship Programme.

8. MUTUAL OBLIGATIONS AND WARRANTIES

- 8.1 The Parties shall deliver their respective obligations to each other and to the Apprentice in accordance with the Apprenticeship Funding Rules.

- 8.2 In the event of any conflict or inconsistency between the Apprenticeship Funding Rules, the Adult Skills Fund Funding Rules, and the terms of this Agreement, the Tender Response and the Specification, the following descending order of priority applies:

- 8.2.1 the Apprenticeship Funding Rules;
- 8.2.2 the Adult Skills Fund Funding Rules;
- 8.2.3 the terms and conditions set out in this Agreement;

- 8.2.4 the Specification; and
 - 8.2.5 the Tender Response.
- 8.3 Without prejudice to Clause 8.2, in the event of any conflict or inconsistency, the Parties will discuss the conflict or inconsistency and attempt in good faith to agree a variation to the Agreement to cure the conflict or inconsistency.
- 8.4 Each Party shall:-
- 8.4.1 promptly notify the other Party in writing when it becomes aware or develops a reasonable suspicion that any Apprentice wishes to withdraw from the Apprenticeship or the Apprenticeship Programme; and
 - 8.4.2 immediately notify the other Party if any Apprentice informs it that they no longer wish to continue with the Apprenticeship or the Apprenticeship Programme.
- 8.5 The Parties shall together ensure that the Apprenticeship meets the Assessment Plan and ensure that the Parties and Apprentice agree and enter into the Training Plan prior to the commencement of an Apprenticeship Programme.
9. **RIGHTS AND PROTECTION**
- 9.1 The Training Provider warrants and represents that:
- 9.1.1 it has full capacity and authority to enter into and to perform this Agreement;
 - 9.1.2 this Agreement is entered into by its authorised representative;
 - 9.1.3 it is a legally valid and existing organisation incorporated in the place it was formed;
 - 9.1.4 there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform this Agreement;
 - 9.1.5 all necessary rights, authorisations, licences and consents (including in relation to IPRs) are in place to enable the Training Provider to perform its obligations under this Agreement and for the Authority to receive the Services;
 - 9.1.6 it does not have any contractual obligations which are likely to have a material adverse effect on its ability to perform this Agreement;
 - 9.1.7 it is not impacted by an Insolvency Event or a Financial Distress Event;
 - 9.1.8 neither it nor, to the best of its knowledge the Training Provider Staff, have committed a Prohibited Act prior to the Commencement Date or been subject to an investigation relating to a Prohibited Act; and
 - 9.1.9 all statements made and documents submitted as part of the procurement of Services are and remain true and accurate.
- 9.2 The warranties and representations in Clause 9.1 are repeated each time the Training Provider and the Authority enter into a Statement of Work under this Agreement.
- 9.3 The Training Provider indemnifies the Authority against each of the following:
- 9.3.1 wilful misconduct of the Training Provider, EPAO, Subcontractor and Training Provider Staff that impacts this Agreement; and

- 9.3.2 non-payment by the Training Provider of any tax or National Insurance.
- 9.4 All claims indemnified under this Agreement must be managed in accordance with Clause 11.
- 9.5 The description of any provision of this Agreement as a warranty does not prevent the Authority from exercising any termination right that it may have for Default of that clause by the Training Provider.
- 9.6 If the Training Provider becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Authority.
- 9.7 All third party warranties and indemnities covering the Services must be assigned for the Authority's benefit by the Training Provider for free.
10. **DEALING WITH CLAIMS**
- 10.1 If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than 10 Business Days.
- 10.2 At the Indemnifier's cost the Beneficiary must both:
- 10.2.1 allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim; and
- 10.2.2 give the Indemnifier reasonable assistance with the claim if requested.
- 10.3 The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which cannot be unreasonably withheld or delayed.
- 10.4 The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that does not damage the Beneficiary's reputation.
- 10.5 The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.
- 10.6 Each Beneficiary must use all reasonable endeavours to minimise and mitigate any losses that it suffers because of the Claim.
- 10.7 If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:
- 10.7.1 the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; and
- 10.7.2 the amount the Indemnifier paid the Beneficiary for the Claim.
11. **CHARGES AND PAYMENTS**
- 11.1 The Authority shall be responsible for the payment of the Charges to the Training Provider. Without prejudice to the generality of the foregoing, the Authority in that regard shall:-
- 11.1.1 complete all such documents and perform all such acts as may be required by the Training Provider or the DFE to enable the Training Provider to recover the Charges (other than the Costs Above the Funding Cap and Non Levy Funding, if any) from the DFE in such instalments of such frequency and amount, and commencing on

such date, as is prescribed by or for which provision is made in the Apprenticeship Funding Rules. Those acts shall include, (without limitation):-

- (a) confirming the spending of Funding from the Authority's Apprenticeship Service Account (which act may, under the Apprenticeship Funding Rules, only be carried out by the Authority); and
- (b) such acts as may be required by the Training Provider to enable it to complete and submit periodic Individualised Learner Record returns, and to claim apprenticeship completion certificates from the DFE.

The Parties acknowledge, in that regard, that the Apprenticeship Funding Rules currently provide as follows:-

"If levy funds are available in an employer's account, we will pay the provider 80% of the negotiated price (TNP1 and TNP2) up to the funding band maximum, in equal monthly instalments according to the planned duration of the apprenticeship, regardless of how training is scheduled over the duration of the apprenticeship.

If the employer does not have levy funds in their apprenticeship account (non-levy payers and levy payers with insufficient funds), we will pay the provider 80% of the government co-investment funding in equal monthly instalments (up to the funding band maximum) according to the planned duration of the apprenticeship, regardless of how training is scheduled over the duration of the apprenticeship. Our monthly instalments will need to be matched with equivalent employer co-investment payments (set at the rate at the time the apprenticeship started), with main providers evidencing this throughout the financial year.

We will pay the remaining balance (the completion payment) of the total negotiated price, up to the funding band maximum, to the provider when the apprentice has undertaken all the activity relevant to the apprenticeship, including completing all elements of the end-point assessment; and where applicable, the employer co-investment has been collected and recorded on the ILR."

- 11.2 Where there are insufficient funds in the Authority's Service Account or the Authority does not pay the apprenticeship levy, the DFE will pay 95% of the unfunded charges and the Authority will pay 5%, up to the Costs Above the Funding Cap (the "**Co-investment**").
- 11.3 The Training Provider shall send invoices to the Authority in respect of the Co-Investment, Non Levy Funding, Costs Above the Funding Cap, Additional Costs and Functional Skills Costs in accordance with the invoicing terms set out in Schedule 6. The Authority shall pay such invoices in accordance with the payment terms set out in Schedule 6.
- 11.4 Costs Above the Funding Cap, Non Levy Funding, Additional Costs and Functional Skills Costs payable in respect of the Services supplied in connection with each Apprentice are calculated across the duration of the Apprenticeship Programme undertaken by each Apprentice, and payable in arrears.
- 11.5 Without prejudice to the rights of either Party under this Agreement, any undisputed invoices that remain unpaid after their due date shall bear interest at the rate of two per cent (2%) above the Bank of England base rate from time to time.
- 11.6 The Training Provider shall maintain the evidence pack as referred to in the Apprenticeship Funding Rules (the "**Evidence Pack**"). The Authority will provide necessary supporting information to enable the Training Provider to complete this task, and procure that the Apprentices provide such information as may be required from them to enable the Training Provider to do so.

- 11.7 Except as permitted by the Apprenticeship Funding Rules from time to time, the Training Provider may not apply the Charges received from the DFE for any of the following:-
- 11.7.1 enrolment, induction, prior assessment, initial diagnostic testing or similar activity;
 - 11.7.2 travel costs for Apprentices, under any circumstances;
 - 11.7.3 Apprentices' wages;
 - 11.7.4 personal protective clothing and safety equipment required by the Apprentice to carry out their day-to-day work;
 - 11.7.5 development of original teaching materials related to the delivery of a new apprenticeship offer;
 - 11.7.6 off-the-job training delivered only by distance learning;
 - 11.7.7 any training, optional modules, educational trips or trips to professional events in excess of those required to achieve the Apprenticeship or meet the knowledge, skills and behaviours of the apprenticeship standard;
 - 11.7.8 any fees to third parties associated with a licence to practise, including registration, examination and certification costs;
 - 11.7.9 any fees to awarding bodies for non-mandatory qualifications, including registration, examination and certification costs;
 - 11.7.10 End-Point Assessment costs incurred by the Training Provider but not included in the price agreed between the Authority and the EPAO;
 - 11.7.11 English and Mathematics up to level 2;
 - 11.7.12 repeating the same regulated qualification where the Apprentice has previously achieved it, unless it is a requirement of the Apprenticeship or for any GCSE where the Apprentice has not achieved grade C, or 4, or higher;
 - 11.7.13 accommodation costs where the Apprentice is resident away from their home base, because of the requirements of their day-to-day work or because this is convenient for the Authority or the Training Provider. Residential costs associated with non-mandatory qualifications are also excluded;
 - 11.7.14 capital purchases including lease agreements. Capital purchases are long-term assets which would have a lifespan beyond the individual Apprenticeship being funded for example: land, buildings, machinery and ICT equipment;
 - 11.7.15 maintenance of capital purchases, which includes vehicle parts and labour, insurance and MOT;
 - 11.7.16 time spent by employees or managers supporting or mentoring Apprentices where this is not delivering training required as part of the Apprenticeship; and
 - 11.7.17 specific services not related to the delivery and administration of the Apprenticeship. This includes the recruitment and continuing professional development of staff involved in Apprenticeships, company inductions, managing agents and those providing a brokerage or referral service.
- 11.8 The Charges payable in respect of the Services will be calculated by reference to the number of Apprentices who undertake the Apprenticeship Programme from time to time.

- 11.9 The Costs Below the Funding Cap, and consequently the Charges, payable in connection with each Apprentice will be reduced to account for any prior learning (as detailed in the Apprenticeship Funding Rules) necessary to achieve the Apprenticeship and previously undertaken by the Apprentice.
12. **THE APPRENTICESHIP PROGRAMME**
- 12.1 An Apprenticeship Programme comprises the Training set out in a Statement of Work. The Parties acknowledge that the Training Provider is responsible for the creation of the programme providing the framework for the Training/Apprenticeship Programme (the "**Programme Specification**").
- 12.2 When developing the Programme Specification the Training Provider shall comply with the process set out in Schedule 9 and shall ensure that the Programme Specification complies with the Authority's requirements as set out in the Specification.
- 12.3 The Programme Specification is reviewed, and may be updated, annually under the Training Provider's Policies and the Training Provider's quality assurance processes, and includes information on the following areas:-
- 12.3.1 award and title;
 - 12.3.2 level;
 - 12.3.3 programme aims;
 - 12.3.4 learning outcomes;
 - 12.3.5 programme curriculum, structure and features;
 - 12.3.6 eligibility and admissions criteria;
 - 12.3.7 support for apprentice learning;
 - 12.3.8 all associated administration;
 - 12.3.9 methods for evaluation and improving the quality and standards of teaching and learning;
 - 12.3.10 regulation of assessment;
 - 12.3.11 mapping of intended learning outcomes onto the curriculum; and
 - 12.3.12 other sources of information.
- 12.4 The latest version of the Programme Specification will be held by the Training Provider and will be shared with the Authority.
- 12.5 The Parties agree that the content of the Programme Specification and delivery of the Training will be reviewed in line with any future changes to the Approved Apprenticeship Standard. From time to time the Authority may request the Training Provider to make changes to the content of the Apprenticeship Programme and the Training Provider shall update such content within eight weeks of receiving the Authority's request.
- 12.6 The Training Provider will use a team of Tutors to deliver the Training in accordance with the Programme Specification and assess and/or procure the assessment of (as appropriate) the Apprentices' achievements in the Apprenticeship Programme. The Training Provider is

responsible for ensuring that assignments that contribute to module assessments are examined in a consistent way and that the judgements reached are comparable and reliable.

- 12.7 The Training Provider will make appropriate arrangements for Apprentices who successfully complete the Apprenticeship Programme to receive conferment of their award.
- 12.8 The Parties acknowledge that the overall control over the successful completion of the Apprenticeship Programme shall remain with the Training Provider in accordance with its statutory and regulatory obligations.
- 12.9 In connection with the Apprenticeship Programme, the Parties agree that the Training Provider has responsibility for the following:-
- 12.9.1 to deliver the Training in accordance with the Training Provider's Policies;
 - 12.9.2 to ensure that the standards of the Apprenticeship Programme and its award are met and maintained by reference to the Training Provider's Policies and the Training Provider's quality assurance processes;
 - 12.9.3 to provide appropriate staffing for the supervision of Apprentices;
 - 12.9.4 to make offers of admission to, admit and register Apprentices on the Apprenticeship Programme in consultation with the Authority and in accordance with the provisions of this Agreement;
 - 12.9.5 to deliver such induction in connection with the Apprenticeship Programme as it reasonably considers appropriate;
 - 12.9.6 to ensure that Apprentices admitted to and registered on the Apprenticeship Programme are aware that they will be bound by health and safety procedures and community/behaviour standards and legislation and procedures of any recognised institution in which they are physically located for any aspect of the Apprenticeship Programme;
 - 12.9.7 to ensure that the requisite risk assessment is undertaken and that adequate health and safety provisions are in place, and which are consistent with those of the Training Provider, where the Apprenticeship Programme requires Apprentices to spend a period of time in a different institution or organisation;
 - 12.9.8 to make arrangements for and assess and/or procure the assessment of (as appropriate) the Apprentices' achievements in the Apprenticeship Programme;
 - 12.9.9 to ensure Apprentices have access to services provided to all of the students and trainees registered at the Training Provider, including appropriate resources and facilities and are subject to the Training Provider's Policies;
 - 12.9.10 to receive and review concerns and complaints from Apprentices in accordance with the Training Provider's Policies, and to notify the Authority of such concerns or complaints which, in the Training Provider's reasonable opinion, have or could have a material impact on the Apprenticeship;
 - 12.9.11 to receive and consider appeals from Apprentices in accordance with the Training Provider's Policies;
 - 12.9.12 when investigating potential incidents of misconduct by the Apprentices, to inform the Authority of those which, in the Training Provider's reasonable opinion, have or could have a material impact on the Apprenticeship and prior to taking any action in accordance with the Training Provider's Policies;

- 12.9.13 to cooperate, where necessary and requested by the Authority, in any investigation or process conducted by the Authority into the conduct of any Apprentice in connection with the Apprenticeship.
- 12.10 The Parties agree that the Authority has responsibility for the following:-
 - 12.10.1 to report to the Training Provider incidents the subject matter of which amounts to misconduct as defined by the Authority's policies and, where necessary and requested by the Training Provider, co-operate in the investigation and determination of any such misconduct by the Training Provider;
 - 12.10.2 to co-operate, where necessary and requested by the Training Provider, in the investigation by the Training Provider of Apprentice complaints and appeals;
 - 12.10.3 to receive and review complaints in accordance with its procedures and relay details of their progress to the Training Provider.
- 12.11 The Parties acknowledge that the subject matter of an incident amounting (or potentially amounting) to misconduct by an Apprentice might also amount to a disciplinary offence under the Authority's terms and conditions of employment, as well as under the Training Provider's Policies. The Parties will keep each other updated regarding the progress any action taken in accordance with their contact obligations under Clause 46.
- 12.12 The Parties acknowledge that the nature of the Apprenticeship means that there is likely to be some joint management of the Apprentices throughout the Term. The Parties will cooperate with each other in all circumstances to manage and support the Apprentices in their respective capacities throughout the Apprenticeship. The Parties will comply with their respective legal obligations in accordance with the Apprenticeships Skills, Children and Learning Act 2009 and any related regulations and/or guidance as may be amended from time to time which are applicable to the Apprenticeship.
- 13. **CHANGE OF CIRCUMSTANCES**
 - 13.1 Each Party must inform the other Party immediately if it becomes aware of any change of circumstance (as defined in Clause 14.2) which may affect the amount of government funding that can be claimed by the Authority, or any Apprentice's ability to successfully complete his or her Apprenticeship as agreed under his or her Apprenticeship Agreement and Training Plan.
 - 13.2 A change of circumstance may include, but is not limited to a change:-
 - 13.2.1 of Authority, or Authority circumstance (for example if the Authority goes into administration);
 - 13.2.2 of Apprentice job role or employment status;
 - 13.2.3 in an Apprentice's circumstances leading to a Break in Learning; or
 - 13.2.4 in an Apprentice's status (for example, the Apprentice leaves his or her Apprenticeship early).
 - 13.3 Where there is a change of circumstance, the Training Provider must update the ILR in accordance with the DFE's Independent Learner Records as soon as the Training Provider is made aware of the change of circumstance.
 - 13.4 If a change of circumstance means that training and/or assessment is no longer being delivered or capable of being delivered, neither Party shall claim any further government

funding contributions. The Authority shall ensure that any Authority contribution for any training or assessment that has already been delivered is paid.

14. EVIDENCE REQUIREMENTS

- 14.1 For each Apprentice for which the Apprenticeship Funding Rules require, the Authority shall sign an eligibility declaration form (in the form required by the National Apprenticeship Service from time to time), confirming both the eligibility of the Apprentice and its eligibility as an employer for incentive payments (if any).
- 14.2 The Training Provider shall retain a signed eligibility declaration for each Apprentice.
- 14.3 The Training Provider shall hold evidence:-
- 14.3.1 that the Apprentice exists and is eligible to work in the UK;
 - 14.3.2 the Apprentice is eligible for funding;
 - 14.3.3 that the Authority is eligible for any incentive payments;
 - 14.3.4 of a written agreement with the Authority;
 - 14.3.5 that the education and training being delivered is eligible for funding;
 - 14.3.6 that the training/assessment activity is taking place or has taken place; and
 - 14.3.7 that, for elements of quality standards for which certification is required, the achievement of learning aims has been certified by way of a certificate issued by an awarding organisation or assessment body for the apprenticeship standard, and to support other funding claimed, such as learning support and education in English and Mathematics.
- 14.4 The Training Provider shall retain employer incentive claim forms submitted by the Authority and shall retain any evidence of each Apprentice's eligibility for as long as is reasonably necessary.

15. RELIEF FOR TRAINING PROVIDER NON-PERFORMANCE

- 15.1 If Training Provider Non-Performance arises from an Authority Cause:
- 15.1.1 the Authority cannot terminate this Agreement under Clause 25.1; and
 - 15.1.2 the Training Provider is entitled to reasonable and proven additional expenses and to relief from liability under this Agreement.
- 15.2 Clause 16.1 only applies if the Training Provider:
- 15.2.1 gives notice to the Authority of the Authority Cause within ten (10) Business Days of becoming aware;
 - 15.2.2 demonstrates that the Training Provider Non-Performance only happened because of the Authority Cause; and
 - 15.2.3 mitigated the impact of the Authority Cause.

16. RECORD KEEPING AND REPORTING

- 16.1 The Training Provider must keep and maintain full and accurate records and accounts in respect of this Agreement during the Term and for seven (7) years after the termination or expiry of this Agreement and in accordance with the UK GDPR or the EU GDPR as the context requires, including the records and accounts which the Authority has a right to Audit.
- 16.2 The Training Provider must co-operate with the Authority to achieve the Financial Transparency Objectives and, to this end, will provide a Financial Report to the Authority:
- 16.2.1 on or before the Commencement Date;
 - 16.2.2 at the end of each Contract Year; and
 - 16.2.3 within six (6) months of the end of the Term,
- and the Training Provider must meet with the Authority if requested within ten (10) Business Days of the Authority receiving a Financial Report.
- 16.3 If the Training Provider becomes aware of an event that has occurred or is likely to occur in the future which will have a material effect on the forecast Charges for the remainder of this Agreement, then the Training Provider must notify the Authority in writing as soon as practicable setting out the actual or anticipated effect of the event.
- 16.4 The Authority or an Auditor can Audit the Training Provider.
- 16.5 The Training Provider must allow any Auditor access to their premises and the Authority will use reasonable endeavours to ensure that any Auditor:
- 16.5.1 complies with the Training Provider's operating procedures; and
 - 16.5.2 does not unreasonably disrupt the Training Provider or its provision of the Services.
- 16.6 During an Audit, the Training Provider must provide information to the Auditor and reasonable co-operation at their request including access to:
- 16.6.1 all information within the permitted scope of the Audit;
 - 16.6.2 any premises, equipment and the Training Provider's ICT system used in the performance of this Agreement; and
 - 16.6.3 the Training Provider Staff.
- 16.7 The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a Material Default by the Training Provider, in which case the Training Provider will repay the Authority's reasonable costs in connection with the Audit.
- 16.8 The Training Provider must comply with the Authority's reasonable instructions following an Audit, including:
- 16.8.1 correcting any identified Default;
 - 16.8.2 rectifying any error identified in a Financial Report; and
 - 16.8.3 repaying any Charges that the Authority has overpaid.
- 16.9 If the Training Provider is not providing any of the Services, or is unable to provide them, it must immediately:
- 16.9.1 tell the Authority and give reasons;

- 16.9.2 propose corrective action; and
 - 16.9.3 provide a deadline for completing the corrective action.
- 16.10 Except where an Audit is imposed on the Authority by a regulatory body or where the Authority has reasonable grounds for believing that the Training Provider has not complied with its obligations under this Agreement, the Authority may not conduct an Audit of the Training Provider or of the same Subcontractor more than twice in any Contract Year.
- 17. TRAINING PROVIDER STAFF**
- 17.1 The Training Provider Staff involved in the performance of this Agreement must:
- 17.1.1 be appropriately trained and qualified and be up to date with current probation practice;
 - 17.1.2 be vetted using Good Industry Practice and the Security Policy (if used); and
 - 17.1.3 comply with all conduct requirements when on the Authority Premises.
- 17.2 Where the Authority decides one of the Training Provider Staff is not suitable to work on this Agreement, the Training Provider must replace them with a suitably qualified alternative.
- 17.3 The Training Provider must provide a list of Training Provider Staff needing to access the Authority Premises and say why access is required. Before entering the Authority Premises, all Training Provider Staff must have been granted "Enhanced Level 1 Clearance" by the Authority.
- 17.4 The Training Provider indemnifies the Authority against all claims brought by any person employed or engaged by the Training Provider caused by an act or omission of the Training Provider or any Training Provider Staff.
- 17.5 The Authority indemnifies the Training Provider against all claims brought by any person employed or engaged by the Authority caused by an act or omission of the Authority or any of the Authority's employees, agents, consultants and contractors.
- 17.6 The Parties shall comply with their obligations in relation to staff transfer in Schedule 17.
- 18. FINANCIAL DIFFICULTIES**
- The Parties shall comply with their obligations set out in Schedule 14.
- 19. BUSINESS CONTINUITY AND DISASTER RECOVERY**
- The Parties shall comply with their obligations set out in Schedule 15.
- 20. RECTIFYING ISSUES**
- 20.1 If there is a Material Default, the Training Provider must notify the Authority within three Business Days of the Training Provider becoming aware of the Material Default and the Authority may request that the Training Provider provide a Rectification Plan within 10 Business Days of the Authority's request alongside any additional documentation that the Authority requires.
- 20.2 When the Authority receives a requested Rectification Plan it can either:
- 20.2.1 reject the Rectification Plan or revised Rectification Plan giving reasons; or

- 20.2.2 accept the Rectification Plan or revised Rectification Plan (without limiting its rights) in which case the Training Provider must immediately start work on the actions in the Rectification Plan at its own cost.
- 20.3 Where the Rectification Plan or revised Rectification Plan is rejected, the Authority:
 - 20.3.1 will give reasonable grounds for its decision; and
 - 20.3.2 may request that the Training Provider provides a revised Rectification Plan within five Business Days.

21. **ESCALATING ISSUES**

- 21.1 If the Training Provider fails to:
 - 21.1.1 submit a Rectification Plan or a revised Rectification Plan within the timescales set out in Clauses 21.1 or 21.3;
 - 21.1.2 adhere to the timescales set out in an accepted Rectification Plan to resolve the Material Default; or
 - 21.1.3 if the Authority otherwise rejects a Rectification Plan,

the Authority can require the Training Provider to attend an Escalation Meeting on not less than five Business Days' notice. The Authority will determine the location, time and duration of the Escalation Meeting(s) and the Training Provider must ensure that the Training Provider Authorised Representative is available to attend.
- 21.2 The Escalation Meeting(s) will continue until the Authority is satisfied that the Material Default has been resolved, however, where an Escalation Meeting(s) has continued for more than five Business Days, either Party may treat the matter as a dispute to be handled through the process set out in Clause 49.
- 21.3 If the Training Provider is in Default of any of its obligations under this Clause 22, the Authority shall be entitled to terminate this Agreement and the consequences of termination set out in Clauses 26 shall apply as if the contract were terminated under Clause 25.1.

22. **STEP-IN RIGHTS**

- 22.1 If a Step-In Trigger Event occurs, the Authority may give notice to the Training Provider that it will be taking action in accordance with this Clause 23.1 and setting out:
 - 22.1.1 whether it will be taking action itself or with the assistance of a third party;
 - 22.1.2 what Required Action the Authority will take during the Step-In Process;
 - 22.1.3 when the Required Action will begin and how long it will continue for;
 - 22.1.4 whether the Authority will require access to the Sites; and
 - 22.1.5 what impact the Authority anticipates that the Required Action will have on the Training Provider's obligations to provide the Services.
- 22.2 For as long as the Required Action is taking place:
 - 22.2.1 the Training Provider will not have to provide the Services that are the subject of the Required Action;

- 22.2.2 no Deductions will be applicable in respect of Charges relating to the Services that are the subject of the Required Action; and
- 22.2.3 the Authority will pay the Charges to the Training Provider after subtracting any applicable Deductions and the Authority's costs of taking the Required Action.
- 22.3 The Authority will give notice to the Training Provider before it ceases to exercise its rights under the Step-In Process and within 20 Business Days of this notice the Training Provider will develop a draft Step-Out Plan for the Authority to approve.
- 22.4 If the Authority does not approve the draft Step-Out Plan, the Authority will give reasons and the Training Provider will revise the draft Step-Out Plan and re-submit it for approval.
- 22.5 The Training Provider shall bear its own costs in connection with any step-in by the Authority under this Clause 23, provided that the Authority shall reimburse the Training Provider's reasonable additional expenses incurred directly as a result of any step-in action taken by the Authority under:
 - 22.5.1 limbs (e) or (f) of the definition of a Step-In Trigger Event; or
 - 22.5.2 limbs (g) and (h) of the definition of a Step-in Trigger Event (insofar as the primary cause of the Authority serving a notice under Clause 23.1 is identified as not being the result of the Training Provider's Default).
- 23. **REPORTING A BREACH OF THE AGREEMENT**
 - 23.1 As soon as it is aware of it the Training Provider and Training Provider Staff must report to the Authority any actual or suspected:
 - 23.1.1 breach of Law;
 - 23.1.2 Default of Clause 32.1; and
 - 23.1.3 Default of Clauses 34, 35, 36, 39, 40, 41 and 50.13.4.
 - 23.2 The Training Provider must not retaliate against any of the Training Provider Staff who in good faith reports a breach or Default listed in Clause 24.1 to the Authority or a Prescribed Person.
- 24. **TERMINATION**
 - 24.1 Without prejudice to any rights that have accrued under this Agreement or any of its rights or remedies, the Authority may at any time terminate this Agreement or any part of it with immediate effect by giving written notice to the Training Provider if:-
 - 24.1.1 the Training Provider fails to design the Programme Specification to the Authority's reasonable satisfaction in accordance with Clause 13.2 and in accordance with the timeframe set out in Schedule 9;
 - 24.1.2 there is a Training Provider Insolvency Event;
 - 24.1.3 the Training Provider undergoes a Change of Control which is not pre-approved by the Authority in writing;
 - 24.1.4 the Training Provider's funding agreement with the DFE is terminated;
 - 24.1.5 the Training Provider fails to notify the Authority in writing of any Occasion of Tax Non-Compliance or fails to provide details of proposed mitigating factors which, in the reasonable opinion of the Authority, are acceptable;

- 24.1.6 there's a Material Default that is not corrected in accordance with an accepted Rectification Plan;
- 24.1.7 the Authority rejects a Rectification Plan or the Training Provider does not provide it within 10 days of the request;
- 24.1.8 there is a Material Default of this Agreement;
- 24.1.9 there is a Default of Clauses 22 or 34;
- 24.1.10 there is a consistent repeated failure to meet the Service Levels;
- 24.1.11 the Authority discovers that the Training Provider was in one of the situations in 57(1) or 57(2) of the Regulations at the time this Agreement was awarded; or
- 24.1.12 the Training Provider embarrasses or brings the Authority into disrepute or diminishes the public trust in them;
- 24.1.13 the Training Provider fails to comply with its legal obligations in the fields of environmental, social, equality or employment Law when providing the Services; or
- 24.1.14 any of the events in 73 (1) (a) or (b) of the Regulations take place.
- 24.2 If the Training Provider ceases to be an DFE approved training provider (so indicated at the date of this Agreement by being listed on the Apprenticeship Provider and Assessment Register) then this Agreement will automatically terminate and the provisions of Clause 26.5 shall apply.
- 24.3 The Authority may serve not less than six (6) months' written notice on the Training Provider to bring this Agreement to an end (a "**Termination Notice**").
- 24.4 At the point of service of any Termination Notice, the Parties shall, with immediate effect, cease any marketing and resourcing campaigns in connection with Apprenticeships and withdraw all associated marketing materials from publication at the earliest possible date.
- 24.5 At the point of expiry of any Termination Notice, Apprenticeships and Apprenticeship Programmes which would, but for the service of such a Termination Notice have been scheduled to commence, will not take place.
- 24.6 Subject to Clauses 25.7 and 25.8, if:
 - 24.6.1 the Authority postpones or cancels a class on eleven (11) Business Days' notice or less prior to the commencement of the class, then it shall pay the Training Provider's reasonable costs incurred as a result of the postponement or cancellation; and
 - 24.6.2 the Training Provider postpones or cancels a class on five (5) Business Days' notice or less prior to the commencement of the class, then it shall pay the Authority's reasonable costs incurred as a result of the postponement or cancellation.
- 24.7 Each Party shall take all reasonable steps so as to reduce or mitigate such losses incurred in accordance with Clause 25.6 and upon request provide the other Party with evidence or receipts of such costs incurred.
- 24.8 If, due to exceptionally adverse weather conditions, the:
 - 24.8.1 Authority postpones or cancels a class on eleven (11) Business Days' notice or less prior to the commencement of the class; or

- 24.8.2 the Training Provider postpones or cancels a class on five (5) Business Days' notice or less prior to the commencement of the class,

then neither Party shall be liable to the other Party for any costs incurred as a result of the postponement or cancellation of a class.

- 24.9 Each Party agrees that any costs paid under Clause 25.6 shall be a Party's sole and exclusive right and remedy in connection with the circumstances relating to such postponement or cancellation.

25. **CONSEQUENCES OF TERMINATION**

- 25.1 Other than as set out in this Agreement, neither Party shall have any further obligation to the other under this Agreement after its termination.

- 25.2 Any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Agreement, including Clause 26 (Consequences of Termination), Clause 29 (Liabilities and Insurance), Clause 42 (Confidentiality), Clause 43 (Intellectual Property), Clause 44 (Data Protection), Clause 48 (Notices), Clause 49 (Dispute Resolution), Clause 53 (General), Schedule 8 (Sustainability), Schedule 12 (Cyber Essentials Scheme), Schedule 13 (Security), Schedule 14 (Financial Difficulties) and Schedule 16 (Exit Management) shall remain in full force and effect.

- 25.3 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry.

- 25.4 On termination (for any reason) or expiry of this Agreement:-

- 25.4.1 the Authority shall pay to the Training Provider all Charges due at the date of termination;

- 25.4.2 to the extent that the Authority has paid the Charges pursuant to Clause 26.4.1 and the Training Provider recovers funding from the DFE in respect of those Charges, the Training Provider shall, provided that the Authority does not owe any other sums to the Training Provider, reimburse the Authority those sums paid pursuant to Clause 26.4.1;

- 25.4.3 the Training Provider must promptly delete or return the Government Data except where required to retain copies by Law;

- 25.4.4 each Party shall promptly return to the other any equipment, documents, information or materials owned by the other Party (or a third party) and used in connection with the Services;

- 25.4.5 the Training Provider must promptly delete or return the Government Data except where required to retain copies by Law;

- 25.4.6 the Training Provider must, at no cost to the Authority, co-operate fully in the handover and re-procurement (including to a Replacement Training Provider); and

- 25.4.7 all licences granted by the Authority under this Agreement shall immediately terminate, save to the extent required and for the duration necessary for compliance with Clause 26.5 .

- 25.5 On termination (for any reason) or expiry of this Agreement, each Party shall cooperate in good faith to ensure that there is continuity of learning such that no Apprentice is materially disadvantaged by the termination of this Agreement.
- 25.6 If the Authority terminates this Agreement in accordance with the provisions of Clause 25, then:
- 25.6.1 at the written election of the Authority and to the extent legally permissible, this Agreement shall continue in full force and effect in respect of Apprentices who have started their Apprenticeship prior to the date of termination and shall continue until the Apprenticeship Programme Completion Date; and
- 25.6.2 this Agreement shall terminate in respect of any person who was due to become an Apprentice on or after the date of termination and the Training Provider shall use its reasonable endeavours to assist such persons in their transition to another training provider.
26. **EXIT MANAGEMENT**
- The Parties shall comply with their obligations set out in Schedule 16.
27. **FORCE MAJEURE**
- 27.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under this Agreement while the inability to perform continues, if it both:
- 27.1.1 provides a Force Majeure Notice to the other Party; and
- 27.1.2 uses all reasonable measures practical to reduce the impact of the Force Majeure Event.
- 27.2 Any failure or delay by the Training Provider to perform its obligations under this Agreement that is due to a failure or delay by an agent, EPOA, Subcontractor or supplier will only be considered a Force Majeure Event if that third party is itself prevented from complying with an obligation to the Training Provider due to a Force Majeure Event.
- 27.3 Either Party can partially or fully terminate this Agreement if the provision of the Services is materially affected by a Force Majeure Event which lasts for 90 days continuously.
28. **LIABILITY**
- 28.1 Each Party's total aggregate liability in each Agreement Year under this Agreement (whether in tort, contract or otherwise) shall be limited to the greater of £5 million or 150% of the Charges.
- 28.2 Neither Party is liable to the other for:
- 28.2.1 any indirect Losses; and/or
- 28.2.2 loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 28.3 Notwithstanding Clause 29.1, neither Party limits or excludes any of the following:
- 28.3.1 its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;

- 28.3.2 its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; and
- 28.3.3 any liability that cannot be excluded or limited by Law.
- 28.4 Notwithstanding Clause 29.1, the Training Provider does not limit or exclude its liability for any indemnity given under Clauses 9.3.2, 41.3.2 and 43.5 and under paragraph 3.7.5 of Schedule 3
- 28.5 Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with this Agreement, including any indemnities.
- 28.6 When calculating the Training Provider's liability under Clause 29.1 any items specified in Clause 29.4 will not be taken into consideration.
- 28.7 If more than one Training Provider is party to this Agreement, each Training Provider Party is fully responsible for both their own liabilities and the liabilities of the other Training Providers.

29. **INDEMNITY**

- 29.1 In addition to any other remedy available to the Authority and subject to Clause 29.1, the Training Provider irrevocably and unconditionally agrees to indemnify the Authority and its officers, employees, representatives, agents and sub-contractors (who shall have no duty to mitigate their loss) in full and on demand and keep them so indemnified from and against all claims, demands, actions, proceedings and all damages, losses, costs and expenses (including, without limitation, legal and other professional advisers' fees), arising from the matters listed below:-
 - 29.1.1 any act or omission by the Training Provider that is in breach of this Agreement;
 - 29.1.2 any breach by the Training Provider of the Apprenticeship Funding Rules and/or the Adult Skills Fund Funding Rules;
 - 29.1.3 the infringement (or alleged infringement) of any third party Intellectual Property Rights by reason of the Authority's receipt and/or use of the Apprenticeship Programme(s);
 - 29.1.4 any breach of the warranties provided by the Training Provider under this Agreement; and
 - 29.1.5 any breach of Clauses 34 (Safeguarding and Anti-Bribery), 35 (Anti-Facilitation of Tax Evasion), 36 (Equality, Diversity and Human Rights), 40 (Environment), 41 (Tax), and 42 (Confidentiality).

30. **INSURANCE**

- 30.1 The Training Provider shall at its own cost be solely responsible for taking out and maintaining in force during the Term and for a period of 6 years thereafter such insurance policies as are appropriate and adequate with a reputable insurance company having regard to its obligations and liabilities under this Agreement including, without limitation, the following insurances:-
 - 30.1.1 employers' liability insurance for a minimum amount of cover of **Redacted Under FOIA Section 43, Commercial Interests** on an each and every claim basis;
 - 30.1.2 professional indemnity insurance for a minimum amount of cover of **Redacted Under FOIA Section 43, Commercial Interests** on an each and every claim basis; and

30.1.3 public liability insurance for a minimum amount of cover of **Redacted Under FOIA Section 43, Commercial Interests** on an each and every claim basis;

(together the "**Policies**")

30.2 The Training Provider shall, upon the written request of the Authority, provide reasonable proof of the scope and valid existence of all such Policies.

30.3 This Clause 31 will continue to have effect even after this Agreement has been terminated or has expired.

31. **OBEYING THE LAW**

31.1 The Training Provider shall comply with the provisions of Schedule 8.

31.2 The Training Provider shall comply with the provisions of:

31.2.1 the Official Secrets Acts 1911 to 1989; and

31.2.2 section 182 of the Finance Act 1989.

31.3 The Training Provider indemnifies the Authority against any costs resulting from any Default by the Training Provider relating to any applicable Law to do with this Agreement.

31.4 The Training Provider must appoint a 'Compliance Officer' who must be responsible for ensuring that the Training Provider complies with Law, Clause 32.1 and Clauses 34, 35, 36, 39, 40, 41 and 50.13.4.

32. **CYBER ESSENTIALS SCHEME**

The Training Provider shall comply with its obligations in Schedule 12 in relation to the Cyber Essentials Scheme.

33. **SAFEGUARDING AND ANTI-BRIBERY**

33.1 The Training Provider acknowledges that the Authority has a statutory duty to safeguard and promote the welfare of individuals under the age of 18 years old and vulnerable adults over the age of eighteen (18) years old pursuant to the Children Act 2004 and the Safeguarding Vulnerable Groups Act 2006.

33.2 The Training Provider must not during the Term:

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

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

33.3 The Training Provider must during the Agreement Period:

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

33.3.2 keep full records to show it has complied with its obligations under this Clause 34 and give copies to the Authority on request; and

- 33.3.3 if required by the Authority, within 20 Business Days of the Commencement Date of this Agreement, and then annually, certify in writing to the Authority, that they have complied with this Clause 34, including compliance of Training Provider Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures.
- 33.4 The Training Provider must immediately notify the Authority if it becomes aware of any Default of Clauses 34.2 or has any reason to think that it, or any of the Training Provider Staff, have either:
 - 33.4.1 been investigated or prosecuted for an alleged Prohibited Act;
 - 33.4.2 been debarred, suspended, proposed for suspension or debarment, or are otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency;
 - 33.4.3 received a request or demand for any undue financial or other advantage of any kind related to this Agreement; and
 - 33.4.4 suspected that any person or Party directly or indirectly related to this Agreement has committed or attempted to commit a Prohibited Act.
- 33.5 If the Training Provider notifies the Authority as required by Clause 34.4, the Training Provider must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.
- 33.6 If the Training Provider is in Default under Clause 34.2 the Authority may:
 - 33.6.1 require the Training Provider to remove any Training Provider Staff from providing the Services if their acts or omissions have caused the Default; and
 - 33.6.2 immediately terminate this agreement in accordance with Clause 25.1 and the consequences of termination in Clauses 26 shall apply.
- 33.7 In any notice the Training Provider gives under Clause 34.5 it must specify the:
 - 33.7.1 Prohibited Act;
 - 33.7.2 identity of the Party who it thinks has committed the Prohibited Act; and
 - 33.7.3 action it has decided to take.

34. **ANTI-FACILITATION OF TAX EVASION**

- 34.1 Each Party shall:-
 - 34.1.1 not engage in any activity, practice or conduct which would constitute either:-
 - (a) a UK tax evasion facilitation offence under section 45(5) of the Criminal Finances Act 2017; or
 - (b) a foreign tax evasion facilitation offence under section 46(6) of the Criminal Finances Act 2017;
 - 34.1.2 have and shall maintain in place throughout the Term such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person and to ensure compliance with Clause 35.1.1; and

- 34.1.3 notify the other Party in writing if it becomes aware of any breach of Clause 35.1.1 or has reason to believe that it or any person associated with it has received a request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017, in connection with the performance of this Agreement.
- 34.2 Each Party shall ensure that any person associated with it who is performing the services in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Training Provider in this Clause 35 (the "**Relevant Terms**"). Each Party shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to that Party for any breach by such persons of any of the Relevant Terms.
- 34.3 For the purposes of Clause 35, the meaning of reasonable prevention procedure shall be determined in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017 and a person associated with a Party includes but is not limited to any Subcontractor and their personnel.
35. **EQUALITY, DIVERSITY AND HUMAN RIGHTS**
- 35.1 The Training Provider must follow all applicable equality Law when they perform their obligations under this Agreement, including:
- 35.1.1 protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and
- 35.1.2 any other requirements and instructions which the Authority reasonably imposes related to equality Law.
- 35.2 The Training Provider must use all reasonable endeavours, and inform the Authority of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on this Agreement.
36. **FREEDOM OF INFORMATION**
- 36.1 Each Party must inform the other Party within 48 hours if it receives a Request For Information.
- 36.2 Each Party shall, within a reasonable timeframe and in any event within 5 Business Days of a request from the other Party, give that Party full co-operation and information needed so the other Party can:
- 36.2.1 publish the Transparency Information; and
- 36.2.2 comply with any Request for Information.
- 36.3 To the extent that it is allowed and practical to do so, each Party will use reasonable endeavours to notify the other Party of a FOIA request and may talk to that Party to help it decide whether to publish information under Clause 37.1. However, any decision in relation to the extent, content and format of the disclosure is at each Party's absolute discretion.
- 36.4 The Parties shall comply with their obligations in relation to Transparency Reports set out in Schedule 19.

37. **PREVENT**

Each Party acknowledges that the other Party is subject to the requirements of Prevent and each Party (acting reasonably) will assist and cooperate, wherever possible, with the other Party to enable that Party to comply with its obligations under Prevent.

38. **HEALTH AND SAFETY**

38.1 The Parties shall perform their obligations under this Agreement (including those in relation to the Services) in accordance with:-

38.1.1 all applicable Law regarding health and safety; and

38.1.2 the health and safety policy of the other Party whilst at the other Party's premises (to the extent it has been made known by one Party to the other Party).

38.2 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at either Party's premises of which it becomes aware and which relate to or arise in connection with the performance of this Agreement. Each Party shall adopt any necessary associated safety measures in order to manage any such material health and safety hazards.

39. **ENVIRONMENT**

39.1 When working at the Authority's premises the Training Provider must perform its obligations under the Authority's current Environmental Policy, which the Authority must provide.

39.2 The Training Provider must ensure that Training Provider's Personnel are aware of the Authority's Environmental Policy.

40. **TAX**

40.1 The Training Provider must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Authority cannot terminate this Agreement where the Training Provider has not paid a minor tax or social security contribution.

40.2 Where the Charges payable under this Agreement are or are likely to exceed £5 million at any point during the Term, and an Occasion of Tax Non-Compliance occurs, the Training Provider must notify the Authority of it within five Business Days including:

40.2.1 the steps that the Training Provider is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and

40.2.2 other information relating to the Occasion of Tax Non-Compliance that the Authority may reasonably need.

40.3 Where the Training Provider or any Training Provider Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under this Agreement, the Training Provider must both:

40.3.1 comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions; and

40.3.2 indemnify the Authority against any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or

claim arising from or made during or after the Term in connection with the provision of the Services by the Training Provider or any of the Training Provider Staff.

- 40.4 If any of the Training Provider Staff are Workers who receive payment relating to the Services, then the Training Provider must ensure that its contract with the Worker contains the following requirements:
- 40.4.1 the Authority may, at any time during the Term, request that the Worker provides information which demonstrates they comply with Clause 41.3.1, or why those requirements do not apply, the Authority can specify the information the Worker must provide and the deadline for responding;
 - 40.4.2 the Worker's contract may be terminated at the Authority's request if the Worker fails to provide the information requested by the Authority within the time specified by the Authority;
 - 40.4.3 the Worker's contract may be terminated at the Authority's request if the Worker provides information which the Authority considers isn't good enough to demonstrate how it complies with Clause 41.3.1 or confirms that the Worker is not complying with those requirements; and
 - 40.4.4 the Authority may supply any information they receive from the Worker to HMRC for revenue collection and management.

41. **CONFIDENTIALITY**

41.1 Each Party must:

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

41.2 Notwithstanding Clause 42.1, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:

- 41.2.1 where disclosure is required by applicable Law, a regulatory body or a court with the relevant jurisdiction if the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
- 41.2.2 if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;
- 41.2.3 if the information was given to it by a third party without obligation of confidentiality;
- 41.2.4 if the information was in the public domain at the time of the disclosure;
- 41.2.5 if the information was independently developed without access to the Disclosing Party's Confidential Information;
- 41.2.6 on a confidential basis, to its auditors or for the purpose of regulatory requirements;
- 41.2.7 on a confidential basis, to its professional advisers on a need-to-know basis; and

- 41.2.8 to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.
- 41.3 The Training Provider may disclose Confidential Information on a confidential basis to Training Provider Staff on a need-to-know basis to allow the Training Provider to meet its obligations under this Agreement. The Training Provider Staff shall remain responsible at all times for compliance with the confidentiality obligations set out in this Agreement by the persons to whom disclosure has been made.
- 41.4 The Authority may disclose Confidential Information in any of the following cases:
- 41.4.1 on a confidential basis to the employees, agents, consultants and contractors of the Authority;
 - 41.4.2 on a confidential basis to any other Crown Body, any successor body to a Crown Body or any company that the Authority transfers or proposes to transfer all or any part of its business to;
 - 41.4.3 if the Authority (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
 - 41.4.4 where requested by Parliament;
 - 41.4.5 under Clause 37; and
 - 41.4.6 on a confidential basis under the audit rights in Clauses 17.5 to 17.9 (inclusive).
- 41.5 For the purposes of Clauses 42.2 to 42.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause 42.
- 41.6 Transparency Information and any information which is exempt from disclosure by Clause 37 is not Confidential Information.
- 41.7 The Training Provider must not make any press announcement or publicise this Agreements or any part of them in any way, without the prior written consent of the Authority and must use all reasonable endeavours to ensure that Training Provider Staff do not either.
42. **INTELLECTUAL PROPERTY**
- 42.1 Each Party shall retain ownership of all Intellectual Property Rights in any materials created by that Party and used for the delivery of an Apprenticeship Programme (the "**Project Materials**").
- 42.2 Without prejudice to the generality of Clause 43.1, all Intellectual Property Rights in any Authority Materials will remain vested in the Authority.
- 42.3 The Authority hereby grants to the Training Provider a non-transferable, royalty free, non-exclusive licence to use the Authority Materials during the Term for the purposes of this Agreement.
- 42.4 The Training Provider hereby grants to the Authority a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence to use, copy and adapt the Training Provider Materials.
- 42.5 If there is an IPR Claim, the Training Provider indemnifies the Authority against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.

- 42.6 If an IPR Claim is made or anticipated the Training Provider must at its own expense and the Authority's sole option, either:
- 42.6.1 obtain for the Authority the rights to continue using the relevant item without infringing any third party IPR; or
 - 42.6.2 replace or modify the relevant item with substitutes that does not infringe IPR without adversely affecting the functionality or performance of the Services.
- 42.7 If the Authority requires that the Training Provider procures a licence in accordance with Clause 43.6.1 or to modify or replace an item pursuant to Clause 43.6.2, but this has not avoided or resolved the IPR Claim, then the Authority may terminate this Agreement by written notice with immediate effect and the consequences of termination set out in Clause 26 shall apply.
43. **DATA PROTECTION AND SECURITY**
- The Parties shall comply with their obligations set out in Schedule 3 and Schedule 13.
44. **AGREEMENT VARIATION**
- 44.1 The Parties acknowledge and agree that government plans to amend the current apprenticeship levy and abolish the EFSA. The Training Provider acknowledges and agrees that the Authority may unilaterally vary this Agreement to the extent necessary as a result of such plans or any other changes to the Apprenticeship Funding Rules.
- 44.2 Either Party can request a Variation to this Agreement which is only effective if agreed in writing, including where it is set out in the Variation Form, and signed by both Parties.
- 44.3 The Training Provider must provide an Impact Assessment either:
- 44.3.1 with the Variation Form, where the Training Provider requests the Variation; and
 - 44.3.2 within the time limits included in a Variation Form requested by the Authority.
- 44.4 If the Variation to this Agreement cannot be agreed or resolved by the Parties, the Authority can either:
- 44.4.1 agree that this Agreement continues without the Variation; and
 - 44.4.2 refer the Dispute to be resolved using Clause 49.
- 44.5 The Authority is not required to accept a Variation request made by the Training Provider.
- 44.6 The Training Provider may only reject a Variation requested by the Authority if the Training Provider:
- 44.6.1 reasonably believes that the Variation would materially and adversely affect the risks to the health and safety of any person or that it would result in the Services being provided in a way that infringes any Law; or
 - 44.6.2 demonstrates to the Authority's reasonable satisfaction that the Variation is technically impossible to implement and that neither the Tender nor the Specification state that the Training Provider has the required technical capacity or flexibility to implement the Variation.
- 44.7 If there is a General Change in Law, the Training Provider must bear the risk of the change and is not entitled to ask for an increase to the Charges.

44.8 If there is a Specific Change in Law or one is likely to happen during the Term the Training Provider must give the Authority notice of the likely effects of the changes as soon as reasonably practical. They must also say if they think any Variation is needed either to the Services, the Charges or this Agreement and provide evidence:

44.8.1 that the Training Provider has kept costs as low as possible, including in Subcontractor costs; and

44.8.2 of how it has affected the Training Provider's costs.

44.9 Any change in the Charges or relief from the Training Provider's obligations because of a Specific Change in Law must be implemented using Clauses 45.1 to 45.5.

45. **PARTIES' REPRESENTATIVES AND GOVERNANCE**

45.1 Each Party will appoint a representative and the representatives will keep in regular contact for the Term, and a series of meetings between them and individuals nominated by them shall be established to manage the Apprenticeships to ensure that the Apprentices are managed and supported. The structure of the meetings is listed below and the content of the meetings may include, but is not limited to, the following:-

45.1.1 monthly meetings to discuss the following topics:

- (a) the Management Information;
- (b) the onboarding of Apprentices;
- (c) mobilisation of the Agreement;
- (d) cohort planning and recruitment of new Apprentices;
- (e) lot specific information;
- (f) progress of Apprentices on their Apprenticeships; and
- (g) any risks or concerns in relation to the Training, and

45.1.2 quarterly meetings to discuss performance against the Service Levels and Apprentice feedback results as well as any changes that have been made to the Apprenticeship Programmes or curriculum. The following topics will also be discussed at quarterly meetings:

- (a) performance against the Service Levels;
- (b) review of the risk register;
- (c) review of invoicing arrangements and payments;
- (d) completion of any agreed actions;
- (e) review and approve any marketing and recruitment materials prepared by the Parties;
- (f) review any operational issues;
- (g) review general Apprentice experience and feedback; and

- (h) update on any Training Provider or Authority changes which may impact the Agreement.

45.2 In addition to the meetings and discussions set out above:

45.2.1 both Parties agree to share information regarding urgent and serious apprentice misconduct, capability and health issues promptly; and

45.2.2 the Training Provider shall ensure its representative is available to meet the Authority if the Authority requests a meeting from time to time.

46. **CONTINUOUS IMPROVEMENT**

46.1 The Training Provider shall have an ongoing obligation throughout the Term to identify new or potential improvements to the provision of the Services, in accordance with this Clause 47, with a view to reducing the Authority's costs and/or improving the quality and efficiency of the Services and their supply to the Authority.

46.2 As part of this obligation the Training Provider shall identify and report on:

46.2.1 changes in business processes of the Training Provider or the Authority and ways of working that would provide cost savings and/or enhanced benefits to the Authority;

46.2.2 new or potential improvements to the provision of the Services including but not limited to improvements relating to quality, outcomes, responsiveness, procedures, efficacy and/or efficiencies;

46.2.3 the emergence of new and evolving relevant technologies which could improve the Services, and those technological advances potentially available to the Training Provider and the Authority which the Parties may wish to adopt;

46.2.4 new or potential improvements to the interfaces or integration of the Services with other services provided by third parties or the Authority which might result in efficiency or productivity gains, reduction of operational risk or improvement of the Services; and

46.2.5 changes to the technology systems, business processes and ways of working that would enable reductions in the total energy consumed in the delivery of Services.

46.3 The Training Provider shall report on any proposed improvements, and such improvements shall be monitored, as part of the quarterly meetings in accordance with Clause 46.1.2.

46.4 Any proposed improvement shall have a clear action, measure and outcome and the Training Provider shall ensure that the information that it provides to the Authority shall be sufficient for the Authority to decide whether any improvement should be implemented. The Training Provider shall provide any further information that the Authority requests.

46.5 If the Authority wishes to incorporate any improvement identified by the Training Provider, the Authority shall request that the Training Provider provide the Authority with a Variation Form to incorporate the improvement and the Authority may agree a Variation in accordance with Clause 45.

46.6 The Authority may at its sole discretion decide whether to incorporate or reject any improvement proposed by the Training Provider in accordance with this Clause 47, including at any stage of the processes referred to in Clause 47.2.

47. **NOTICES**

- 47.1 All notices under this Agreement must be in writing and are considered effective on the Business Day of delivery as long as they're delivered before 5:00pm on a Business Day. Otherwise the notice is effective on the next Business Day. An email is effective at 9:00am on the first Business Day after sending unless an error message is received.
- 47.2 Notices to the Authority must be sent to the Authority Authorised Representative's address or email address.
- 47.3 This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

48. **DISPUTE RESOLUTION**

- 48.1 If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the Dispute by commercial negotiation.
- 48.2 If the Parties cannot resolve the Dispute via commercial negotiation, they can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 49.4 to 49.6.
- 48.3 Unless the Authority refers the Dispute to arbitration using Clause 49.5, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
- 48.3.1 determine the Dispute;
 - 48.3.2 grant interim remedies; and
 - 48.3.3 grant any other provisional or protective relief.
- 48.4 The Training Provider agrees that the Authority has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 48.5 The Authority has the right to refer a Dispute to arbitration even if the Training Provider has started or has attempted to start court proceedings under Clause 49.4, unless the Authority has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 49.5
- 48.6 The Training Provider cannot suspend the performance of this Agreement during any Dispute.
- 48.7 In addition to the process set out in Clauses 49.1 to 49.6, Apprentices and the Authority can contact the apprenticeship helpline regarding apprenticeship concerns, complaints and enquiries:

National Apprenticeship Helpdesk
email: helpdesk@manage-apprenticeships.service.gov.uk
tel: 0800 015 0600

49. **ASSIGNMENT AND SUBCONTRACTING**

- 49.1 The Training Provider cannot assign, novate or in any other way dispose of this Agreement or any part of it without the Authority's written consent.
- 49.2 Subject to the Authority consenting to a Subcontractor under a Statement of Work, the Training Provider cannot sub-contract this Agreement or any part of it without the Authority's prior written consent. The Training Provider shall provide the Authority with information about the Subcontractor as it reasonably requests. The decision of the Authority to consent or not will not be unreasonably withheld or delayed. If the Authority does not communicate a decision to the Training Provider within ten (10) Business Days of the request for consent then its consent will be deemed to have been given. The Authority may reasonably withhold its consent to the appointment of a Subcontractor if it considers that:
- 49.2.1 the appointment of a proposed Subcontractor may prejudice the provision of the Services or may be contrary to its interests;
 - 49.2.2 the proposed Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
 - 49.2.3 the proposed Subcontractor employs unfit persons.
- 49.3 The Training Provider must exercise due skill and care when it selects and appoints Subcontractors to ensure that the Training Provider is able to:
- 49.3.1 manage Subcontractors in accordance with Good Industry Practice;
 - 49.3.2 comply with its obligations under this Agreement; and
 - 49.3.3 assign, novate or transfer its rights and/or obligations under the Sub-Contract that relate exclusively to this Agreement to the Authority or a Replacement Training Provider.
- 49.4 Where the Training Provider obtains the consent of the Authority to appoint a Subcontractor in accordance with Clause 50.1, such consent shall be given by the Authority on the proviso that the Authority and the Training Provider agree in writing:-
- 49.4.1 the apprenticeship training and/or on-programme assessment that the Training Provider will directly deliver;
 - 49.4.2 the amount of funding the Training Provider will retain for its direct delivery;
 - 49.4.3 the apprenticeship training and/or on-programme assessment that the Subcontractor will contribute to the Apprenticeship Programme;
 - 49.4.4 the amount of funding the Training Provider will pay the Subcontractor for their contribution;
 - 49.4.5 the amount of funding the Training Provider will retain to manage and monitor the Subcontractor;
 - 49.4.6 the support the Training Provider will provide the Subcontractor in exchange for the amount of funding they will retain;
 - 49.4.7 the monitoring the Training Provider will undertake to ensure the quality of the apprentice training and/or on-programme assessment they have contracted their Subcontractor to carry out; and

- 49.4.8 any actual or perceived conflict of interest between the Training Provider and the Subcontractor.
- 49.5 For Sub-Contracts in the Training Provider's supply chain entered into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Agreement, the Training Provider will ensure that they all contain provisions that;
- 49.5.1 allow the Training Provider to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law;
- 49.5.2 require the Training Provider to pay all Subcontractors in full, within thirty (30) days of receiving a valid, undisputed invoice; and
- 49.5.3 allow the Authority to publish the details of the late payment or non-payment if this thirty (30) day limit is exceeded.
- 49.6 At the Authority's request, the Training Provider must terminate any Sub-Contracts in any of the following events:
- 49.6.1 there is a Change of Control of a Subcontractor which is not pre-approved by the Authority in writing;
- 49.6.2 the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 25.1;
- 49.6.3 a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Authority;
- 49.6.4 the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law; and/or
- 49.6.5 the Authority has found grounds to exclude the Subcontractor in accordance with Regulation 57 of the Public Contracts Regulations 2015.
- 49.7 If the Authority can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Training Provider to provide the Services and that cost is reimbursable by the Authority, then the Authority may require the Training Provider to replace its existing commercial terms with the more favourable terms offered for the relevant items.
- 49.8 If the Authority uses Clause 50.7 then the Charges must be reduced by an agreed amount in accordance with Clause 45.
- 49.9 The Authority can assign, novate or transfer its Agreement or any part of it to any Crown Body, public or private sector body which performs the functions of the Authority.
- 49.10 When the Authority uses its rights under Clause 50.9 the Training Provider must enter into a novation agreement in the form that the Authority specifies.
- 49.11 The Training Provider can terminate this Agreement novated under Clause 50.9 to a private sector body that is experiencing an Insolvency Event.
- 49.12 The Training Provider remains responsible for all acts and omissions of the Training Provider Staff (including its Subcontractors and those employed or engaged by them) as if they were its own.

49.13 If at any time the Authority asks the Training Provider for details about Subcontractors, the Training Provider must provide details of Subcontractors at all levels of the supply chain including:

49.13.1 their name;

49.13.2 the scope of their appointment;

49.13.3 the duration of their appointment; and

49.13.4 a copy of the Sub-Contract.

50. **CONFLICT OF INTEREST**

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

50.2 The Training Provider must promptly notify and provide details to the Authority if an actual, potential or perceived Conflict of Interest happens or is expected to happen.

50.3 The Authority will consider whether there are any appropriate measures that can be put in place to remedy an actual, perceived or potential Conflict of Interest. If, in the reasonable opinion of the Authority, such measures do not or will not resolve an actual or potential Conflict of Interest, the Authority may terminate its Agreement immediately by giving notice in writing to the Training Provider where there is or may be an actual or potential Conflict of Interest and Clause 26 shall apply.

51. **THIRD PARTY RIGHTS**

51.1 The provisions of paragraphs 1.2, 1.4 and 1.7 of Part C and paragraphs 1.4, 1.7, 2.3, 2.5 and 2.10 of Part E of Schedule 17 (Staff Transfer) and the provisions of paragraph 3.1, 6.1, 7.2, 8.2, 8.5, 8.6 and 8.9 of Schedule 16 (Exit Management) (together "**Third Party Provisions**") confer benefits on persons named or identified in such provisions other than the Parties (each such person a "**Third Party Beneficiary**") and are intended to be enforceable by Third Party Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act ("**CRTPA**").

51.2 Subject to Clause 52.1, no third parties may use the CRTPA to enforce any term of this Agreement unless stated (referring to CRTPA) in this Agreement. This does not affect third party rights and remedies that exist independently from CRTPA.

51.3 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Authority, which may, if given, be given on and subject to such terms as the Authority may determine.

51.4 Any amendments or modifications to this Agreement may be made, and any rights created under Clause 52.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

52. **GENERAL**

52.1 This Agreement and the documents referred to in this Agreement contain all the terms which the Parties have agreed in relation to the subject matter of this Agreement.

52.2 No term or provision of this Agreement shall be considered as waived by a Party to this Agreement unless a waiver is given in writing by that Party. No waiver shall be a waiver of a past or future default or breach, nor shall it amend, delete or add to the terms, conditions or provisions of this Agreement unless (and only to the extent) expressly stated in that waiver.

- 52.3 If any provision of this Agreement shall be declared invalid, unenforceable or illegal by the courts of any jurisdiction to which it is subject, such provision may be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability or legality of the remaining provisions of this Agreement.
- 52.4 This Agreement may be executed and delivered in any number of counterparts, each of which so executed will be an original, but together will constitute one and the same instrument.
- 52.5 Nothing in this Agreement shall be construed as creating a partnership or as a contract of employment between the Parties and neither Party shall be, or be deemed to be, an agent of the other Party and neither Party shall hold itself out as having authority or power to bind the other in any way.
- 52.6 Notwithstanding any other provisions of this Agreement, no Party shall be entitled to recover compensation or to make a claim under this Agreement in respect of any loss that it has incurred to the extent that it has already been compensated in respect of that loss pursuant to this Agreement or otherwise.
- 52.7 Each Party shall do all things and execute all further documents necessary to give full effect to this Agreement.
- 52.8 Neither Party shall be permitted to use the other's name, crest, logo or branding without first having obtained the other's written consent to such use and fully complying with the user guidelines and both Parties shall immediately cease use of such name, crest, logo or branding upon termination of this Agreement.
- 52.9 This Agreement, any dispute or claim arising out of, or in connection with it (including non-contractual disputes or claims) is subject to the laws of England and the Parties agree that any disputes or claims arising out of this Agreement (including non-contractual disputes or claims) between the Parties shall be subject to the exclusive jurisdiction of the courts of England and Wales.

AGREED by the Parties on the date set out at the head of this Agreement

Signed by **Redacted Under FOIA Section 40,
Personal Information**

Position

for and on behalf of **THE SECRETARY OF STATE FOR JUSTICE**

Date 18/09/2025

Signed by **Redacted Under FOIA Section 40,
Personal Information**

Position

for and on behalf of **UNIVERSITY OF PORTSMOUTH**

Date 18/09/2025

SCHEDULE 1

TEMPLATE STATEMENT OF WORK

This Statement of Work is entered into on [insert date of statement of work] by and between [Training Provider] (the "Training Provider") and The Secretary Of State For Justice (the "Authority"), each a Party to this Statement of Work, and is deemed to be incorporated into the Apprenticeship Training Services Agreement dated [insert date of Agreement] between the Training Provider and the Authority (the "Agreement").

Any terms used in this Statement of Work but not defined will have the meaning ascribed to such term in the Agreement.

The Training Provider will provide the Training as set out below.

Apprenticeship Programme	
Apprenticeship Standard	Probation Service Practitioner
Name/Level of qualification	Level 3 Probation Service Practitioner
Entry Requirements	[Insert requirements]
First Cohort Start Date	[Insert start date]
First Cohort End-Point Assessment Date	[Insert end-point assessment date]
Location of training	[State details of training location]
Funding Band	Maximum funding is £5,000 per apprenticeship programme
Pre-admission checks	[Insert details of any checks to be carried out by the Training Provider]
Apprentices undertaking the Apprenticeship Programme	
Names	Job title and brief details of their role
[Insert names of apprentices]	[Insert job titles and details of their roles]
Training Provider and Authority Actions and Responsibilities	
Training or other actions to be delivered by Training Provider and Authority (as appropriate)	[Insert details of modules, with module codes and academic credits applicable to each module, to be delivered by the Training Provider to the Apprentices]

	[Insert, by reference to the Standard and the assessment plan, a table of responsibilities allocated to the Training Provider, the Authority, or both (as the case may be)]
Equipment	
Training Provider Equipment	[Insert details of Training Provider Equipment to be used in the training]
Authority Equipment	[Insert details of Authority Equipment to be used in the training]
EPAO	
Name of EPAO	[Insert name of EPAO]
Subcontracting	
Name of Subcontractor	[Insert name of subcontractor]
Training to be delivered by Subcontractor	[Insert details of training to be delivered by training contractor]
Training Provider monitoring of Subcontractor	[Insert details of how the Training Provider proposes to support and/or monitor the Subcontractor's delivery of training]
Conflicts of interest between the Training Provider and the Subcontractor	[Disclose any conflicts of interest between the Training Provider and Subcontractor]
Functional Skills Provision	
Maths Provision	[Insert details of maths provision to be provided]
English Provision	[Insert details of English provision to be provided]
Other functional skills	[Insert details of other functional skills provision]
Non-Funded Items	
Detail of items not eligible for DFE funding	Cost
Second resits	[To be inserted]

Apprenticeship programmes delivered in Wales	[To be inserted]

Charges	
The agreed Charges (excluding VAT) for the training of each Apprentice under this Agreement is as follows:-	
	Price per Apprentice (£)
Costs Below the Funding Cap	[]
Costs Above the Funding Cap	[]
Total	[]
Breakdown of Costs Below the Funding Cap	
a) Training Provider Training Costs	[]
b) Subcontractor Training Costs	[]
c) End-Point Assessment Costs	[]
d) Cost of first resit	[]
e) [Training Provider costs of monitoring/managing sub-contractors, including monitoring the quality of the training and assessments sub-contracted]	[]
f) [Training Provider costs of support activity it will provide sub-contractors]	[]
g) [Eligible, evidenced Authority costs (where Authority provides some of the training that can be funded by government)]	[]
Total	
The Parties agree that the amounts appearing above are estimates, and any eventual difference in them shall not affect the amount of the Costs Below the Funding Cap, or the Charges, payable by the Authority to the Training Provider.	[]
[Other costs to be funded by the Authority – other than Costs Above the Funding Cap - but not eligible for DFE funding]	[]
Training Provider to describe how the funding retained in (e) and (f) above contributes to delivering high quality training and how the costs are reasonable and proportionate to the delivery of the training	[]

SCHEDULE 2

TRAINING PLAN



Training Plan PDF.pdf



Training Plan
Excel.xlsx

SCHEDULE 3

DATA PROTECTION SCHEDULE

1. DEFINITIONS

In this Schedule, the following definitions shall apply:

"Controller"	means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data;
"Data Importer"	means a Party in receipt of Personal Data as a result of a Data Transfer;
"Data Originator"	means the Party from whom the Shared Data originates;
"Data Processing Particulars"	<p>means, in relation to any Processing under this Agreement:</p> <ul style="list-style-type: none">(a) the subject matter and duration of the Processing;(b) the nature and purpose of the Processing;(c) the type of Personal Data being Processed; and(d) the categories of Data Subjects; <p>as set out in Appendix 1 to this Schedule 3;</p>
"Data Protection Laws"	<p>means:</p> <ul style="list-style-type: none">(a) any Law to which a Party is subject from time to time in any territory in which they Process Personal Data and which relates to the protection of individuals with regards to the Processing of Personal Data and privacy rights, including without limitation the GDPR and the e-Privacy Directive and relevant member state laws in the European Economic Area ("EEA") and in relation to the United Kingdom ("UK") the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003 (amended by SI 2011 no. 6) and the GDPR (as incorporated into UK law under the UK European Union (Withdrawal) Act 2018) as the same are amended in accordance with the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (as amended by SI 2020 no. 1586), as amended to be referred to as PECR, DPA 2018 and the UK GDPR respectively, as the same are amended, consolidated, modified, re-enacted or replaced from time to time;(b) any code of practice or guidance published by a Regulator from time to time; and/or(c) any binding pronouncements (including findings, orders, decisions and/or judgements) issued by a Regulator or a court;
"Data Subject"	means an identified or identifiable natural person to whom Personal Data relates, regardless of whether the person can be identified directly or indirectly;

"Data Subject Request"	means an actual or purported request or notice or complaint from or on behalf of a Data Subject exercising his/her rights under the Data Protection Laws including without limitation: the right of access by the Data Subject, the right to rectification, the right to erasure, the right to restriction of processing, the right to data portability and the right to object;
"Data Transfer"	means transferring any Shared Data to, and/ or accessing any Shared Data from and/ or Processing any Shared Data within, a jurisdiction or territory that is a Restricted Country;
"Disclosure Request"	means, in the event of a Data Transfer occurring, a request for disclosure of, or direct access to, Shared Data by any government or public authority (or any body with delegated authority for any of them) under the laws of the country of destination;
"GDPR"	means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1, 4.5.2016;
"Good Industry Practice"	means at any time the standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected at such time from a skilled and experienced person or body engaged within the relevant industry or business sector;
"Government Data"	<p>(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, including any of the Authority's Confidential Information, and which:</p> <ul style="list-style-type: none"> (i) are supplied to the Training Provider by or on behalf of the Authority; and/or (ii) the Training Provider is required to generate, process, store or transmit pursuant to this Agreement; or <p>(b) any Personal Data for which the Authority is Controller;</p>
"Group"	means in respect of either Party, that Party, its holding company, its subsidiaries and any other direct or indirect holding company or subsidiary from time to time of such holding company or subsidiary;
"Independent Controller"	a Party which is Controller of the same Personal Data as the other Party and there is no element of joint control with regards to that Personal Data;
"Joint Controllers"	means where two or more Controllers jointly determine the purposes and means of processing of Personal Data;
"Losses"	means all losses, fines, penalties, liabilities, damages, costs, charges, claims, amounts paid in settlement and expenses (including legal fees (on a solicitor/client basis), disbursements, costs of investigation (including forensic investigation), litigation, settlement (including ex gratia payments), judgment, interest and penalties), other professional charges and expenses, disbursements, cost of breach notification including notifications to the Data Subject, cost of complaints handling (including providing Data Subjects with credit reference checks, setting up contact centres (e.g. call centres) and

	making ex gratia payments), all whether arising in contract, tort (including negligence), breach of statutory duty or otherwise;
"Personal Data"	means any information relating to a Data Subject, including but not limited to any Special Category Personal Data and data relating to criminal convictions and offences;
"Personal Data Breach"	means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise Processed and, for the avoidance of doubt, includes a breach of paragraph 1.4.2(h);
"Personnel"	means, in relation to either Party, all persons engaged or employed by that Party from time to time, including its officers, consultants, contractors, agents and/or Sub-Processors;
"Process"	means any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction (and "Processing" and "Processed" shall be construed accordingly);
"Processor"	means a natural or legal person, public authority, agency or other body which Processes Personal Data on behalf of the Controller;
"Regulator"	means any local or national agency, department, official, parliament, public or statutory person or any government or professional body, regulatory or supervisory authority, board or other body responsible for administering, providing guidance on, supervising and enforcing Data Protection Laws, including in the United Kingdom the Information Commissioner's Office, or any successor or replacement body from time to time (the "ICO");
"Regulator Correspondence"	means any correspondence or communication (whether written or verbal) from a Regulator in relation to the Processing of Personal Data;
"Restricted Country"	means a country, territory or jurisdiction that is outside of the United Kingdom ("UK") or European Economic Area ("EEA") which (i) is not the subject of an adequacy determination by the UK Secretary of State or the European Commission (as applicable); or (ii) is the subject of an adequacy determination by the UK Secretary of State or the European Commission (as applicable), but such determination does not extend to the Data Transfers carried out under or in connection with this Agreement;
"Security Requirements"	<p>means the requirements regarding the security of Personal Data, as set out in the Data Protection Laws including, in particular:</p> <ul style="list-style-type: none"> (a) a requirement only to Process Personal Data in a manner that ensures appropriate security of the Personal Data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures; (b) a requirement to implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying

	likelihood and severity for the rights and freedoms of natural persons. The appropriate level of security shall be assessed by taking into account the risks that are presented by Processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data transmitted, stored or otherwise processed;
"Shared Data"	means the Personal Data shared between the Parties under, or in connection with, this Agreement (such Personal Data is more particularly described in Appendix 1 (<i>Data Processing Particulars</i>));
"Special Category Personal Data"	means information which reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, biometric data, and data concerning health or a person's sex life or sexual orientation;
"Sub-Processor"	means any third party Processor appointed by the Training Provider (including a sub-contractor or any Group company or affiliate, or any Data Importer) to Process the Shared Data on its behalf in connection with the Services (including any sub-Processors of such Sub-Processor) and "Sub-Processing" relates to Processing carried out by a Sub-Processor;
"Storage Media"	the part of any device that is capable of storing and retrieving data;
"Third Party Controller"	means a third party with whom the Training Provider wishes to share the Shared Data, where that third party acts as a Controller and has put in place an appropriate data sharing agreement;
"Third Party Provider"	means a Sub-Processor or a Third Party Controller, as the context requires; and
"Third Party Request"	means a written request from any third party for disclosure of Shared Data where compliance with such request is required or purported to be required by law or regulation, but excluding a Disclosure Request.

1. DATA PROTECTION

1.1 Arrangement Between the Parties

- 1.1.1 The Parties may each Process the Shared Data. The Parties each acknowledge and agree that the factual arrangements between them dictate the classification and role of each Party in respect of the Data Protection Laws. Notwithstanding the foregoing, the Parties anticipate that the Authority shall act as a Controller and the Training Provider shall act as an independent Controller in respect of the Processing of the Shared Data.
- 1.1.2 Notwithstanding paragraph 1.1.1, if either Party is deemed to be a Joint Controller with the other in relation to the Shared Data, the Parties agree that they shall:
 - (a) be jointly responsible for the compliance obligations imposed on a Controller by the Data Protection Laws, and the Parties shall cooperate to do all necessary things to enable performance of such compliance obligations, except that each Party shall be responsible, without limitation, for compliance with its data security obligations set out in paragraph 1.4.2(d) where Shared Data has been transmitted by it, or while Shared Data is in its possession or control; and

- (b) acting reasonably and in good faith seek by way of variation or additional agreement or arrangement, to document the Parties' respective obligations in accordance with Data Protection Laws (particularly in respect of communications with Data Subjects, third parties and a Regulator, including in respect of transparency requirements and notification obligations).
- 1.2 Each of the Parties acknowledges and agrees that Appendix 1 (*Data Processing Particulars*) to Schedule 3 (Data Protection) is an accurate description of the Data Processing Particulars.
- 1.3 **Contact Data**
 - 1.3.1 Notwithstanding paragraph 1.1 the Parties each acknowledge and agree that they may need to Process Personal Data in relation to each Party's representatives (in their respective capacities as Controllers) in order to (as appropriate): (a) administer and provide the Apprenticeships; (b) request and receive the Apprenticeships; (c) compile, dispatch and manage the payment of invoices relating to the Apprenticeships; (d) manage this Agreement and resolve any disputes relating to it; (e) respond and/or raise general queries relating to the Apprenticeships; and (f) comply with their respective regulatory obligations.
 - 1.3.2 Each Party shall Process such Personal Data for the purposes set out in paragraph 1.3.1 in accordance with their respective privacy policies. The Parties acknowledge that they may be required to share Personal Data with members of their Group and other relevant parties, within or outside of the country of origin, in order to carry out the activities listed in paragraph 1.3.1, and in doing so each Party will ensure that the sharing and use of this Personal Data complies with applicable Data Protection Laws.
- 1.4 **Controller Obligations**
 - 1.4.1 Each Party shall in relation to the Processing of the Shared Data comply at all times with its respective obligations under the Data Protection Laws.
 - 1.4.2 Without limiting the generality of the obligation set out in paragraph 1.4.1, in particular, each Party shall:
 - (a) ensure it is not subject to any prohibition or restriction which would:
 - (i) prevent or restrict it from disclosing or transferring the Shared Data to the other Party or granting the other Party access to the Shared Data as required under this Agreement;
 - (ii) prevent or restrict either Party from Processing the Shared Data, as envisaged under this Agreement;
 - (b) ensure that all fair Processing notices have been given (and/or, as applicable, consents obtained) and are sufficient in scope to enable each Party to Process the Shared Data as required in order to obtain the benefit of its rights and to fulfil its obligations under this Agreement in accordance with the Data Protection Laws;
 - (c) ensure that the Shared Data disclosed or transferred to, or accessed by, the other Party is accurate and up-to-date, as well as adequate, relevant and not excessive to enable the other Party to Process such Shared Data as envisaged under this Agreement;

- (d) ensure that appropriate technical and organisational security measures are in place and are sufficient to comply with at least the obligations imposed on the Controller by the Security Requirements;
- (e) notify the other Party promptly, and in any event within forty-eight (48) hours of receipt of any Data Subject Request, Third Party Request or Regulator Correspondence relating to the Shared Data, not disclose the Personal Data for which the other Party alone is the Controller in response to any Data Subject Request, Third Party Request or Regulator Correspondence without the other Party's prior written consent, and provide the other Party with all reasonable co-operation and assistance required by the other Party in relation to any such Data Subject Request, Third Party Request or Regulator Correspondence;
- (f) notify the other Party in writing without undue delay (and in any event within twenty-four (24) hours) upon it (or any of its Personnel) becoming aware of any actual, suspected or threatened Personal Data Breach in relation to the Shared Data ("**Data Loss Event**") and shall, within such timescale to be agreed by the Parties (acting reasonably and in good faith):
 - (i) seek to recover the compromised data as soon as practicable and implement any measures necessary to restore the security of the compromised Shared Data;
 - (ii) promptly provide the other Party with a report containing details about the nature of the Data Loss Event and provide the other Party with further information in phases, as details become available; and
 - (iii) support the other Party to make any required notifications to the Regulator and/or other relevant regulatory body and affected Data Subjects;
- (g) take reasonable steps to ensure the reliability of and adequate training of any of its Personnel who have access to the Shared Data;
- (h) hold the information contained in the Shared Data confidentially and under at least the conditions of confidence as such Party holds Personal Data Processed by it other than the Shared Data.

1.5 The Training Provider shall only Process the Shared Data for which the Authority is the Data Originator for the purposes of providing the Services or otherwise in accordance with the terms of this Agreement.

1.6 Except as otherwise provided, this Agreement does not transfer ownership of, or create any licences (implied or otherwise), in any intellectual property rights in any Personal Data.

2. **INTERNATIONAL TRANSFERS**

The Training Provider shall not (and shall procure that any Third Party Provider shall not) make a Data Transfer without the prior written consent of the Authority (which the Authority shall be entitled to withhold for any reason).

3. **DATA SECURITY**

3.1 The Training Provider must not remove any ownership or security notices in or relating to the Government Data.

- 3.2 The Training Provider must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Authority copies via a secure encrypted method upon reasonable request.
- 3.3 The Training Provider must ensure that any Training Provider, Subcontractor and Sub-Processor system (including any cloud services or end user devices used by the Training Provider, Subcontractor and Sub-Processor) holding any Government Data, including back-up data, is a secure system that complies with the provisions set out in Schedule 12 (Cyber Essentials), Security Schedule, and any security requirements specified by the Authority, and otherwise as required by Data Protection Laws.
- 3.4 If at any time the Training Provider suspects or has reason to believe that the Government Data is corrupted, lost or sufficiently degraded, then the Training Provider must immediately notify the Authority and suggest remedial action.
- 3.5 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Authority may either or both:
- 3.5.1 tell the Training Provider to restore or get restored Government Data as soon as practical but no later than 5 Business Days from the date that the Authority receives notice, or the Training Provider finds out about the issue, whichever is earlier; and
- 3.5.2 restore the Government Data itself or using a third party.
- 3.6 The Training Provider must pay each Party's reasonable costs of complying with paragraph 3.5 unless the Authority is at fault.
- 3.7 The Training Provider:
- 3.7.1 must provide the Authority with all Government Data in an agreed format (provided it is secure and readable) within 10 Business Days of a written request;
- 3.7.2 must have documented processes to guarantee prompt availability of Government Data if the Training Provider stops trading;
- 3.7.3 must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice, other than in relation to Government Data which is owned or licenced by the Training Provider or in respect of which the Parties are either Independent Controllers or Joint Controllers;
- 3.7.4 securely erase all Government Data and any copies it holds when asked to do so by the Authority (and certify to the Authority that it has done so) unless and to the extent required by Law to retain it other than in relation to Government Data which is owned or licenced by the Training Provider or in respect of which the Parties are either Independent Controllers or Joint Controllers; and
- 3.7.5 indemnifies the Authority against any and all Losses incurred if the Training Provider breaches any of its obligations in this Schedule 3.

APPENDIX 1

DATA SHARING PARTICULARS

The subject matter and duration of the Processing	<p>The Processing of Personal Data in relation to this Agreement and for the Term, save that the Training Provider may store records of the Apprentice's achievements on the Apprenticeship indefinitely.</p> <p>The contact information of each Party's representatives will be Processed for the Term to facilitate the management of the Agreement.</p>
The nature and purpose of the Processing	<ul style="list-style-type: none"> • To enable the Training Provider to deliver one or more Approved Apprenticeship Standards to selected Apprentices. • To ensure compliance with the Apprenticeship Funding Rules. • To ensure compliance with relevant external regulatory bodies. • The contact information of each Party's representatives will be Processed to facilitate the management of the Agreement and the relationship of the Parties.
The type of Personal Data being Processed	<ul style="list-style-type: none"> • Apprentice details recorded in the Training Plan and Apprenticeship Agreement • Apprentice copy passport and achievement certificates • A passport sized photo each Apprentice for ID docs (library card and so on) • Records of each Apprentice's attendance, progression and achievement on the Apprenticeship • Records of review meetings with each Apprentice's apprenticeship manager and line manager • Records of other ad hoc meetings relating to the services provided under this Agreement • Contact information of each Party's representatives
The categories of Data Subjects	<ul style="list-style-type: none"> • Apprentices • Members of Training Provider Staff engaged in delivering the Services provided under this Agreement

	<ul style="list-style-type: none"> • Members of Authority staff engaged in receiving the Services provided under this Agreement • The Party's business representatives
Envisaged onward sharing	<ul style="list-style-type: none"> • The DFE • Ofsted (where applicable to the Apprenticeship being provided) • Any End Point Assessment Organisation (where applicable to the Apprenticeship being provided) • Any external awarding body (where applicable to the Apprenticeship being provided) • Any professional body (where applicable to the Apprenticeship being provided) • Those staff of the Authority who are engaged in receiving the Apprenticeship Programmes provided under this Agreement. • Those staff of the Training Provider who are engaged in providing the services provided under this Agreement.

SCHEDULE 4

SERVICE LEVELS

1. The Training Provider shall perform the Services in accordance with the following Service Levels:
 - 1.1 **Communication** – the Training Provider must confirm receipt of an Apprentice's details included in a Statement of Work within 2 Business Days.
 - 1.2 **Enrolment** – the Training Provider must arrange and deliver pre-enrolment induction to Apprentices giving a full walk-through of the Apprenticeship Programme, answer any questions and explain the application process within 2 weeks of receiving an Apprentice's details.
 - 1.3 **Progression** – the Training Provider must ensure each Apprentice and their line manager are invited to a formal progress review every 12 weeks and provide details of individuals progress on the qualification.
 - 1.4 **Queries** – the Training Provider must respond to initial enquiries within 24 hours of receipt and resolve telephone and email enquiries within 5 Business Days of receipt.
 - 1.5 **Complaints** – the Training Provider must ensure to confirm receipt of any complaints received within 24 hours (working hours) and provide resolutions to complaints or issues within 5 Business Days of receipt and make learners aware of complaints procedures.
2. The Training Provider shall also perform the Services in accordance with the following key performance indicators (KPIs), which shall form part of the Service Levels:

KPI	Description	Target of learners
Management Information reporting	The Training Provider shall send Apprentice progress reports to the Authority for all Apprentices with clear information on progress of learning outcomes and percentage completion on a monthly basis. This should be 5 Business Days before a scheduled meeting on a template provided by the Authority. The Training Provider should record details of attendance for in person events and reasons for non-attendance.	100%
Induction	The Training Provider to deliver Apprentice induction in the first 2 weeks of an Apprentice enrolling (Training Provider will not be penalised where there are absences by Apprentices).	100%
Communication	The Training Provider's talent coaches need to have sessions with their learners, on a 4-weekly basis, for at least an hour, virtually. When there are staff absences, arrangements should be made to ensure meetings are covered.	98%
Functional Skills	The Training Provider shall provide access to functional skills learning materials to those who require it, within 2 weeks of screening for those who require this learning.	98%
Reasonable Adjustments	The Training Provider shall ensure that any requests by Apprentices for reasonable adjustments to the Services	95%

KPI	Description	Target of learners
	will be evaluated, and a decision confirmed and communicated to the Apprentice within 30 days of notification	
Learner Support	The Training Provider shall develop a learning plan with support tools and reasonable adjustments within 2 months of the Apprenticeship Programme start date for any Apprentices who require additional support to complete their Apprenticeship Programme.	95%
Assessments	Details of achieved marks and feedback are shared with Apprentices a maximum of three working weeks after the submission deadline. A one-to-one meeting is to be scheduled with a Talent Coach to discuss the feedback if the Apprentice has not achieved a pass mark. This should take place within 10 Business Days of the outcome being shared with the Apprentice with the consideration of the Apprentice's availability when scheduling.	95%
Apprentice Satisfaction	At least 80% of Apprentices who have completed a survey and feedback form, rate the learning materials as good or above, as shown in the quarterly Apprentice satisfaction report.	80%
Completions	The Training Provider to ensure Apprentices achieve a minimum of a pass mark at End-Point Assessment on their first attempt.	85%
Certification	After completion, the Apprentice should receive a certificate or proof of completion within a month. This is to be included in the total cost per Apprentice and will be at no extra cost to the Authority.	100%
Social Value	Employment from under-represented groups: The Training Provider shall retain (10% or more) staff from underrepresented groups, including those from ethnic minority groups, as a proportion of the Training Provider's total FTE workforce. This shall include all employees, contractors and workers directly engaged or available to work for the Training Provider in the provision of the Services, but which shall not include hires or workers of third parties within the Training Provider's wider /indirect supply chain	100%

SCHEDULE 5
RECTIFICATION PLAN

REQUEST FOR [REVISED] RECTIFICATION PLAN			
Details of the Material Default:	[Guidance: Explain the Material Default, with clear schedule and clause references as appropriate]		
Deadline for receiving the [Revised] Rectification Plan:	[add date (minimum 10 days from request)]		
Signed by Authority:		Date:	
Training Provider [Revised] Rectification Plan			
Cause of the Material Default	[add cause]		
Anticipated impact assessment:	[add impact]		
Actual effect of Material Default:	[add effect]		
Steps to be taken to rectification:	Steps	Timescale	
	1.	[date]	
	2.	[date]	
	3.	[date]	
	4.	[date]	
	[...]	[date]	
Timescale for complete Rectification of Material Default	<input checked="" type="checkbox"/> Business Days		
Steps taken to prevent recurrence of Material Default	Steps	Timescale	
	1.	[date]	
	2.	[date]	
	3.	[date]	
	4.	[date]	
	[...]	[date]	

Signed by the Training Provider:		Date:	
Review of Rectification Plan Authority			
Outcome of review	[Plan Accepted] [Plan Rejected] [Revised Plan Requested]		
Reasons for rejection (if applicable)	[add reasons]		
Signed by Authority		Date:	

SCHEDULE 6

INVOICING AND PAYMENT

1. BACKGROUND

- 1.1 Invoices for Costs Above the Funding Cap and Non Levy Funding will be arranged separately through the Authority's accounts department and will require a breakdown of Apprentices on their Apprenticeship and the costs for each to be identified line by line of the costs incurred. Invoices should clearly state the purchase order number / payment reference details (which the Authority will provide), the name of the Apprentice(s) and the element/period of the Apprenticeship the invoice covers. The budget for these will be allocated from the Authority.

2. INVOICING – ITEMISED INVOICING (FOR NON-LEVY FUNDING)

- 2.1 The Training Provider shall send invoices to the Authority quarterly basis in arrears. All invoices must include a valid purchase order number and must be accompanied by a breakdown of the number of Apprentices, details of the Apprenticeship Programme and the costs for each. Invoices will be paid within 30 days upon receipt.
- 2.2 The Authority currently operates one main purchasing system. The Training Provider must have the flexibility to adapt to different systems, processes and procedures throughout the Term.
- 2.3 The Training Provider shall comply with the Authority's requirements in respect of authorisation, invoicing and payment processes and procedures. The Training Provider shall be required to assist The Authority in developing invoice process efficiencies at no additional cost to the Authority.

3. INVOICE MINIMUM REQUIREMENTS

- 3.1 To enable successful processing, all invoices submitted to the Authority must clearly state the word 'invoice' and contain the following:
- 3.1.1 a unique identification number (invoice number);
 - 3.1.2 Training Provider name, address and contact information;
 - 3.1.3 the name and address of the department/agency the Training Provider is invoicing;
 - 3.1.4 a clear description of what the Training Provider is charging for and itemised billing per cohort and key contractual areas;
 - 3.1.5 the date the Services were provided;
 - 3.1.6 the date of the invoice;
 - 3.1.7 the amount(s) being charged;
 - 3.1.8 VAT amount if applicable;
 - 3.1.9 the total amount owed; and
 - 3.1.10 a valid PO number.

- 3.2 If any of the above information is missing from the invoice, the Training Provider will be notified that the invoice cannot be processed.

4. **INVOICES RELATING TO A PURCHASE ORDER**

- 4.1 In addition to the minimum requirements above, invoices relating to a PO must not contain any lines for items which are not on the purchase order. If this occurs, the invoice will be returned to the Training Provider.

5. **INVOICE SUBMISSION BY EMAIL**

- 5.1 All invoices must be submitted by email and meet the following criteria:

- 5.1.1 email size must not exceed 4mb;
- 5.1.2 1 invoice per file attachment (PDF) (multiple invoices can be attached as separate files); and
- 5.1.3 any supporting information, backing data etc. must be contained within the invoice PDF file.

- 5.2 Failure to meet these criteria may result in not all Training Provider invoices being processed.

6. **INVOICE VALIDATION REQUIREMENTS**

- 6.1 Invoices will be 'matched' to a corresponding PO onto the finance system providing a valid number is quoted. The finance system will then attempt to validate the invoice against the PO. If the validation fails, payment of the invoice will go on 'hold'. The following scenarios will cause invoice validation to fail:

- 6.1.1 the invoice line description does not match the corresponding purchase order line description; or
- 6.1.2 the item price, quantity and/or amount on the invoice does not match the item price, quantity and/or amount on the corresponding PO.

- 6.2 To ensure the invoice is successfully matched and validated, it should replicate, as much as possible, the information and structure contained in the corresponding PO.

- 6.3 The Authority may issue POs using Basware (an eMarketplace that is used to transmit purchase orders and receive invoices electronically) and, unless approved otherwise, the Training Provider shall, when invited, register on Basware.

- 6.4 The Authority will pay all sums due to the Training Provider within 30 days of receipt of a valid invoice unless an alternative arrangement has been approved.

SCHEDULE 7

SPECIFICATION

Glossary

MoJ	Ministry of Justice
HMPPS	His Majesty's Prison and Probation Service
CJS	Criminal Justice System
KSBs	Apprenticeship knowledge, skills and behaviour
VAT	Value Added Tax

Introduction

The Ministry of Justice (MoJ) is a ministerial department of the UK Government headed by the Secretary of State for Justice and Lord Chancellor. The MoJ work to protect the public and reduce reoffending, providing a more effective, transparent, and responsive criminal justice system for victims and the public.

The MoJ has responsibility for various parts of the justice system – including the courts, prisons, probation services and attendance centres. The MoJ works in partnership with other government departments and agencies to reform the criminal justice system, serve the public and support the victims of crime. The MoJ is supported by 32 agencies and public bodies.

The MoJ would like to provide a Level 3 Probation Practitioner Apprenticeship, starting in Summer 2025. This will support His Majesty's Prison and Probation Service (HMPPS) to meet its statutory requirement to qualify Probation Practitioners. To achieve this at the required scale the MoJ (Authority) would like to procure two training providers (Training Providers) to deliver the probation service practitioner apprenticeship.

The purpose of this document is to outline the Authority's requirements for the delivery of the apprenticeship.

The Authority does not guarantee volumes. Indicative volumes provided are subject to fluctuation. The contracts shall be non-exclusive.

The contract term will be six years (covering four years of enrolments), with commencement in Summer 2025.

The maximum budget for this contract is £19,998,000 (Please note that VAT is not applicable to this scheme, however, where it is charged, the Authority expects this to be recoverable).

The budget for the requirement is split into two lots with the following corresponding values:

Lot 1: £10,219,000

Lot 2: £9,779,000

Training Providers will need to indicate a preferred Lot when bidding to work with the Authority to deliver the apprenticeships. More information on the lotting rules and allocation can be found in the Instructions to Bidders document.

Background to The Authority

Ministry of Justice (The Authority)

The Authority, through HMPPS, is responsible for probation services in England and Wales. To meet the criminal justice system demand HMPPS is increasing the number of Probation Practitioners and employees working directly with people on probation and victims.

The Offender Management Act 2007 s10 sets out the Secretary of State for Justice's right to publish guidelines about qualifications, the experience or training required to be a Probation Officer, and the obligations to publish these guidelines in relation to those undertaking Sentence Management and Court work. The Probation Practitioner at Level 3 will be added to these guidelines. This will be the recognised qualification for employees working with all individuals eligible for probation support – including people on probation, people pre-sentence and victims.

Employee roles

The apprenticeship is designed to be delivered to all Probation employees where their role requires them to work directly with people on probation (in custody and the community), people in court pre-sentence and victims. This will include the following roles:

Victim Liaison Officers - The job holder will work with victims of crime and victims' families who are participating in, or are being considered for inclusion in, the statutory Probation Service (PS), Victim Contact Scheme (VCS) or Victim Notification Scheme (VNS). The job holder will contribute to the assessment and management of risk posed by offenders to protect the public and they will also liaise with relevant professionals across organisations and contribute to inter-agency meetings to ensure that the views of victims and their families have been considered.

Probation Service Officer - The job holder will undertake the full range of work with people on probation before and after sentence. This will include assessment, sentence implementation, offender management and producing reports. The job holder will provide case management support to a full range of people on probation utilising service procedures and practice directions that underpin professional judgement.

Approved Premise Residential Worker - The job holder will work as part of a team providing 24-hour cover at an Approved Premises (AP) including security and monitoring services. The job holder will undertake a full range of work with the people on probation whilst resident at the Approved Premises. This will include; providing support in contributing to the risk management and sentence plan objectives and reporting any significant changes relating to risk and/or re-offending.

Enforcement Officer (Trials) - The job holder will undertake the full range of tasks involved with the enforcement of orders, post sentence supervision periods and licences at court, including the prosecution of contested breaches (the latter primarily in the Magistrates Court).

Domestic Abuse Safety Officer – The job holder will work with victims and current partners of men attending domestic violence programmes to promote the safety of women and children.

Community Payback Supervisor - This is a role directly supervising work groups of offenders serving a community sentence. This may include driving service vehicles to transport people or equipment. The job holder will be responsible for all work site supervision tasks and will work with service users to ensure that all tasks are carried out to the best of their ability. This will include working alongside people to demonstrate good practice as necessary.

Community Payback Placement coordinator - This role is responsible for establishing and maintaining relationships with a range of current and future partner organisations, customers and stakeholders. This will involve working with a range of voluntary and statutory organisations. The job holder will ensure that sufficient work placement that meet the quality standards are available so that the sentence of the Court can be carried out effectively.

Programme Facilitator - The job holder will deliver a range of rehabilitation interventions aimed at changing the attitudes, beliefs, and behaviour of people on probation with a full range of offence types and a full range of levels of risks (including those convicted of sexual and domestic abuse offences), as determined by sentences of the Courts and on the recommendation of Probation Practitioners. The main objectives of this role are to reduce re-offending, protect the public, prevent future victims and provide rehabilitation to help people to build constructive and meaningful lives in the community, through the delivery of effective evidence based Accredited Programmes and Structured Interventions.

Services

The budget for this requirement is £19,998,000.

The apprenticeship levy budget is specifically made up of the following corresponding values:

Lot 1 - £10,200,000

Lot 2 - £9,750,000

The above budget includes the initial EPA funded by the levy and one resit.

If required, a further (second) resit will be funded separately by the Authority with a total budget of £19,000 for each Lot. The budget will be required from 2027- 2031.

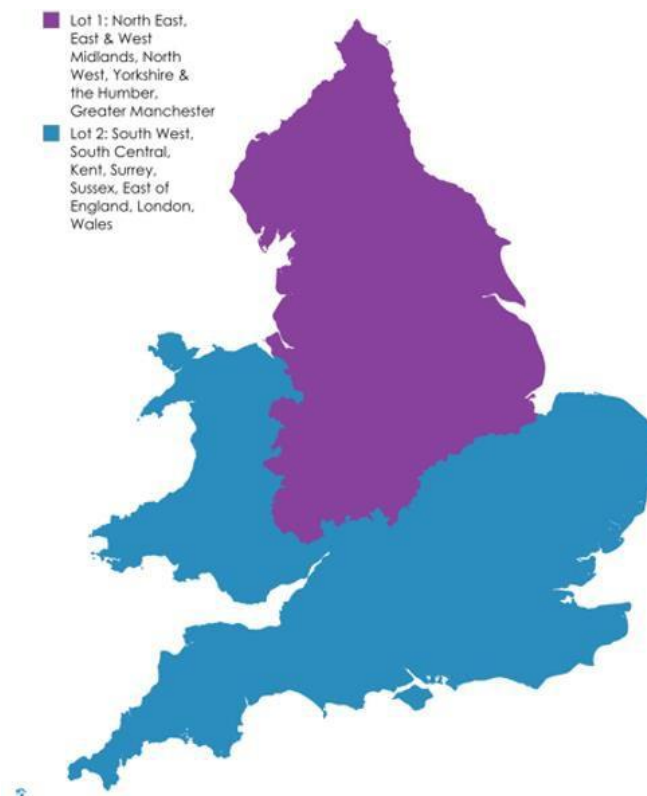
The Authority will also fund functional skills for learners based in Wales. The Authority anticipates that 6% of learners will be based in Wales, the Authority will fund functional skills for these learners where they are not able

to access the adult skills fund. The cap for delivering this will be £500 per learner per functional skill and the Authority does not anticipate more than 17% will require it. Therefore, the total budget available for this provision will be £10,000 for Lot 2.

The lots are:

Lot	Regions	Indicative learner volumes				Total
		2025	2026	2027	2028	
1	North East, East & West Midlands, North West, Yorkshire & the Humber, Greater Manchester	370	510	580	580	2040
2	South West, South Central, Kent, Surrey, Sussex, East of England, London, Wales	450	490	510	500	1950

Probation Service Regions diagram



The Training Provider will deliver sessions covering the topics identified in the requirements (set out below). The Training Provider will provide one to one support for individuals completing the apprenticeship, as defined in the requirements and provide support and preparation for end point assessment.

Over the life of the contract, HMPPS anticipates a maximum of 3990 employees will complete the apprenticeship. HMPPS wants to contract services for a period of six years to enable there to be four years of enrolments. The final two years of the contracts would enable individuals who commence their apprenticeship in their fourth year to complete the apprenticeship and the End Point Assessment.

Probation Practitioners are recruited on a regular basis and are not always in cohorts. HMPPS would require the Training Provider to deliver a rolling programme to meet business demand.

Whilst the contract does not guarantee volumes, Training Providers will be expected to ensure there is sufficient provision in line with the annual forecasted figures provided.

Requirements

Probation Practitioner Level 3 Apprenticeship

Duration 18 months (not including end point assessment)

Apprenticeship outcomes and course content that Authority wants covering as a minimum:

- Complete risk assessments to inform risk management plans for individuals eligible for probation support. Findings to be recorded in line with policy and practice.
- Develop and implement initial plans to reduce risk of reoffending and harm to the public.
- Work with internal and external partner agencies to review the behaviours and progress of the individuals eligible for probation support.
- Manage risk to reduce reoffending behaviour and harm, responding to changes, in line with policy and procedures.
- Apply public protection and safeguarding guidelines and procedures to protect the public from the risk of reoffending and harm.
- Engage and motivate individuals eligible for probation support to promote positive change.
- Deliver interventions to meet the objectives of the risk management and sentence plans.
- Participate in continuous professional development.
- Adhere to organisational processes and procedures for securely recording and maintaining information relating to individuals eligible for probation support

- Adhere to organisational ethics, values and professional standards.

The details of these outcomes are taken from the apprenticeship standards which can be found on the [Institute of Apprenticeships Website](#)

Functional skills

The Training Provider will provide one to one input for individuals who cannot evidence GCSE or equivalent and are required to complete the functional skills assessment as defined on the Government website: [Functional Skills criteria Mathematics](#) and on the Government website: [Functional Skills Content: English](#). Completion of functional skills should be encouraged as early as possible, and within the first 10 months of study, to ensure this does not delay individuals moving to Gateway to proceed to their End Point Assessment. Delivery of functional skills should use staff experienced in delivery to adult learners.

Design activity and period

To meet the apprenticeship standard, Training Providers will be required to design and deliver learning products. Whilst a large proportion of the knowledge requirements will be delivered by HMPPS (as detailed in Annex 1) the remainder will need to be designed and delivered by the Training Provider. Whilst the apprenticeship standard provides the requirements, the Authority will require any materials to be shared, quality assured and signed off before the Training Provider can start to deliver. The materials will be subject to the HMPPS quality assurance framework (Annex 2) and must meet OFSTED requirements. The length of this element is expected to take no longer than four months to commence delivery. This may also include amendments, should there be gaps identified by the Authority, to ensure both the standard is achieved and the expectations required of our employees.

As part of mobilisation the Authority will review the content developed by the Training Provider to ensure that it enables learners to meet the knowledge, skills and behaviour identified in the standards.

The appointed Training Provider will be required to deliver the same content and apprenticeship standards to learners who are not eligible for funding from the apprenticeship levy (such as learners in the Devolved Nations). This could either be by delivering the above apprenticeship (as standards) or equivalent non-apprenticeship qualifications that offer equivalent recognition. This will need to ensure that the same learning outcomes are achieved as identified in the apprenticeship standard. Across other apprenticeships delivered by the Authority there have been approximately 1.4% of learners nationally who were not eligible, and we anticipate approximately 6% of Lot 2 learners will be based in Wales. Internal budgets will be utilised for learners in Devolved Nations and for individuals who are not eligible for the levy.

The Training Provider for Lot 2 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. Materials should be provided in Welsh, where this is requested from an individual learner based in Wales.

To facilitate the sessions, the Training Provider will need to ensure that staff delivering the sessions are up to date with current Probation practice. The Authority will provide information about changes to process and policy. The Training Provider is expected to update course content within eight weeks of any changes.

The Training Provider will need to ensure that learners who are unable to attend, due to exceptional unforeseen circumstances such as sickness, are able to undertake the learning requirements to maintain their learning plan. This can include recordings of learning sessions.

The Authority will review and approve the content of the sessions on an annual basis or as required following changes to policy and process, or as a result of learner feedback through KPIs, following initial review of their content at the point of development.

End Point Assessment (EPA) preparation

The Training Provider will provide three 1-1 sessions in the 3-months preceding gateway, including mock presentation, mock professional discussion and case study preparation with tutor, in preparation for End Point Assessment.

The sessions must be applicable to all roles identified in the specification.

In scope

Must include:

- A delivery model which focuses on skills development and incorporates experiential learning. It is expected for both group and one-to-one learning opportunities to be available as required by the apprenticeship guidelines and the regular contract requirements outlined below. The Authority requires all learning products and delivery modality to be quality assured and signed off prior to delivery.

- The Authority requires a minimum of four group sessions per learner over the apprenticeship duration. Group sessions will need to be delivered in person, and the Training Provider will be required to administer these events. These Group Sessions should be sufficient to meet the requirements of the apprenticeship standard, enable learners to undertake skills practice, and may include role play (which is better delivered in person).
- Where possible The Authority will provide a suitable venue. Where this is not possible, Training Providers will be required to source and finance venue hire. The availability of MOJ venues will vary in regions. The Training Provider should give at least 1 month's notice to all learners of location, time, and date of the venue they are expected to be at, the location should be within 90 minutes of the learners' work base (via public transport). HMPPS will cover travel costs of learners to the chosen venue within the HMPPS travel and subsistence policy arrangements. The Training Provider will be required to cover travel costs for its staff.
- Group size should consist of a minimum of 6 learners and a maximum of 12 to ensure consistent levels of interaction and to offer additional support to individuals if required.
- An approach that recognises the diverse range of knowledge and experience of our employees and ensures that the apprenticeship is delivered at a pace that is appropriate to each individual within the requirements of apprenticeship delivery – for example where learners can, complete the qualification (excluding EPA) in a minimum of 12 months and 1 day.
- Online learning (any virtual classrooms/ workshops/ webinars/ meetings) must be accessible via Microsoft Teams and digital learning platforms will need to be compatible with MoJ systems. All learning must be scheduled to take place during the learners working day, though learners must also be able access the learning materials in their own time if they wish. All teaching sessions delivered virtually will need to be recorded for learners to access in their own time to allow them to catch up on missed sessions. HMPPS will provide IT equipment to the learner if needed. The Training Provider shall ensure robust arrangements are in place to deliver effective service management for all technology and digital services on which the delivery of the learning services is dependent and, as a minimum, shall:
 - adhere to the government's Technology Code of Practice which can be found on the [Government website](#), Government Digital Service Standards which can be found in the Government Digital Service blog entitled [Welcome to the updated Service Standard and New Accessibility Requirements](#) outlined on the [Government website](#) where relevant and appropriate to do so; and
 - ensure that all outputs comply with the Web Content Accessibility Guidelines (WCAG 2.2) AA accessibility standards as identified on the [Government website](#)
- Everything required to complete the apprenticeship i.e. skilled competent facilitators (Annex 3), and talent coaches to guide and support the learner.
- An accessible learning portfolio/system for capturing learning requirements.
- Functional skills teaching and assessment are required as part of the apprenticeship for learners who aren't exempt (due to previous attainment levels). Learners need to hold a level 2 GCSE or equivalent Maths and English certificates or be willing to complete functional skills in Maths and English as part of the apprenticeship to be eligible for levy funding. The Training Provider will be expected to screen individuals within the first eight weeks of an apprentice enrolling and being on-boarded on an apprenticeship programme. This is to assess their current level of functional skills if they aren't exempt. Learners must be provided with three opportunities to pass their required functional skills which shall be funded via the Adult Skills Fund for English apprentices, and the Authority for Welsh apprentices. If a learner does not pass their required functional skills after three opportunities the learner may be removed from the apprenticeship programme.
- The Training Provider shall have in place and shall maintain Cyber Essentials Plus throughout the term of the contract (or any agreed equivalent replacement certification) and thereafter for as long as the Training Provider holds or processes any Authority materials., Information about cyber essential can be found on the [National Cyber Security website](#).
- All aspects of an apprenticeship learner journey from onboarding to EPA. This should include any learning and study materials.
- Monthly management information must be emailed to apprenticeshipinfo@justice.gov.uk by the second Thursday of each month. The Authority may ask for more ad hoc MI data as required to support Freedom of Information request's (FOI), parliamentary questions (PQ) or other reporting such as complying with Cabinet Office policies. The Authority may be required to publish the Training Provider's performance data in the public domain via the Cabinet Office.
- The Authority will need a list of any software/plugin ins required to complete the apprenticeship (for example software used to assist with remote invigilation and assessments) as this may need to be considered due to our I.T restrictions accessing online resources.

- End Point Assessment arrangements (EPA). The details of the EPA requirements can be found at the [Institute of Apprenticeships Website](#)
 - Bidders must ensure that they have a confirmed End Point Assessment Organisation (EPAO) in place, should they be successful, within the first 6 months of contract award.
 - 1 resit for the end-point-assessment to be included within the overall cost of delivery the apprenticeship by the Training Provider.
 - A further resit will be funded by HMPPS.

Out of scope

This section identifies the initial learning and development for learners that is provided 'in-house' by the existing Learning Delivery team in HMPPS and which will be included in the apprenticeship. This is to provide potential Training Providers with details of areas of the apprenticeship that are covered internally that Training Providers will not be expected to deliver. This covers 22 courses in total (the full course list and learning outcomes are detailed in Annex 1), providing over 81 off-the-job hours and covers a large proportion of the knowledge areas of the apprenticeship. These courses include:

- Probation case management system. Currently NDelius
- Probation risk assessment system. Currently OASYS due to be replaced with ARNS
- Core Concepts and Key Skills
- Risk Management, Risk Assessment and Sentence Planning
- Report Writing and Presentation Skills.
- Child Safeguarding
- Domestic Abuse

This learning is appropriate to the individual's role and not all roles will require the employee to complete all elements of the 'in-house' learning. The Authority will provide information about the learning required for each role. The Authority will also provide progress updates and quality assurance of an individual's work via the 12-week reviews to determine levels of capability in the above areas to ensure developing practice. Further details of these courses will be provided after contract award. We expect that the Authority materials will also be subject to OFSTED regulation and the Authority will cooperate with the Training Provider if it receives information requests from OFSTED during inspections.

Measurable outputs

A formal qualification for individuals in the job roles previously identified under 'Employee Roles'.

The apprenticeship adds to a current programme of learning which makes use of the levy funding and the Authority's commitment to apprenticeship learning.

This will also support HMPPS in attracting, retaining and engaging diverse talent and capability within the organisation and improving productivity.

Supports the achievement of the MOJ Apprenticeship Strategy.

Specific functional qualities

The Training Provider must carry out an initial assessment with each learner to identify specific learning needs within five days of their induction. Learners are to disclose any learning needs to the Training Provider. The Training Provider is then to make reasonable adjustments depending on the outcome of the assessment. Adjustments for learning disabilities or conditions could include, but not limited to: providing learning materials as a Word document instead of a pdf so learners can alter font size; ensuring pictures have subheadings; and avoiding using light font colours or coloured backgrounds which make the font difficult to read etc. Assistive technology will be available through HMPPS, however, learning delivery should be compatible with this.

Regulatory requirements

The apprenticeship must be within the current Education and Skills Funding Agency (EFSA) funding bands which are currently set at:

Level 3: Maximum of £5,000 (per learner) for levy and non-levy funded learners.

Learners will be provided with three opportunities to pass functional skills, this is not funded through the levy and will be funded through the adult skills fund for England. For learners in Wales the Authority will fund any requirement as stipulated previously.

Learners will be provided with two opportunities to pass the EPA, included in the overall price. The Authority will cover the costs of a second re-sit for EPA (i.e a third attempt).

OFSTED: A Training Provider must have a minimum Ofsted rating of:

- grade 2 (good); or
- grade 3 (requires improvement) provided the Training Provider has a grade 2 (good) rating in the "Quality of Education" criteria.

Evidence of the Training Provider's Ofsted rating will need to be provided to progress through the bidding process.

Registration: Training Providers must be registered as an apprenticeship Training Provider on the apprenticeship Training Provider and assessment register (APAR) and provide evidence of this by including their UK Training Provider Reference Number (UKPRN) within their bid.

Required levels of service

The chosen Training Provider must be listed on the [Register of training organisations - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/organisations/department-for-education) as eligible to receive government funding to train learners.

We would expect a level of flexibility and service from the Training Provider to cater to the needs of the Authority and its learners. This includes:

- The Training Provider should give full details of academic entry criteria for each standard.
- The Training Provider should give full details of how it interprets job suitability requirements for each standard and be willing to work with the Authority to map apprenticeship requirements to our roles.
- The apprenticeship delivery model should be flexible to accommodate part-time and alternative working patterns (e.g., term-time contracts) which we offer to all our employees as part of our commitment to diversity and inclusion, and work/life balance of employees. It should also be able to accommodate breaks-in-learning where required. Learners will be given 20% time off-the-job for learning.
- As a part of the funding requirements the Authority is to give the learner a minimum of 6 hours per week off the job learning.

Annex 1 - Objectives for HMPPS Delivered Learning

Learning Module	Objectives
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Multi Agency Public Protection Arrangements	<ul style="list-style-type: none"> • Apply the MAPPA process end-to-end. • Recognise my role and responsibilities in the MAPPA process. • Prepare and lead to effectively manage a MAPPA case. • Proactively work with partnership agencies to effectively manage risk and need. • Access various means and sources of support
Victim Contact Scheme	<ul style="list-style-type: none"> • Understand their roles and responsibilities in relation to the Victim contact scheme and • Recognise the importance and benefit of ongoing communication and collaboration with the Victim Liaison officer
Managing Violence and Aggression in the Workplace	<ul style="list-style-type: none"> • Understand and interpret the behaviours and triggers that contribute to Violence and Aggression; • Understand the skills, responses and techniques for reducing the risk of V & A and how to prevent them; • Feel confident and prepared to manage a situation where personal safety and that of others are at risk; and, • Understand my responsibility to report accidents, incidents and near misses and the requirement to do so.
Working as a Victim Liaison Officer (Only for individuals in the victim liaison officer role)	<ul style="list-style-type: none"> • Improve and maintain knowledge and skills around the VLO role • Understand and work within the limitations and boundaries of the VLO role • Apply person-centred practice when engaging with Victims • Work in a multi-disciplinary way with all key professionals • Take ownership of professional development and engage in reflective practice and developmental supervision • Manage personal well-being and resilience
Substance Misuse	<ul style="list-style-type: none"> • Understand their roles and responsibilities in relation to working with a person on probation with substance misuse issues.
Empowering Change: Working Well with Women	<ul style="list-style-type: none"> • Understand a women's journey into and through the CJS • Collaboratively and holistically work with women in a gender specific way.
Parole, Recall and Oral Hearings/Recall Process	<ul style="list-style-type: none"> • Understand the Recall process and their role within it
Parole, Recall and Oral Hearings/Home Detention Curfew Process	<ul style="list-style-type: none"> • Understand the Home Detention Curfew (HDC) process and their role within it
Parole, Recall and Oral Hearings/Parole Process and Oral Hearing	<ul style="list-style-type: none"> • Understand the Generic Parole Process and their role within it • Know how and what to prepare for the completion of a PAROM report.
Spousal Assault Risk Assessment	<ul style="list-style-type: none"> • Know when a SARA is required • Apply their knowledge to confidently complete a SARA.
Risk and OASys	<ul style="list-style-type: none"> • Understand the gathering evidence and how to confidently work with others to manage risk effectively, developing foundational skills and behaviours.
Domestic Abuse Awareness	<ul style="list-style-type: none"> • how nuanced, prevalent, harmful, and serious all forms of domestic abuse are; • the impact domestic abuse can have on victims and survivors; • some of the warning signs that domestic abuse is happening and when the danger to victims may be increasing; • how crucial it is to report or discuss our concerns with colleagues if we think domestic abuse is being perpetrated;

	<ul style="list-style-type: none"> • the valuable contributions we can all make to protect victims and survivors of domestic abuse; • the emotional or psychological impact on our own well-being when dealing with domestic abuse; • the well-being support available to us all in HMPPS; and • the responsibilities we all have to safeguard victims of domestic abuse, as set out in the HMPPS Domestic Abuse Policy Framework.
Child Safeguarding Awareness blended learning	<ul style="list-style-type: none"> • Be aware of the different impacts of different harms on children • Be aware of my organisations duty of care in child protection and safeguarding, in line with current policy and legislation • Understand how my role contributes to keeping children safe • Use professional curiosity effectively and take an investigate approach to child safeguarding • Act promptly and escalate child safeguarding concerns appropriately • Understand why accurate recording & appropriate information sharing is important to ensure safeguarding of children • Be aware of what wellbeing support is available to me and how to access help when dealing with child safeguarding concerns • Demonstrate a secure knowledge and understanding of key legislation and assessment frameworks relating to child safeguarding including thematic topics which may be prevalent on probation caseload such as Child Sexual Exploitation, Child Criminal Exploitation (county lines), PREVENT, Honour based abuse, FGM, Forced Marriage as well as potential abuse through use of digital platforms. • Apply and investigative approach, demonstrating professional curiosity to identify and respond to child safeguarding concerns, giving due consideration to the ways in which personal attitudes and values may impact decision making. • Demonstrate a secure understanding of parenting capacity and the factors underpinning it, including an awareness of cultural practices and beliefs/childcare practices may have impact a child's welfare and safety. • Demonstrate the necessary skills to promote the protection of children whilst managing persons on probation, including the development of robust risk management plans, the formulating of appropriate sentence plan objectives, accurate record keeping, the challenging and/or escalating of child safeguarding decisions as well as working with external agencies. • Describe what 'good' looks like in safeguarding children practice in probation & prison through exploration of the ways in which both community and custody-based probation staff can contribute most effectively to work to protect children, incorporating 'the voice of the child' their practice.
Safeguarding Adults at Risk Awareness blended learning	<ul style="list-style-type: none"> • Awareness of who is an adult at risk, and the aims and six principles of safeguarding; • the harms and risks posed to adults at risk, with definitions of different forms of abuse and neglect, plus other considerations to look out for; • our safeguarding responsibilities, working in partnership with other agencies and putting what we've covered into practice; • the statutory basis for safeguarding action including our human rights and the legal frameworks for safeguarding adults at risk; • the well-being support available to all of us. • Describe and demonstrate their own role and responsibilities in relation to safeguarding adults, and how it effectively interacts with internal and external agencies • Define what constitutes an adult at risk and identify at an early stage an adult who may be at risk and outline the action to take • Describe and apply the legislative framework relating to adult safeguarding and the implications for HMPPS staff. • Understand their statutory duties as prescribed by the Care Act (2014) • Understand at a basic level what a Care Programme Approach (CPA) is, and what their role within a CPA might be. • Describe where the responsibility lies for assessing the care and support needs of prisoners and people in approved premises • Describe the process for making a full and informed assessment and risk management plan for adult safeguarding cases

	<ul style="list-style-type: none"> • Accurately record adult safeguarding concerns in risk assessments and case management recording systems • Recognise the differences in legislative frameworks related to adult safeguarding between England and Wales • Be aware of their personal and professional values and skills in adult safeguarding and how these may impact on work with service users • Understand what 'good' looks like in safeguarding adult practice in probation & prison and to be able to place safeguarding adult practice in the context of day-to-day probation case supervision, assessment and management. • Understand and apply the agency's Safeguarding policy, including being aware of and compliant with PS/HMPPS safeguarding adult policy.
Civil & Ancillary Orders Awareness	<ul style="list-style-type: none"> • Know what civil and ancillary orders are, why and how they are imposed, and why this awareness is important when working with people pre- sentence, on probation or in prison • Know what recommended approaches to take to find out if an order exists, and how to record this information appropriately • Understand their responsibilities in relation to civil and ancillary orders for their role and practice • Know what to do in the event of a breach, or potential breach of a civil or ancillary order
Advanced Domestic Abuse	<ul style="list-style-type: none"> • Improve confidence in utilising theoretical models to understand and analyse behaviour in the context of domestic abuse and apply this to practice • Understand how to create strong and safe working relationships in order to effectively engage and work with people on probation • Be more confident in using risk assessment tools to support professional judgement to assess and manage risk where there is domestic abuse • Develop understanding of how to deliver a co-ordinated approach with stakeholders to achieve positive outcomes for all • Increased confidence is using self-reflection to challenge self and others, recognise the impact that work may have on themselves and their practice, and seeking support
Person on Probation's Journey through the Criminal Justice System	<ul style="list-style-type: none"> • This learning will show the sequence of key milestones that a person will encounter when working with the Probation Service, the people who are involved and the impact they may have.
An Introduction to Mental Health Awareness	<ul style="list-style-type: none"> • Identify and understand the symptoms associated with distinct types of mental ill health and personality disorders • Have knowledge of the associated risk triggers relevant to mental health and to personality disorders and pathways available in managing people on probation and in prison
Core Skills and Key Concepts Blended Learning	<ul style="list-style-type: none"> • Identify the key stages in the journey of the practitioner role based in the community and prison • Recall some of the definitions for key acronyms in the Probation Service • Recall some of the key principles and techniques, supporting effective engagement and desistance with particular reference to one-to-one work with people on probation. • Identify some of the contributing factors to offending behaviour. • Identify good communication skills including motivational interviewing when working with people on probation. • Identify assessing, motivating, challenging and reviewing change - including dealing with difficult behaviour • Identify some of the skills needed when working towards reducing risk of serious harm and risk of re-offending. • Connect analytical skills such as professional curiosity and basic risk assessment to their role. • Recognise the challenges in maintaining adherence to professional expectations within their role. • Demonstrate good communication skills including motivational interviewing when working with people on probation • Start to use analytical skills such as professional curiosity and basic risk assessment

	<ul style="list-style-type: none"> • Give examples of the challenges in maintaining adherence to professional expectations within POM, COM, and court roles • Explain the roles they are likely to come across when managing people on probation • Demonstrate an ability to assess, motivate, challenge and review change - including dealing with difficult behaviour • Be able to use communication skills in dealing with distressed individuals • Apply some of the key principles and techniques, supporting effective engagement and desistance with particular reference to one to one work with people on probation • Use skills required in assessing the contributing factors to offending behaviour and working towards reducing risk of serious harm and risk of re-offending
Risk Management, Risk Assessment and Sentence Planning blended learning	<ul style="list-style-type: none"> • Understand the importance of gathering evidence • Start to work with others to manage risk effectively • Start to develop foundational skills and behaviours • Understand the fundamentals of risk assessment, risk planning and risk management and why they are essential to our work • Start to develop further skills around assessing risk • Identify risk and protective factors • Consider bias and escalating risk situations
Risk Fundamentals	<ul style="list-style-type: none"> • Understand the basics of risk assessment, risk management and sentence planning • Identify risk and protective factors
OASys Practitioner Skills	<ul style="list-style-type: none"> • Navigate OASys successfully • Understand the actuarial tools
Report Writing and Presentation Skills blended learning	<ul style="list-style-type: none"> • Recall and apply the core skills needed to complete different report formats • Identify the different reports types that apply to different situation • Identify the similarities and core skills required to complete reports • Recall and apply the core skills required to present information • Practice their report writing and presentation skills in a safe environment in a small group setting

Annex 2 – HMPPS Product Quality Standards

Introduction

This document provides a robust set of standards to enhance the understanding of and compliance with the Design Faculty Quality Assurance framework and apply to all products designed and developed by external providers, commissioned by The Design Faculty on behalf of the Probation Service.

Quality Standard 1. Evidence and Insights

High quality learning products will draw upon both Evidence and Insights to inform the content and design of the product.

Quality Standard 2. Organisational Alignment

All products must align with the ethos of the core organisational strategies and documents and must not undermine the core organisational messages. Any individual product also needs to align with other organisational activity in that subject area.

Quality Standard 3. Inclusivity, Recognising and Embracing Diversity

All products should be designed to be inclusive from the outset and need to take account of the diversity of probation staff and persons on probation, including intersectionality of diversity.

Quality Standard 4. Learner Centred

Learning is most effective when it is focused on the needs of the learner and as such should be engaging, reflective of an array of learner preferences and accessible at point of need.

Quality Standard 1: Evidence & insights

Products should be based upon the best available evidence to ensure the practices of probation staff are compliant legislative requirements and reflect the ways of working which have been demonstrated to be effective.

Standard 1.1

The product takes account of and includes all legislation either directly or indirectly linked to the subject matter and is appropriately referenced within the product.

Standard 1.2

The product draws upon the latest subject matter evidence and research available and is appropriately referenced within the product.

Standard 1.3

All evidence and research informing the learning product should be peer reviewed, published and appropriately referenced within the product.

Standard 1.4

The product draws upon the latest version of the insights available including (but not limited to) HMIP reports, policies and professional literature.

Standard 1.5

Insights should be from reputable sources such as, but not limited to, public bodies, accredited organisations, or those recognised as having subject matter expertise including those from other professions e.g., social work.

Explanatory note for standard 1

- The term evidence is used in this document to refer to evidence from research.
- Insights refers to other sources that may at times be referred to as evidence but have not undergone the academic rigour of research evidence e.g., HMIP reports, SFO review reports and professional literature.
- Both Insights and Evidence are important in understanding how to work effectively in a probation setting.
- It is crucial all learning products adhere to relevant legislation, and where appropriate, incorporate any statutory requirements.
- Whilst products will likely be rooted in criminal justice, it is important that they are also outward facing, incorporating good practice within other professions and/or lessons learned from other similar fields of practice e.g., Social Work and Healthcare.

Quality standard 2: Organisational alignment

Learning Products are a key mechanism for delivering organisational strategy, conveying organisational values, shaping culture, encouraging individuals to feel part of the organisation and recognising the value of individual work in delivering the aims of the organisation.

Standard 2.1

The language used within the product should be inclusive, and where appropriate, reflect relevant organisational frameworks (see Appendix I).

Standard 2.2

The product should be designed to align, and where appropriate, build upon key messaging contained within any pre-requisite learning.

Standard 2.3

The product should be designed to ensure the appropriate use of technology and/or delivery methods are utilised, to best meet organisational need.

Standard 2.4

The product should be representative of the organisation, its stakeholders and values (see explanatory notes below).

Standard 2.5

All case studies and practice examples used within the product are authentic, and reflective of the organisational / operational context wherever possible.

Explanatory note for standard 2

- The HMPPS Business Strategy Outlines a building a learning culture as a key facet of the people strategy. All products designed for learners within HMPPS should therefore reflect the values outlined in the business strategy which are:
 - Purpose.** We implement the sentences and orders of the Courts. We prevent victims by changing lives.
 - Humanity.** We believe that lives can change for the better. We work to encourage hope and to provide opportunities for rehabilitation. We treat everyone with decency and respect.
 - Openness.** We are fair. We know that clear and just decisions make a difference in our work. We are transparent about what we do and look to learn and innovate to do better.
 - Together.** We value diversity. We work across prisons, probation and youth custody and with our partners and providers to make a positive difference to communities.
- Consistent language and messaging are key to the establishing of organisational identity and promotion of a shared culture across HMPPS, supporting the integration of the unified Probation Service.
- Products should be designed in a way that promotes an authentic and engaging experience for learners. As such, products should incorporate case studies and / or practice examples which are relevant to the roles of learners.

- Where relevant to the product a suitable Subject Matter Expert (SME) should be consulted to verify organisational alignment around the subject matter. An SME should be considered an authority on the subject matter as opposed to someone who has an interest in the product or its operational impact. SME's should not just be educated on the subject but have the capacity to share their knowledge with other interested parties.

Quality standard 3: Inclusivity, recognising and embracing diversity

All products need to take account of the diversity of probation staff and of people subject to probation, including intersectionality of diversity. Diversity should be embedded throughout products.

Standard 3.1

The product content should be inclusive and representative of a diverse cross section of protected characteristics under the Equality Act 2010.

Standard 3.2

The product should be designed to proactively challenge stereotypes around People on Probation and other stakeholders.

Standard 3.3

The product should be accessible to all, maximising learner participation and engagement. This includes but is not limited to users of assistive technology* and neurodivergent learners.

Standard 3.4

The product should make appropriate use of language that promotes inclusion and avoids any reinforcement of stereotypes, use of derogatory labels and does not cause offence.

Standard 3.5

The product content should be communicated in plain English, avoiding figures of speech and idioms, and made available in the Welsh language upon request.

Explanatory note for standard 3

- As Part of the HMPPS People Strategy and the Race Action Plan, the promotion of diversity and inclusion is an organisational priority. Learning products are a key vehicle to promote this organisational strategy and the diversity within our workforce, and as such should be designed to reflect this. All learning products should maximise the opportunity for participants' learning and growth with regard to Equalities, Diversity and Inclusion by actively encouraging learners to challenge their own thinking and behaviour to work in an inclusive way; taking account of the diversity of people subject to probation, including intersectionality of diversity and challenging stereotypes. Information and guidance relating to the Equality Act 2010.
- The Web Content Accessibility Guidelines (WCAG) aim to provide a shared standard for web content accessibility to ensure web content is accessible to people with disabilities. WCAG 2 Overview | Web Accessibility Initiative (WAI) | W3C. The latest version of the WCAG is 2.1 and there are 3 levels of conformance however HMPPS work to AA as a minimum standard. The Government Communication Service also provides guidance for making content accessible.
- Neurodiversity is founded upon the principle of recognising natural variations in human brain functioning as normal, and as such is an integral aspect of accessibility. Whilst it is important to avoid generalisations, guidance for Designing Learning for Autistic and Neurodiverse Students is available from the Open University.

*Learning products should conform to the WCAG Guidelines 2.1 to a minimum of AA standard.

Quality standard 4: learner centred

Learning is most effective when it is based upon learner needs and their expectations. There is a clear link between learning that is inclusive, and learner centred.

Standard 4.1

The product content aligns with learning outcomes.

Standard 4.2

The delivery method(s) or strategy(ies) are appropriate for the product content and learners.

Standard 4.3

The product should be designed with the experience of learners at the forefront; utilising a range of appropriate activities / tools to support the acquisition and assimilation of learning, catering for an array of learner preferences and promoting engagement.

Standard 4.4

Feedback relating to the learner experience and / or feedback from learners should be incorporated into the product as far as possible.

Standard 4.5

The product should enable learners to personalise their learning experience by providing opportunities such as, but not limited to; receiving feedback, accessing learning materials outside of formal sessions as well as encouraging learners to further their knowledge and understanding in the subject matter.

Standard 4.6

The product should be developed to promote learning transfer and the embedding of learning into practice.

Explanatory note for standard 4

- The organisation's approach to learning design is learner centred, focused upon performance to address real staff concerns and tasks and subsequently providing resources to support continuous on-the-job performance. There are a host of delivery methods for learning products such as instructor-led, digital, virtual classroom and blended, and the probation learning model sets an ambition for the majority of learning to take place outside the classroom with face-to-face learning reserved for practical, experiential learning.
- Learning styles is based upon research that confirms that the different ways by which information is processed by different parts of the brain, but that this does not necessarily have any bearing upon learning effectiveness. It is however recognised that learners may have a preference(s) in terms of the modalities e.g., videos, quizzes, audio, collaborative work, problem solving etc. and therefore incorporating a range of activities / tools (appropriate for content) within the design of a product will support learner engagement.
- The design of learning products should take a learner centred approach. As such, any piloting and / or testing of the product should seek to gather authentic learner feedback. This feedback should be used to inform iterations of the final product where appropriate.
- In line with the learning and development culture change of the organisation, products should be designed to drive autonomy and actively promote the continuous professional development of learners. Where possible, if a product refers to external information sources such as academic theory, practice guidance or professional literature, the links to this further reading should be included within the learning materials.
- Learning transfer is critical to the success of any learning product and ensures that the learning is embedded beyond the completion of a training course/product. In considering the 70/20/10 model; the impact on behaviour/ knowledge and skills of a one-off learning product is likely to be limited without efforts being made to further embed that learning. Therefore, learning products should include resources which support learning transfer. These include but are not limited to point of need digital resources, CPD or ongoing learning activities, reflective journals, opportunities to cascade learning and resources for line managers to support the embedding of learning.

Annex 3 - Skilled Facilitator Specification

Summary of role

The facilitator will deliver the apprenticeship standard, as identified by the provider, to new Probation Practitioners. The task is to equip them with the professional skills and confidence to work with individuals eligible for Probation support and to complete the apprenticeship.

The role requires a commitment to fostering the development of a diverse and inclusive workforce in line with Probation Service values. This will include a high level of diversity awareness, including an understanding of appropriate language and challenge.

Essentials

Good knowledge of the Probation Service role and responsibilities

Up to date knowledge of probation practice and multi agency work

Skilled in delivery over MS Teams including use of slido, whiteboard and break out rooms

Swift recording of attendance and reporting of any concerns

Ensure that the needs of individual learners are met by embedding equality considerations into all aspects of training and delivery and promoting inclusion consistent with the ethos of the organisation

Knowledge of the key legislation relating to probation practice

Experience

Substantive experience of learning delivery

Previous occupational competence in Probation

Good understanding and experience of Professional Curiosity

SCHEDULE 8

SUSTAINABILITY

1 Definitions

1.1 In this Schedule 8, the following definitions shall apply:

“Modern Slavery Assessment Tool”	means the modern slavery risk identification and management tool which can be found online at: https://supplierregistration.cabinetoffice.gov.uk/msat
“Supply Chain Map”	means details of (i) the Training Provider, (ii) all Subcontractors and (iii) any other entity that the Training Provider is aware is in its supply chain that is not a Subcontractor, setting out at least: <ul style="list-style-type: none">(a) the name, registered office and company registration number of each entity in the supply chain;(b) the function of each entity in the supply chain; and(c) the location of any premises at which an entity in the supply chain carries out a function in the supply chain.

2 Equality, Diversity and Inclusion – Further Requirements

- 2.1 In delivering the Services, the Training Provider will comply with the Authority’s equality, diversity and inclusion requirements, to be provided to the Training Provider by the Authority.
- 2.2 The Training Provider shall ensure that it fulfils its obligations under this Agreement in a way that does not discriminate against individuals because of socio-economic background, working pattern or having parental or other caring responsibilities.

3 Environmental – Further Requirements

- 3.1 The Training Provider must have a documented management system and controls in place to manage the environmental impacts of delivering the Services.
- 3.2 The Training Provider shall ensure that any Services are designed, sourced and delivered in a manner which is environmentally and socially responsible.
- 3.3 In delivering the Services, the Training Provider must comply with the Authority’s sustainability requirements, to be provided to the Training Provider by the Authority.
- 3.4 The Training Provider warrants that it has obtained relevant Environment Management System (EMS) certified to ISO 14001 or an equivalent certification from a UKAS accredited body and shall comply with and maintain certification requirements throughout the Term.
- 3.5 In performing its obligations under this Agreement, the Training Provider shall to the reasonable satisfaction of the Authority:
- 3.5.1 avoid consumable single use items (including packaging) unless otherwise agreed with the Authority, and unless the use is primarily related to the management of the Training Provider’s own facilities or internal operations as opposed to the provision of Services;

- 3.5.2 demonstrate that the whole life cycle impacts (including end of use) associated with the Services that extend beyond direct operations into that of the supply chain have been considered and reduced;
 - 3.5.3 minimise the consumption of resources and use them efficiently (including water and energy), working towards a circular economy including designing out waste and non-renewable resources, using re-use and closed loop systems;
 - 3.5.4 demonstrate protection of the environment including understanding and reduction of biosecurity risks (which include risks to plant and tree health from harmful pests and diseases), and reducing and eliminating hazardous/harmful substances to the environment and preventing pollution;
 - 3.5.5 enhance the natural environment and connecting communities with the environment;
 - 3.5.6 achieve continuous improvement in environmental (and social) performance; and
 - 3.5.7 demonstrate to the Authority that it has an environmental management system in place that is at least equivalent to the standards required to be certified to ISO 14001.
- 3.6 The Training Provider shall inform the Authority within one Business Day in the event that a permit, licence or exemption to carry or send waste generated under this Agreement is revoked.

4 Modern Slavery– Further Requirements

- 4.1 The Training Provider shall comply with any request by the Authority to complete the Modern Slavery Assessment Tool within sixty (60) days of such request.
- 4.2 The following shall be added to the definition of “Audit” immediately after limb (k):
- 4.3 “(l) carry out an unannounced or semi-announced inspection of any Site and speak directly to any Training Provider Staff in a confidential manner and in the native language of such Training Provider Staff in respect of workforce conditions, working or employment practices and recruitment practices;”
- 4.4 For the purposes of an audit carried out pursuant to limb (l) of the definition of “Audit”, in addition to any other rights under this Agreement, the Authority may instruct the Training Provider to carry out such an audit of any Subcontractor by an independent third party and, if so instructed, the Training Provider shall deliver a report to the Authority within ninety (90) days of such instruction.
- 4.5 The Training Provider shall comply with any request by the Authority to provide a Supply Chain Map within fourteen (14) days of such request.
- 4.6 The Training Provider shall comply with any request by the Authority to provide a copy of any reports of any Subcontractor regarding any or all of workplace conditions, working or employment practices and recruitment practices within fourteen (14) days of such request.
- 4.7 The Training Provider shall carry out due diligence to ensure workers in its business and its supply chains are not paying illegal or exploitative recruitment fees to secure employment, and where these fees are uncovered shall ensure that workers are remedied.

SCHEDULE 9

DEVELOPMENT OF A PROGRAMME SPECIFICATION

The Training Provider shall develop a Programme Specification in accordance with the Specification and the following timetable:

- Week 1: Design workshop 1 – the Authority shall meet with the Training Provider to share internal content and discuss requirements of the design phase, including what needs to be identical and what does not.
- Week 2-5: Design of the Apprenticeship Programme content by the Training Provider.
- Week 6: Design workshop 2 - Initial drafts shared with the Authority.
- Week 7: The Authority shall feedback to the Training Provider.
- Week 8-9: Amendments made by the Training Provider where required.
- Week 10: Design workshop 3. Final products.
- Week 12: Authority board approval.
- Week 16: Commence delivery of the Apprenticeship Programmes.

SCHEDULE 10

VARIATION FORM

This form is to be used in order to change a contract in accordance with Clause 45.

Contract Details	
This variation is between:	The Secretary of State for Justice ("the Authority") And [insert name of Training Provider] ("the Training Provider")
Contract name:	[insert name of contract to be changed] ("this Agreement")
Contract reference number:	[insert contract reference number]
Details of Proposed Variation	
Variation initiated by:	[delete as applicable: Authority/Training Provider]
Variation number:	[insert variation number]
Date variation is raised:	[insert date]
Proposed variation	
Reason for the variation:	[insert reason]
An Impact Assessment shall be provided within:	[insert number] days
Impact of Variation	
Likely impact of the proposed variation:	[Training Provider to insert assessment of impact]
Outcome of Variation	
Contract variation:	This Agreement detailed above is varied as follows: <ul style="list-style-type: none"> • [Authority to insert original Clauses or paragraphs to be varied and the changed clause]
Financial variation:	Original Contract Value: £ [insert amount]
	Additional cost due to variation: £ [insert amount]
	New Contract value: £ [insert amount]

1. This Variation must be agreed and signed by both Parties to this Agreement and shall only be effective from the date it is signed by the Authority.
2. Words and expressions in this Variation shall have the meanings given to them in this Agreement.
3. The Agreement, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

SCHEDULE 11

CYBER ESSENTIALS SCHEME

1 DEFINITIONS

1.1 In this Schedule, the following words shall have the following meanings:

“Cyber Essentials Scheme”	the Cyber Essentials Scheme developed by the Government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats (as may be amended from time to time). Details of the Cyber Essentials Scheme can be found at: https://www.gov.uk/government/publications/cyber-essentials-scheme-overview ;
“Cyber Essential Scheme Data”	sensitive and personal information and other relevant information as referred to in the Cyber Essentials Scheme; and
“Cyber Essentials Plus Certificate”	the certification awarded on the basis of external testing by an independent certification body of the Training Provider’s cyber security approach under the Cyber Essentials Scheme and is a more advanced level of assurance.

2 WHAT CERTIFICATION DO YOU NEED

- 2.1 The Training Provider shall provide a valid Cyber Essentials Plus Certificate to the Authority. Where the Training Provider fails to comply with this paragraph 2.1 it shall be prohibited from commencing the provision of the Services under this Agreement until such time as the Training Provider has evidenced to the Authority its compliance with this paragraph 2.1.
- 2.2 Where the Training Provider continues to Process Cyber Essentials Scheme Data during the Term the Training Provider shall deliver to the Authority evidence of renewal of the Cyber Essentials Plus Certificate on each anniversary of the first applicable certificate obtained by the Training Provider under paragraph 2.1.
- 2.3 Where the Training Provider is due to Process Cyber Essentials Scheme Data the Training Provider shall deliver to the Authority evidence of:
- 2.3.1 a valid and current Cyber Essentials Plus Certificate before the Training Provider Processes any such Cyber Essentials Scheme Data; and
 - 2.3.2 renewal of the valid Cyber Essentials Plus Certificate on each anniversary of the first Cyber Essentials Scheme certificate obtained by the Training Provider under paragraph 2.1.
- 2.4 In the event that the Training Provider fails to comply with paragraphs 2.2 or 2.3 (as applicable), the Authority reserves the right to terminate this Agreement for Material Default and the consequences of termination in Clause 26 shall apply.
- 2.5 The Training Provider shall ensure that all Sub-Contracts with Subcontractors who process Cyber Essentials Scheme Data require the Subcontractor to provide a valid Cyber Essentials Plus Certificate, at the equivalent level to that held by the Training Provider. The Training Provider cannot require the Subcontractor to commence the provision of Services under the

Sub-Contract until the Subcontractor has evidenced to the Training Provider that it holds a valid Cyber Essentials Plus Certificate.

- 2.6 The Training Provider must manage, and must ensure that all Subcontractors manage, all end-user devices used by the Training Provider and the Subcontractor on which Cyber Essentials Scheme Data is processed by ensuring those devices are within the scope of the current Cyber Essentials Plus Certificates held by the Training Provider and the Subcontractor, or any ISO/IEC 27001 (at least ISO/IEC 27001:2013) certification issued by a UKAS-approved certification body, where the scope of that certification includes the Services.
- 2.7 This Schedule shall survive termination or expiry of this Agreement.

SCHEDULE 12

SECURITY

1 DEFINITIONS

1.1 In this Schedule, the following words shall have the following meanings:

“Breach of Security”	the occurrence of: <ul style="list-style-type: none">(a) any unauthorised access to or use of the Services, the Sites and/or any Information and Communication Technology (“ICT”), information or data (including the Confidential Information and the Government Data) used by the Authority and/or the Training Provider in connection with this Agreement; and/or(b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Authority and/or the Training Provider in connection with this Agreement, in either case as more particularly set out in the Security Policy where the Authority has required compliance there with in accordance with paragraph 2.1; and
“Security Management Plan”	the Training Provider’s security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Training Provider to the Authority and as updated from time to time.

2 COMPLYING WITH SECURITY REQUIREMENTS AND UPDATES TO THEM

- 2.1 The Training Provider shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by the Authority it shall also comply with the Security Policy and ICT Policy and shall ensure that the Security Management Plan produced by the Training Provider fully complies with the Security Policy and ICT Policy.
- 2.2 Where the Security Policy applies the Authority shall notify the Training Provider of any changes or proposed changes to the Security Policy.
- 2.3 If the Training Provider believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Services it may propose a Variation to the Authority. In doing so, the Training Provider must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall be subject to the Variation Procedure.
- 2.4 Until and/or unless a change to the Charges is agreed by the Authority pursuant to the Variation Procedure the Training Provider shall continue to provide the Services in accordance with its existing obligations.

3 SECURITY STANDARDS

- 3.1 The Training Provider acknowledges that the Authority places great emphasis on the reliability of the performance of the Services, confidentiality, integrity and availability of information and consequently on security.
- 3.2 The Training Provider shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security for its own system and any cloud services used which:
- 3.2.1 is in accordance with the Law and this Agreement;
 - 3.2.2 as a minimum demonstrates Good Industry Practice;
 - 3.2.3 meets any specific security threats of immediate relevance to the Services and/or the Government Data;
 - 3.2.4 where specified by the Authority in accordance with paragraph 2.1 complies with the Security Policy and the ICT Policy; and
 - 3.2.5 complies with the 14 Cloud Security Principles available at: <https://www.ncsc.gov.uk/collection/cloud/the-cloud-security-principles>. The Training Provider must document how it and any cloud service providers they use comply with these principles, and provide this documentation upon request by the Authority.
- 3.3 The references to standards, guidance and policies contained or set out in paragraph 3.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Training Provider from time to time.
- 3.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Training Provider should notify the Authority's representative of such inconsistency immediately upon becoming aware of the same, and the Authority's representative shall, as soon as practicable, advise the Training Provider which provision the Training Provider shall be required to comply with.

4 SECURITY MANAGEMENT PLAN

4.1 Introduction

The Training Provider shall develop and maintain a Security Management Plan in accordance with this Schedule. The Training Provider shall thereafter comply with its obligations set out in the Security Management Plan.

4.2 Content of the Security Management Plan

The Security Management Plan shall:

- 4.2.1 comply with the principles of security set out in paragraph 3 and any other provisions of this Agreement relevant to security;
- 4.2.2 identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Training Provider;

- 4.2.3 detail the process for managing any security risks from Subcontractors and third parties authorised by the Authority with access to the Services, processes associated with the provision of the Services, the Authority Premises, the Sites and any ICT, information and data (including the Authority's Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that information, data and/or the Services;
- 4.2.4 be developed to protect all aspects of the Services and all processes associated with the provision of the Services, including the Authority Premises, the Sites, and any ICT, information and data (including the Authority's Confidential Information and the Government Data) to the extent used by the Authority or the Training Provider in connection with this Agreement or in connection with any system that could directly or indirectly have an impact on that information, data and/or the Services;
- 4.2.5 set out the security measures to be implemented and maintained by the Training Provider in relation to all aspects of the Services and all processes associated with the provision of the Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Services comply with the provisions of this Agreement;
- 4.2.6 set out the plans for transitioning all security arrangements and responsibilities for the Training Provider to meet the full obligations of the security requirements set out in this Agreement and, where necessary in accordance with the Security Policy as set out in paragraph 2.1; and
- 4.2.7 be written in plain English in language which is readily comprehensible to the staff of the Training Provider and the Authority engaged in the provision of the Services and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

4.3 Development of the Security Management Plan

- 4.3.1 Within twenty (20) Business Days after the Commencement Date and in accordance with paragraph 4.4, the Training Provider shall prepare and deliver to the Authority for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.
- 4.3.2 If the Security Management Plan submitted to the Authority in accordance with paragraph 4.3.1, or any subsequent revision to it in accordance with paragraph 4.4, is approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not approved, the Training Provider shall amend it within ten (10) Business Days of a notice of non-approval from the Authority and re-submit to the Authority for approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Business Days from the date of its first submission to the Authority. If the Authority does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the dispute resolution procedure set out in Clause 49.
- 4.3.3 The Authority shall not unreasonably withhold or delay its decision to approve or not the Security Management Plan pursuant to paragraph 4.3.2. However, a refusal by the Authority to approve the Security Management Plan on the grounds that it does not

comply with the requirements set out in paragraph 4.2 shall be deemed to be reasonable.

- 4.3.4 Approval by the Authority of the Security Management Plan pursuant to paragraph 4.3.3 or of any change to the Security Management Plan in accordance with paragraph 4.4 shall not relieve the Training Provider of its obligations under this Schedule.

4.4 Amendment of the Security Management Plan

- 4.4.1 The Security Management Plan shall be fully reviewed and updated by the Training Provider at least annually to reflect:

- (a) emerging changes in Good Industry Practice;
- (b) any change or proposed change to the Services and/or associated processes;
- (c) where necessary in accordance with paragraph 2.2, any change to the Security Policy;
- (d) any new perceived or changed security threats; and
- (e) any reasonable change in requirements requested by the Authority.

- 4.4.2 The Training Provider shall provide the Authority with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Authority. The results of the review shall include:

- (a) suggested improvements to the effectiveness of the Security Management Plan;
- (b) updates to the risk assessments; and
- (c) suggested improvements in measuring the effectiveness of controls.

- 4.4.3 Subject to paragraph 4.4.4, any change or amendment which the Training Provider proposes to make to the Security Management Plan (as a result of a review carried out in accordance with paragraph 4.4.1, a request by the Authority or otherwise) shall be subject to the Variation Procedure.

- 4.4.4 The Authority may, acting reasonably, approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

5 SECURITY BREACH

- 5.1 Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.

- 5.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in paragraph 5.1, the Training Provider shall:
- 5.2.1 immediately use all reasonable endeavours (which shall include any action or changes reasonably required by the Authority) necessary to:
- (a) minimise the extent of actual or potential harm caused by any Breach of Security;
 - (b) remedy such Breach of Security to the extent possible and protect the integrity of the Authority and the provision of the Services to the extent within its control against any such Breach of Security or attempted Breach of Security;
 - (c) prevent an equivalent breach in the future exploiting the same cause failure; and
 - (d) as soon as reasonably practicable provide to the Authority, where the Authority so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a cause analysis where required by the Authority.
- 5.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with paragraph 2.1) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Authority.

SCHEDULE 13

FINANCIAL DIFFICULTIES

1 DEFINITIONS

1.1 In this Schedule, the following words shall have the following meanings:

“Credit Rating Threshold”	the minimum credit rating level for each entity in the FDE Group as set out in Part B of Annex 1;
“Credit Reference Agencies”	the credit reference agencies listed in Part A of Annex 1;
“Credit Score Notification Trigger”	the minimum size of any downgrade in a credit score, set out in Part B of Annex 1, which triggers a Credit Score Notification Trigger Event;
“Credit Score Notification Trigger Event”	any downgrade of a credit score which is equal to or greater than the Credit Score Notification Trigger;
“Credit Score Threshold”	the minimum credit score level for each entity in the FDE Group as set out in Part B of Annex 2;
“Financial Distress Service Continuity Plan”	a plan setting out how the Training Provider will ensure the continued performance and delivery of the Deliverables in accordance with this Agreement in the event that a Financial Distress Event occurs. This plan should include what the Authority would need to put in place to ensure performance and delivery of the Deliverables in accordance with this Agreement up to and including any Insolvency Event in respect of the relevant FDE Group entity;
“Financial Indicators”	in respect of the Training Provider, the Guarantor and EPAO, means each of the financial indicators set out at Part C of Annex 1;
“Financial Target Thresholds”	means the target thresholds for each of the Financial Indicators set out at Part C of Annex 1;
“Primary Metric”	means the credit score of an FDE Group entity; and
“Rating Agencies”	the rating agencies listed in Part A of Annex 1.

2 WHEN THIS SCHEDULE APPLIES

- 2.1 The Parties shall comply with the provisions of this Schedule in relation to the assessment of the financial standing of the FDE Group and the consequences of a change to that financial standing.
- 2.2 The terms of this Schedule shall survive under this Agreement until the termination or expiry of this Agreement.

3 CREDIT RATINGS

- 3.1 The Training Provider warrants and represents to the Authority that as at the Commencement Date the long term credit ratings issued for each entity in the FDE Group by each of the Rating Agencies are as set out in Part A of Annex1.
- 3.2 The Training Provider shall:
- 3.2.1 regularly monitor the credit ratings of each entity in the FDE Group with the Rating Agencies; and
 - 3.2.2 promptly (and in any event within five (5) Business Days) notify the Authority in writing if there is any downgrade in the credit rating issued by any Rating Agency for any entity in the FDE Group.
- 3.3 For the purposes of determining whether a Financial Distress Event has occurred, and for the purposes of determining relief under paragraph 8 if credit rating is the Primary Metric, the credit rating of an FDE Group entity shall be deemed to have dropped below the applicable Credit Rating Threshold if any of the Rating Agencies have given a credit rating level for that FDE Group entity which is below the applicable Credit Rating Threshold.

4 CREDIT SCORES

- 4.1 The Training Provider warrants and represents to the Authority that as at the Commencement Date the credit scores issued for each entity in the FDE Group by each of the Credit Reference Agencies are as set out in Part B of Annex 1.
- 4.2 The Training Provider shall:
- 4.2.1 regularly monitor the credit scores of each entity in the FDE Group with the Credit Reference Agencies; and
 - 4.2.2 promptly notify (or shall procure that its auditors promptly notify) the Authority in writing if there is any Credit Score Notification Trigger Event for any entity in the FDE Group (and in any event within five (5) Business Days).
- 4.3 For the purposes of determining whether a Financial Distress Event has occurred, and for the purposes of determining relief under paragraph 8 if credit score is the Primary Metric, the credit score of an FDE Group entity shall be deemed to have dropped below the applicable Credit Score Threshold if any of the Credit Reference Agencies have given a credit score for that FDE Group entity which is below the applicable Credit Score Threshold.

5 FINANCIAL INDICATORS

- 5.1 The Training Provider shall monitor and report on the Financial Indicators for each entity in the FDE Group against the Financial Target Thresholds at least at the frequency set out for each at Part C of Annex 1 (where specified) and in any event, on a regular basis and no less than once a year within one hundred and twenty (120) days after the accounting reference date
- 5.2 Subject to the calculation methodology set out at Part C of Annex 1 of this Schedule, the Financial Indicators and the corresponding calculations and thresholds used to determine whether a Financial Distress Event has occurred in respect of those Financial Indicators, shall be as set out in Appendix I: *Standard Financial Ratios of Assessing and Monitoring the Economic and Financial Standing of Bidders and Training Providers – May 2021* (as amended,

supplemented or replaced from time to time) which as at the Commencement Date can be found at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/987132/Assessing_and_monitoring_the_economic_and_financial_standing_of_suppliers_guidance_note_May_2021.pdf

5.3 Each report submitted by the Training Provider pursuant to paragraph 5.1 shall:

- 5.3.1 be a single report with separate sections for each of the FDE Group entities;
- 5.3.2 contain a sufficient level of information to enable the Authority to verify the calculations that have been made in respect of the Financial Indicators;
- 5.3.3 include key financial and other supporting information (including any accounts data that has been relied on) as separate annexes;
- 5.3.4 be based on the audited accounts for the date or period on which the Financial Indicator is based or, where the Financial Indicator is not linked to an accounting period or an accounting reference date, on unaudited management accounts prepared in accordance with their normal timetable; and
- 5.3.5 include a history of the Financial Indicators reported by the Training Provider in graph form to enable the Authority to easily analyse and assess the trends in financial performance.

5.4 For the purposes of determining whether a Financial Distress Event has occurred, and for the purposes of determining relief under paragraph 8 if financial indicators are the Primary Metric, the Financial Indicator of an FDE Group entity shall be deemed to have dropped below the applicable Financial Target Threshold if:

- 5.4.1 a report submitted by the Training Provider pursuant to paragraph 5.1 shows that any FDE Group entity has failed to meet or exceed the Financial Target Threshold for any one of the Financial Indicators set out in Part C of Annex 1 of this Schedule;
- 5.4.2 a report submitted by the Training Provider pursuant to paragraph 5.1 does not comply with the requirements set out in paragraph 5.3; or
- 5.4.3 the Training Provider does not deliver a report pursuant to paragraph 5.3 in accordance with the applicable monitoring and reporting frequency.

6 WHAT HAPPENS IF THERE IS A FINANCIAL DISTRESS EVENT

- 6.1 The Training Provider shall 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, circumstance or matter which could cause a Financial Distress Event and in any event, ensure that such notification is made within 10 Business Days of the date on which the Training Provider first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event.
- 6.2 In the event of a Financial Distress Event then, immediately upon notification of the Financial Distress Event (or if the Authority becomes aware of the Financial Distress Event without notification and brings the event to the attention of the Training Provider), the Training Provider

shall have the obligations and the Authority shall have the rights and remedies as set out in paragraphs 6.4 to 6.6.

- 6.3 In the event that a Financial Distress Event arises due to an EPAO notifying the Authority that the Training Provider has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute then, the Authority shall not exercise any of its rights or remedies under paragraph 6.4 without first giving the Training Provider ten (10) Business Days to:

6.3.1 rectify such late or non-payment; or

6.3.2 demonstrate to the Authority's reasonable satisfaction that there is a valid reason for late or non-payment.

- 6.4 The Training Provider shall (and shall procure that each Additional FDE Group Member shall):

6.4.1 at the request of the Authority meet the Authority as soon as reasonably practicable (and in any event within three (3) Business Days of the initial notification (or awareness) of the Financial Distress Event) to review the effect of the Financial Distress Event on the continued performance of this Agreement and delivery of the Deliverables in accordance with this Agreement; and

6.4.2 where the Authority reasonably believes (taking into account the discussions and any representations made under paragraph 6.4.1) that the Financial Distress Event could impact on the continued performance of this Agreement and delivery of the Services in accordance with this Agreement:

- (a) submit to the Authority for its Approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within ten (10) Business Days of the initial notification (or awareness) of the Financial Distress Event);
- (b) use reasonable endeavours to put in place the necessary measures with each Additional FDE Group Member to ensure that it is able to provide financial information relating to that Additional FDE Group Member to the Authority; and
- (c) provide such financial information relating to FDE Group entity as the Authority may reasonably require.

- 6.5 If the Authority does not (acting reasonably) approve the draft Financial Distress Service Continuity Plan, it shall inform the Training Provider of its reasons and the Training Provider shall take those reasons into account in the preparation of a further draft Financial Distress Service Continuity Plan, which shall be resubmitted to the Authority within five (5) Business Days of the rejection of the first or subsequent (as the case may be) drafts. This process shall be repeated until the Financial Distress Service Continuity Plan is either:

6.5.1 approved;

6.5.2 referred, by notice sent by either Party to the other Party explaining why it thinks the Financial Distress Service Continuity Plan has not been approved, to commercial negotiation led by senior representatives who have authority to agree the Financial Distress Service Continuity Plan (to be held within 28 days of the date of the notice); or

6.5.3 finally rejected by the Authority.

- 6.6 Following approval of the Financial Distress Service Continuity Plan by the Authority, the Training Provider shall:
- 6.6.1 on a regular basis (which shall not be less than monthly), review the Financial Distress Service Continuity Plan and assess whether it remains adequate and up to date to ensure the continued performance this Agreement and delivery of the Services in accordance with this Agreement;
 - 6.6.2 provide a written report of the results of each review and assessment carried out under paragraph 6.6.1 to the Authority;
 - 6.6.3 where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with paragraph 6.6.1, submit an updated Financial Distress Service Continuity Plan to the Authority for its approval, and the provisions of paragraphs 6.5 shall apply to the review and approval process for the updated Financial Distress Service Continuity Plan; and
 - 6.6.4 comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).
- 6.7 Where the Training Provider reasonably believes that the relevant Financial Distress Event (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Authority and subject to the agreement of the Parties, the Training Provider may be relieved of its obligations under paragraph 6.6.

7 WHEN THE AUTHORITY CAN TERMINATE FOR FINANCIAL DISTRESS

- 7.1 The Authority shall be entitled to terminate this Agreement for Material Default if:
- 7.1.1 the Training Provider fails to notify the Authority of a Financial Distress Event in accordance with paragraph 6.1;
 - 7.1.2 the Training Provider fails to comply with any part of paragraph 6.4;
 - 7.1.3 subject to paragraph 7.2, the Authority finally rejects a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with paragraph 6.5.3;
 - 7.1.4 the senior representatives who have authority to agree the Financial Distress Service Continuity Plan (acting reasonably) do not meet within 28 days of the date of the notice of referral pursuant to paragraph 6.5.2;
 - 7.1.5 the senior representatives who have authority to agree the Financial Distress Service Continuity Plan (acting reasonably) do not agree the Financial Distress Service Continuity Plan after it has been referred pursuant to paragraph 6.5.2; and/or
 - 7.1.6 the Training Provider fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with paragraph 6.6.4,
- and the consequences of termination in Clause 26 shall apply.
- 7.2 A Material Default may only occur under paragraph 7.1.3 after the expiry of the first five (5) Business Days period for the Training Provider to submit a revised draft of the first draft of the

Financial Distress Service Continuity Plan starting on and from the date on which the Authority first notified the Training Provider that Training Provider must submit a revised draft of the first draft Financial Distress Service Continuity Plan.

8 WHAT HAPPENS IF YOUR PRIMARY METRIC IS STILL GOOD

8.1 Without prejudice to the Training Provider's obligations and the Authority's rights and remedies under paragraph 6, if, following the occurrence of a Financial Distress Event, the Training Provider evidences to the Authority's satisfaction that the Primary Metric shows that the Financial Distress Event no longer exists, then:

8.1.1 the Training Provider shall be relieved automatically of its obligations under paragraphs 6.4 to 6.6; and

8.1.2 the Authority shall not be entitled to require the Training Provider to provide financial information in accordance with paragraph 6.4.2(c)).

ANNEX 1: RATING AGENCIES AND CREDIT REFERENCE AGENCIES AND THEIR STANDARD RATING SYSTEM

Part A: Rating Agencies and their Standard Rating System

Dun & Bradstreet

Financial Strength Indicator	Tangible Net Worth (in £)	
Net Worth	From	To
5A	35,000,000	And Above
4A	15,000,000	34,999,999
3A	7,000,000	14,999,999
2A	1,500,000	6,999,999
1A	700,000	1,499,999
A	350,000	699,999
B	200,000	349,999
C	100,000	199,999
D	70,000	99,999
E	35,000	69,999
F	20,000	34,999
G	8,000	19,999
H	0	7999

Or

Experian

Credit Rating Level: A minimum of 26 on their Intelliscore rating. (25 or below would be medium High risk (10 or below is high)).

Score Range	Risk Class	Description
76-100	1	Low risk
51-75	2	Low to medium risk
26-50	3	Medium risk
11-25	4	Medium to high risk
1-10	5	High risk

Part B: Credit Ratings and Credit Rating Thresholds

Redacted Under FOIA Section 43, Commercial Interests

Part C: Financial Indicators

Financial Indicator	Calculation ¹	Financial Target Threshold:	Monitoring and Reporting Frequency if different from the default position set out in paragraph 5.1
1 Net Interest Paid Cover	Net Interest Paid Cover = Earnings Before Interest and Tax / Net Interest Paid	< 3.0 times	<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>
2 Acid Ratio	Acid Ratio = (Current Assets – Inventories) / Current Liabilities	> 0.8 times	<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>
3 Net Asset value	Net Asset Value = Net Assets	> £0	<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>
4 Group Exposure Ratio	Group Exposure / Gross Assets	>50 %	<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>

Key: ¹ – See Annex 3 of this Schedule which sets out the calculation methodology to be used in the calculation of each Financial Indicator.

ANNEX 2 – CALCULATION METHODOLOGY FOR FINANCIAL INDICATORS

The Training Provider shall ensure that it uses the following general and specific methodologies for calculating the Financial Indicators against the Financial Target Thresholds:

General methodology

- Terminology:** The terms referred to in this Annex 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).
- Groups:** Where the entity is the holding company of a group and prepares consolidated financial statements, the consolidated figures should be used.
- 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.
- 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 Net Interest Paid Cover	<p>“Earnings Before Interest and Tax” = Operating profit</p> <p>“Net Interest Paid” = Interest paid – Interest received</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 Acid Ratio	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.
3 Net Asset value	<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.</p> <p>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>
4 Group Exposure Ratio	<p>“Group Exposure” = Balances owed by Group Undertakings + Contingent liabilities assumed in support of Group Undertakings</p> <p>“Gross Assets” = Fixed Assets + Current Assets</p> <p>Group Exposure: 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>

Financial Indicator	Specific Methodology
	<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 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 relevant Financial Target Threshold should automatically be regarded as not having been met.</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>Gross Assets: Both Fixed assets and Current assets are shown on the face of the Balance Sheet.</p>

SCHEDULE 14

BUSINESS CONTINUITY AND DISASTER RECOVERY

1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

"BCDR Plan"	has the meaning given to it in paragraph 2.1 of this Schedule;
"Business Continuity Plan"	has the meaning given to it in paragraph 2.2.2 of this Schedule;
"Disaster"	the occurrence of one or more events which, either separately or cumulatively, mean that the Services, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable);
"Disaster Recovery Plan"	has the meaning given to it in paragraph 2.2.3 of this Schedule;
"Related Supplier"	means any person who provides services to the Authority which are related to the Services from time to time;
"Review Report"	has the meaning given to it in paragraph 6.3 of this Schedule; and
"Training Provider's Proposals"	has the meaning given to it in paragraph 6.3 of this Schedule.

2 BCDR PLAN

2.1 At least forty (40) Business Days after the Commencement Date the Training Provider shall prepare and deliver to the Authority for the Authority's written approval a plan (a **"BCDR Plan"**), which shall detail the processes and arrangements that the Training Provider shall follow to:

2.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Services; and

2.1.2 the recovery of the Services in the event of a Disaster.

2.2 The BCDR Plan shall be divided into three sections:

2.2.1 Section 1 which shall set out general principles applicable to the BCDR Plan;

2.2.2 Section 2 which shall relate to business continuity (the **"Business Continuity Plan"**); and

2.2.3 Section 3 which shall relate to disaster recovery (the **"Disaster Recovery Plan"**).

2.3 Following receipt of the draft BCDR Plan from the Training Provider, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Business Days of its submission, then such matter shall be treated as a Dispute to be handled through the process set out in Clause 49 (Dispute Resolution).

3 GENERAL PRINCIPLES OF THE BCDR PLAN (SECTION 1)

3.1 Section 1 of the BCDR Plan shall:

- 3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
- 3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Services and any goods and/or services provided to the Authority by a Related Supplier;
- 3.1.3 contain an obligation upon the Training Provider to liaise with the Authority and any Related Suppliers with respect to business continuity and disaster recovery;
- 3.1.4 detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Authority and any of its other Related Suppliers in each case as notified to the Training Provider by the Authority from time to time;
- 3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
- 3.1.6 contain a risk analysis, including:
 - (a) failure or disruption scenarios and assessments of likely frequency of occurrence;
 - (b) identification of any single points of failure within the provision of the Services and processes for managing those risks;
 - (c) identification of risks arising from an Insolvency Event of the Training Provider, the EPAO and/or any Training Provider Group member;
 - (d) identification of risks arising from the interaction of the provision of the Services with the goods and/or services provided by a Related Supplier; and
 - (e) a business impact analysis of different anticipated failures or disruptions;
- 3.1.7 provide for documentation of processes, including business processes, and procedures;
- 3.1.8 set out key contact details for the Training Provider (and any Subcontractors) and for the Authority;
- 3.1.9 identify the procedures for reverting to “normal service”;
- 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
- 3.1.11 identify the responsibilities (if any) that the Authority has agreed it will assume in the event of the invocation of the BCDR Plan; and

- 3.1.12 provide for the provision of technical assistance to key contacts at the 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 so as to ensure that:
 - 3.2.1 the Services are provided in accordance with this Agreement at all times during and after the invocation of the BCDR Plan;
 - 3.2.2 the adverse impact of any Disaster is minimised as far as reasonably possible;
 - 3.2.3 it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
 - 3.2.4 it details a process for the management of disaster recovery testing.
- 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Services and the business operations supported by the provision of the Services.
- 3.4 The Training Provider shall not be entitled to any relief from its obligations under the Service Levels, or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any Default by the Training Provider of this Agreement.

4 BUSINESS CONTINUITY (SECTION 2)

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of the Services remain supported and to ensure continuity of the business operations supported by the Services including:
 - 4.1.1 the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of the Services; and
 - 4.1.2 the steps to be taken by the Training Provider upon resumption of the provision of the Services in order to address the effect of the failure or disruption.
- 4.2 The Business Continuity Plan shall:
 - 4.2.1 address the various possible levels of failures of or disruptions to the provision of the Services;
 - 4.2.2 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;
 - 4.2.3 specify any applicable Service Levels with respect to the provision of such services in paragraph 4.2.2 and details of any agreed relaxation to the Service Levels in respect of the provision of other Services during any period of invocation of the Business Continuity Plan; and
 - 4.2.4 set out the circumstances in which the Business Continuity Plan is invoked.

5 DISASTER RECOVERY (SECTION 3)

- 5.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Training Provider

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 Training Provider's Disaster Recovery Plan shall include an approach to business continuity and disaster recovery that addresses the following:
- 5.2.1 loss of access to the Authority Premises;
 - 5.2.2 loss of utilities to the Authority Premises;
 - 5.2.3 loss of the Training Provider's helpdesk or CAFM system;
 - 5.2.4 loss of a Subcontractor;
 - 5.2.5 emergency notification and escalation process;
 - 5.2.6 contact lists;
 - 5.2.7 staff training and awareness;
 - 5.2.8 BCDR Plan testing;
 - 5.2.9 post implementation review process;
 - 5.2.10 any applicable Service Levels with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Service Levels in respect of the provision of other Services during any period of invocation of the Disaster Recovery Plan;
 - 5.2.11 details of how the Training Provider shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
 - 5.2.12 access controls to any disaster recovery sites used by the Training Provider in relation to its obligations pursuant to this Schedule; and
 - 5.2.13 testing and management arrangements.

6 REVIEW AND CHANGING THE BCDR PLAN

- 6.1 The Training Provider shall review the BCDR Plan:
- 6.1.1 on a regular basis and as a minimum once every six (6) months;
 - 6.1.2 within three (3) calendar months of the BCDR Plan (or any part) having been invoked pursuant to paragraph 8; and
 - 6.1.3 where the Authority requests in writing any additional reviews (over and above those provided for in paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Training Provider shall conduct such reviews in accordance with the Authority's written requirements. Prior to starting its review, the Training Provider shall provide an accurate written estimate of the total costs payable by the Authority for the Authority's approval. The costs of both Parties of any such additional reviews shall be met by the

Authority except that the Training Provider 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.

- 6.2 Each review of the BCDR Plan pursuant to paragraph 6.1 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 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 Training Provider within such period as the Authority shall reasonably require.
- 6.3 The Training Provider shall, within twenty (20) Business Days of the conclusion of each such review of the BCDR Plan, provide to the Authority a report (a "**Review Report**") setting out the Training Provider's proposals (the "**Training Provider's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.
- 6.4 Following receipt of the Review Report and the Training Provider's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Training Provider's Proposals. If the Parties are unable to agree Review Report and the Training Provider's Proposals within twenty (20) Business Days of its submission, then such Dispute shall be resolved in accordance with the dispute resolution procedure set out in Clause 49.
- 6.5 The Training Provider shall as soon as is reasonably practicable after receiving the approval of the Training Provider's Proposals effect any change in its practices or procedures necessary so as to give effect to the Training Provider's Proposals. Any such change shall be at the Training Provider'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.

7 TESTING THE BCDR PLAN

- 7.1 The Training Provider shall test the BCDR Plan:
 - 7.1.1 regularly and in any event not less than once in every Contract Year;
 - 7.1.2 in the event of any major reconfiguration of the Services;
 - 7.1.3 at any time where the Authority considers it necessary (acting in its sole discretion).
- 7.2 If the Authority requires an additional test of the BCDR Plan, it shall give the Training Provider written notice and the Training Provider shall conduct the test in accordance with the Authority's requirements and the relevant provisions of the BCDR Plan. The Training Provider's costs of the additional test shall be borne by the Authority unless the BCDR Plan fails the additional test in which case the Training Provider's costs of that failed test shall be borne by the Training Provider.
- 7.3 The Training Provider 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.
- 7.4 The Training Provider shall ensure that any use by it or any Subcontractor 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.

- 7.5 The Training Provider shall, within twenty (20) Business Days of the conclusion of each test, provide to the Authority a report setting out:

7.5.1 the outcome of the test;

7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and

7.5.3 the Training Provider's proposals for remedying any such failures.

- 7.6 Following each test, the Training Provider 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 Training Provider, at its own cost, by the date reasonably required by the Authority.

8 INVOKING THE BCDR PLAN

In the event of a complete loss of service or in the event of a Disaster, the Training Provider shall immediately invoke the BCDR Plan (and shall inform the Authority promptly of such invocation). In all other instances the Training Provider shall invoke or test the BCDR Plan only with the prior consent of the Authority.

9 CIRCUMSTANCES BEYOND YOUR CONTROL

The Training Provider shall not be entitled to relief under Clause 28 (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.

SCHEDULE 15

EXIT MANAGEMENT

1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

"Exclusive Assets"	means Training Provider Assets used exclusively by the Training Provider in the provision of the Services;
"Exit Information"	has the meaning given to it in paragraph 3.1 of this Schedule;
"Exit Manager"	means the person appointed by each Party to manage their respective obligations under this Schedule;
"Net Book Value"	means the current net book value of the relevant Training Provider Asset(s) calculated in accordance with the Tender Response (if stated) or (if not stated) the depreciation policy of the Training Provider (which the Training Provider shall ensure is in accordance with Good Industry Practice);
"Non-Exclusive Assets"	means those Training Provider Assets used by the Training Provider in connection with the Services but which are also used by the Training Provider for other purposes;
"Termination Assistance"	means the activities to be performed by the Training Provider pursuant to the Exit Plan, and other assistance required by the Authority pursuant to the Termination Assistance Notice;
"Termination Assistance Period"	means the period specified in a Termination Assistance Notice for which the Training Provider is required to provide the Termination Assistance as such period may be extended pursuant to paragraph 5.2 of this Schedule;
"Termination Assistance Notice"	has the meaning given to it in paragraph 5.1 of this Schedule;
"Training Provider Equipment"	means the Training Provider's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Training Provider (but not hired, leased or loaned from the Authority) in the performance of its obligations under this Agreement;
"Transferable Assets"	means Exclusive Assets which are capable of legal transfer to the Authority;
"Transferable Contracts"	means Sub-Contracts, licences for Training Provider's software, licences for third party software or other agreements which are necessary to enable the Authority or any Replacement Training Provider to provide the Services and/or Replacement Services, including in relation to licences all relevant documentation;
"Transferring Assets"	has the meaning given to it in paragraph 8.2.1 of this Schedule;
"Transferring Contracts"	has the meaning given to it in paragraph 8.2.3 of this Schedule; and

“Virtual Library”

means the data repository hosted by the Training Provider containing the accurate information about this Agreement and the Services in accordance with paragraph 2.2 of this Schedule.

2 TRAINING PROVIDER MUST ALWAYS BE PREPARED FOR CONTRACT EXIT

2.1 The Training Provider shall within thirty (30) days from the Commencement Date provide to the Authority a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.

2.2 During the Term, the Training Provider shall within thirty (30) days from the Commencement Date create and maintain a Virtual Library containing:

2.2.1 a detailed register of all Training Provider Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Services; and

2.2.2 a configuration database detailing the technical infrastructure, a schedule of the IPRs which the Authority reasonably requires to benefit from the Services (including who is the owner of such IPRs, the contact details of the owner and whether or not such IPRs are held in escrow), any plans required to be delivered by the Training Provider pursuant to Schedule 15 (Business Continuity and Disaster Recovery) or Schedule 14 (Financial Difficulties) and operating procedures through which the Training Provider provides the Services,

and the Training Provider shall ensure the Virtual Library is structured and maintained in accordance with open standards and the security requirements set out in this Agreement and is readily accessible by the Authority at all times. All information contained in the Virtual Library should be maintained and kept up to date every six (6) months throughout the Term.

2.3 The Training Provider shall add to the Virtual Library a list of Training Provider Staff and Staffing Information (as that term is defined in Schedule 17 (Staff Transfer)) in connection with the Services in accordance with the timescales set out in paragraphs 1.1 and 1.2 of Part E of Schedule 17 (Staff Transfer).

2.4 The Training Provider shall:

2.4.1 ensure that all Exclusive Assets listed in the Virtual Library are clearly physically identified as such; and

2.4.2 procure that all licences for third party software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Authority) at the request of the Authority to the Authority (and/or its nominee) and/or any Replacement Training Provider upon the Training Provider ceasing to provide the Services (or part of them) and if the Training Provider is unable to do so then the Training Provider shall promptly notify the Authority and the Authority may require the Training Provider to procure an alternative Subcontractor or provider of Services.

2.5 Each Party shall appoint an Exit Manager within three (3) months of the Commencement Date. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the expiry or termination of this Agreement.

3 ASSISTING RE-COMPETITION FOR SERVICES

- 3.1 The Training Provider shall, on reasonable notice, provide to the Authority and/or its potential Replacement Training Providers (subject to the potential Replacement Training Providers entering into reasonable written confidentiality undertakings), such information (including any access) as the Authority shall reasonably require in order to facilitate the preparation by the Authority of any invitation to tender and/or to facilitate any potential Replacement Training Providers undertaking due diligence (the **"Exit Information"**).
- 3.2 The Training Provider acknowledges that the Authority may disclose the Training Provider's Confidential Information (excluding the Training Provider's or its Subcontractors' prices or costs) to an actual or prospective Replacement Training Provider to the extent that such disclosure is necessary in connection with such engagement.
- 3.3 The Training Provider shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Authority within five (5) Business Days of any material change to the Exit Information which may adversely impact upon the provision of any Services (and shall consult the Authority in relation to any such changes).
- 3.4 The Exit Information shall be accurate and complete in all material respects and shall be sufficient to enable a third party to prepare an informed offer for those Services; and not be disadvantaged in any procurement process compared to the Training Provider.

4 EXIT PLAN

- 4.1 The Training Provider shall, within three (3) months after the Commencement Date, deliver to the Authority a plan which complies with the requirements set out in paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Authority (the **"Exit Plan"**).
- 4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Business Days of the latest date for its submission pursuant to paragraph 4.1, then such Dispute shall be resolved in accordance with the process set out in Clause 49 (Dispute Resolution).
- 4.3 The Exit Plan shall set out, as a minimum:
 - 4.3.1 how the Exit Information is obtained;
 - 4.3.2 a mechanism for dealing with partial termination on the assumption that the Training Provider will continue to provide the remaining Services under this Agreement;
 - 4.3.3 the management structure to be employed during the Termination Assistance Period;
 - 4.3.4 a detailed description of both the transfer and cessation processes, including a timetable;
 - 4.3.5 how the Services will transfer to the Replacement Training Provider and/or the Authority;
 - 4.3.6 details of any contracts which will be available for transfer to the Authority and/or the Replacement Training Provider upon the expiry of Term together with any reasonable costs required to effect such transfer;

- 4.3.7 the scope of Termination Assistance that may be required for the benefit of the Authority (including which services set out in Annex 1 are applicable);
 - 4.3.8 how Termination Assistance will be provided, including a timetable and critical issues for providing Termination Assistance;
 - 4.3.9 any charges that would be payable for the provision of Termination Assistance (calculated in accordance with paragraph 4.4 below) together with a capped estimate of such charges;
 - 4.3.10 proposals for the training of key members of the Replacement Training Provider's staff in connection with the continuation of the provision of the Services following the expiry of the Term;
 - 4.3.11 proposals for providing the Authority or a Replacement Training Provider copies of all documentation relating to the use and operation of the Services and required for their continued use;
 - 4.3.12 proposals for the assignment or novation of all services utilised by the Training Provider in connection with the supply of the Services;
 - 4.3.13 proposals for the identification and return of all Authority Property in the possession of and/or control of the Training Provider or any third party;
 - 4.3.14 proposals for the disposal of any redundant Services and materials;
 - 4.3.15 how the Training Provider will ensure that there is no disruption to or degradation of the Services during the Termination Assistance Period; and
 - 4.3.16 any other information or assistance reasonably required by the Authority or a Replacement Training Provider.
- 4.4 Any charges payable as a result of the Training Provider providing Termination Assistance shall be calculated and charged in accordance with Schedule 6 (Invoicing and Payment). The Training Provider shall be entitled to increase or vary the Charges only if it can demonstrate in the Exit Plan that the provision of Termination Assistance requires additional resources and, in any event, any change to the Charges resulting from the provisions of Termination Assistance will be strictly proportionate to the level of resources required for the provision of the Termination Assistance.
- 4.5 The Training Provider shall:
- 4.5.1 maintain and update the Exit Plan (and risk management plan) no less frequently than:
 - (a) every six (6) months throughout the Term;
 - (b) no later than twenty (20) Business Days after a request from the Authority for an up-to-date copy of the Exit Plan;
 - (c) as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than ten (10) Business Days after the date of the Termination Assistance Notice;

- (d) as soon as reasonably possible following, and in any event no later than twenty (20) Business Days following, any material change to the Services (including all changes under the Variation Procedure); and

4.5.2 jointly review and verify the Exit Plan if required by the Authority and promptly correct any identified failures.

4.6 Only if (by notification to the Training Provider in writing) the Authority agrees with a draft Exit Plan provided by the Training Provider under paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for this Agreement.

4.7 A version of an Exit Plan agreed between the Parties shall not be superseded by any draft submitted by the Training Provider.

5 TERMINATION ASSISTANCE

5.1 The Authority shall be entitled to require the provision of Termination Assistance at any time during the Term by giving written notice to the Training Provider (a “**Termination Assistance Notice**”) at least four (4) months prior to the expiry of the Term or as soon as reasonably practicable (but in any event, not later than one (1) month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:

5.1.1 the nature of the Termination Assistance required; and

5.1.2 the start date and period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) months after the expiry or termination of this Agreement.

5.2 The Authority shall have an option to extend the Termination Assistance Period beyond the initial period specified in the Termination Assistance Notice in one or more extensions, in each case provided that:

5.2.1 no such extension shall extend the Termination Assistance Period beyond the date eighteen (18) months after the expiry or termination of this Agreement; and

5.2.2 the Authority shall notify the Training Provider of any such extension by serving not less than twenty (20) Business Days’ written notice upon the Training Provider.

5.3 The Authority shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Business Days’ written notice upon the Training Provider.

5.4 In the event that Termination Assistance is required by the Authority but at the relevant time the Parties are still agreeing an update to the Exit Plan pursuant to paragraph 4, the Training Provider will provide the Termination Assistance in good faith and in accordance with the principles in this Schedule and the last Authority approved version of the Exit Plan (insofar as it still applies).

6 TERMINATION ASSISTANCE PERIOD

6.1 Throughout the Termination Assistance Period the Training Provider shall:

6.1.1 continue to provide the Services (as applicable) and otherwise perform its obligations under this Agreement and, if required by the Authority, provide the Termination Assistance;

- 6.1.2 provide to the Authority and/or its Replacement Training Provider any reasonable assistance and/or access requested by the Authority and/or its Replacement Training Provider including assistance and/or access to facilitate the orderly transfer of responsibility for and conduct of the Services to the Authority and/or its Replacement Training Provider;
 - 6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Authority;
 - 6.1.4 subject to paragraph 6.3, provide the Services and the Termination Assistance at no detriment to the Service Levels or any other reports nor to any other of the Training Provider's obligations under this Agreement;
 - 6.1.5 at the Authority's request and on reasonable notice, deliver up-to-date contents of the Virtual Library to the Authority; and
 - 6.1.6 seek the Authority's prior written consent to access any Authority Premises from which the de-installation or removal of Training Provider Assets is required.
- 6.2 If it is not possible for the Training Provider to reallocate resources to provide such assistance as is referred to in paragraph 6.1.2 without additional costs to the Authority, any additional costs incurred by the Training Provider in providing such reasonable assistance shall be subject to the Variation Procedure.
- 6.3 If the Training Provider demonstrates to the Authority's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Training Provider's ability to meet one or more particular Service Levels, the Parties shall vary the relevant Service Levels.

7 OBLIGATIONS WHEN THE CONTRACT IS TERMINATED

- 7.1 The Training Provider shall comply with all of its obligations contained in the Exit Plan.
- 7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Training Provider's performance of the Services and the Termination Assistance), the Training Provider shall:
- 7.2.1 cease to use the Government Data;
 - 7.2.2 vacate any Authority Premises;
 - 7.2.3 remove the Training Provider Equipment together with any other materials used by the Training Provider to supply the Services and shall leave the Sites in a clean, safe and tidy condition. The Training Provider is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Training Provider;
 - 7.2.4 provide access during normal working hours to the Authority and/or the Replacement Training Provider for up to twelve (12) months after expiry or termination to:
 - (a) such information relating to the Services as remains in the possession or control of the Training Provider; and

- (b) such members of the Training Provider Staff as have been involved in the design, development and provision of the Services and who are still employed by the Training Provider, provided that the Authority and/or the Replacement Training Provider shall pay the reasonable costs of the Training Provider actually incurred in responding to such requests for access.

7.3 Upon partial termination, termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Training Provider's performance of the Services and the Termination Assistance and its compliance with the other provisions of this Schedule), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party in respect of the terminated Services and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Services or Termination Assistance or for statutory compliance purposes.

8 ASSETS, SUB-CONTRACTS AND SOFTWARE

8.1 Following notice of termination of this Agreement and during the Termination Assistance Period, the Training Provider shall not, without the Authority's prior written consent:

8.1.1 terminate, enter into or vary any Sub-contract or licence for any software in connection with the Services; or

8.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Training Provider Assets or acquire any new Training Provider Assets.

8.2 Within twenty (20) Business Days of receipt of the up-to-date contents of the Virtual Library provided by the Training Provider, the Authority shall notify the Training Provider setting out:

8.2.1 which, if any, of the Transferable Assets the Authority requires to be transferred to the Authority and/or the Replacement Training Provider ("**Transferring Assets**");

8.2.2 which, if any, of:

(a) the Exclusive Assets that are not Transferable Assets; and

(b) the Non-Exclusive Assets,

the Authority and/or the Replacement Training Provider requires the continued use of; and

8.2.3 which, if any, of Transferable Contracts the Authority requires to be assigned or novated to the Authority and/or the Replacement Training Provider (the "**Transferring Contracts**"), in order for the Authority and/or its Replacement Training Provider to provide the Services from the expiry of the Termination Assistance Period. The Training Provider shall provide all reasonable assistance required by the Authority and/or its Replacement Training Provider to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Services and/or Replacement Services. Where requested by the Training Provider, the Authority and/or its Replacement Training Provider shall discuss in good faith with the Training Provider which Transferable Contracts are used by the Training Provider in matters unconnected to the Services or Replacement Services.

- 8.3 With effect from the expiry of the Termination Assistance Period, the Training Provider shall sell the Transferring Assets to the Authority and/or the Replacement Training Provider for their Net Book Value less any amount already paid for them through the Charges.
- 8.4 Risk in the Transferring Assets shall pass to the Authority or the Replacement Training Provider (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.
- 8.5 Where the Authority and/or the Replacement Training Provider requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Training Provider shall as soon as reasonably practicable:
- 8.5.1 procure a non-exclusive, perpetual, royalty-free licence for the Authority and/or the Replacement Training Provider to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
- 8.5.2 procure a suitable alternative to such assets, the Authority or the Replacement Training Provider to bear the reasonable proven costs of procuring the same.
- 8.6 The Training Provider shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Authority and/or the Replacement Training Provider. The Training Provider shall execute such documents and provide such other assistance as the Authority reasonably requires to effect this novation or assignment.
- 8.7 The Authority shall:
- 8.7.1 accept assignments from the Training Provider or join with the Training Provider in procuring a novation of each Transferring Contract; and
- 8.7.2 once a Transferring Contract is novated or assigned to the Authority and/or the Replacement Training Provider, 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 Training Provider does the same.
- 8.8 The Training Provider shall hold any Transferring Contracts on trust for the Authority until the transfer of the relevant Transferring Contract to the Authority and/or the Replacement Training Provider has taken place.
- 8.9 The Training Provider shall indemnify the Authority (and/or the Replacement Training Provider, 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 Training Provider) pursuant to paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 52 (Third Party Rights) shall not apply to this paragraph 8.9 which is intended to be enforceable by third party beneficiaries by virtue of the CRTPA.

9 NO CHARGES

Unless otherwise stated, the Authority shall not be obliged to pay for costs incurred by the Training Provider in relation to its compliance with this Schedule.

10 DIVIDING THE BILLS

10.1 All outgoings, expenses, rents, royalties and other periodical payments receivable in respect of the Transferring Assets and Transferring Contracts shall be apportioned between the Authority and/or the Replacement and the Training Provider as follows:

10.1.1 the amounts shall be annualised and divided by three hundred and sixty five (365) to reach a daily rate;

10.1.2 the Authority or Replacement Training Provider (as applicable) shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and

10.1.3 the Training Provider shall be responsible for or entitled to (as the case may be) the rest of the invoice.

ANNEX 1: SCOPE OF TERMINATION ASSISTANCE

1 SCOPE OF TERMINATION ASSISTANCE

- 1.1 The Authority may specify that any of the following services will be provided by the Training Provider as part of its Termination Assistance:
- 1.1.1 notifying the Subcontractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;
 - 1.1.2 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 Training Provider after the end of the Termination Assistance Period;
 - 1.1.3 providing details of work volumes and staffing requirements over the twelve (12) months immediately prior to the commencement of Termination Assistance;
 - 1.1.4 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 twelve (12) months after the Termination Assistance Period;
 - 1.1.5 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 provision of the Services after the Termination Assistance Period;
 - 1.1.6 agreeing with the Authority an effective communication strategy and joint communications plan which sets out the implications for Training Provider Staff, Authority staff, customers and key stakeholders;
 - 1.1.7 agreeing with the Authority a handover plan for all of the Training Provider's responsibilities as set out in the Security Management Plan;
 - 1.1.8 providing an information pack listing and describing the Services for use by the Authority in the procurement of the Replacement Services;
 - 1.1.9 answering all reasonable questions from the Authority and/or the Replacement Training Provider regarding the Services;
 - 1.1.10 agreeing with the Authority and/or the Replacement Training Provider a plan for the migration of the Government Data to the Authority and/or the Replacement Training Provider;
 - 1.1.11 providing access to the Authority and/or the Replacement Training Provider during the Termination Assistance Period and for a period not exceeding six (6) months afterwards for the purpose of the smooth transfer of the provision of the Services to the Authority and/or the Replacement Training Provider:
 - (a) to information and documentation relating to the Services that is in the possession or control of the Training Provider or its Subcontractors (and the Training Provider agrees and will procure that its Subcontractors do not destroy

or dispose of that information within this period) including the right to take reasonable copies of that material; and

- (b) following reasonable notice and during the Training Provider's normal business hours, to members of the Training Provider Staff who have been involved in the provision or management of the provision of the Services and who are still employed or engaged by the Training Provider or its Subcontractors;

1.1.12 knowledge transfer services, including:

- (a) making available to the Authority and/or the Replacement Training Provider expertise to analyse training requirements and provide all necessary training for the use of tools by such staff at the time of termination or expiry as are nominated by the Authority and/or the Replacement Training Provider (acting reasonably);
- (b) transferring all training material and providing appropriate training to those Authority and/or Replacement Training Provider staff responsible for internal training in connection with the provision of the Services;
- (c) providing as early as possible for transfer to the Authority and/or the Replacement Training Provider of all knowledge reasonably required for the provision of the Services which may, as appropriate, include information, records and documents;
- (d) providing the Training Provider and/or the Replacement Training Provider with access to sufficient numbers of the members of the Training Provider Staff or Subcontractors' personnel of suitable experience and skill and as have been involved in the design, development, provision or management of provision of the Services and who are still employed or engaged by the Training Provider or its Subcontractors;
- (e) allowing the Authority and/or the Replacement Training Provider to work alongside and observe the performance of the Services by the Training Provider at its Sites used to fulfil the Services (subject to compliance by the Authority and the Replacement Training Provider with any applicable security and/or health and safety restrictions; and
- (f) any such person who is provided with knowledge transfer services will sign a confidentiality undertaking in favour of the Training Provider (in such form as the Training Provider shall reasonably require)).

1.2 The Training Provider will:

- 1.2.1 provide a documented plan relating to the training matters referred to in paragraph 1.1.12 for agreement by the Authority at the time of termination or expiry of this Agreement; and
- 1.2.2 co-operate fully in the execution of the handover plan agreed pursuant to paragraph 1.1.7, providing skills and expertise of a suitable standard.

1.3 To facilitate the transfer of knowledge from the Training Provider to the Authority and/or its Replacement Training Provider, the Training Provider shall provide a detailed explanation of

the procedures and operations used to provide the Services to the operations staff of the Authority and/or the Replacement Training Provider.

- 1.4 The information which the Training Provider will provide to the Authority and/or the Replacement Training Provider pursuant to paragraph 1.1.11 shall include:

- 1.4.1 copies of up-to-date procedures and operations manuals;
- 1.4.2 product information;
- 1.4.3 agreements with third party suppliers of goods and services which are to be transferred to the Authority and/or the Replacement Training Provider; and
- 1.4.4 key support contact details for third party supplier personnel under contracts which are to be assigned or novated to the Authority pursuant to this Schedule,

and such information shall be updated by the Training Provider at the end of the Termination Assistance Period.

- 1.5 During the Termination Assistance Period the Training Provider shall grant any agent or personnel (including employees, consultants and suppliers) of the Replacement Training Provider and/or the Authority access, during business hours and upon reasonable prior written notice, to any Sites for the purpose of effecting a prompt knowledge transfer provided that:

- 1.5.1 any such agent or personnel (including employees, consultants and suppliers) having such access to any Sites shall:
 - (a) sign a confidentiality undertaking in favour of the Training Provider (in such form as the Training Provider shall reasonably require); and
 - (b) during each period of access comply with the security, systems and facilities operating procedures of the Training Provider relevant to such Site and that the Authority deems reasonable; and
- 1.5.2 the Authority and/or the Replacement Training Provider shall pay the reasonable, proven and proper costs of the Training Provider incurred in facilitating such access.

SCHEDULE 16

STAFF TRANSFER

1 DEFINITIONS

1.1 In this Schedule, the following words have the following meanings:

"Administering Authority" means in relation to a relevant LGPS fund, the relevant Administering Authority of that fund for the purposes of the Local Government Pension Scheme Regulations 2013;

"Broadly Comparable" means:

- (a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department of a broad comparability certificate; and
- (b) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme's certificate of broad comparability issued by the Government Actuary's Department,

and **"Broad Comparability"** shall be construed accordingly;

"CSPS" means the "Alpha" pension scheme introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014 available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Arrangements and (ii) Death Benefits Arrangements; the Civil Service Additional Voluntary Contribution Scheme.

"Employee Liability"

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

- (a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- (b) unfair, wrongful or constructive dismissal compensation;
- (c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- (d) compensation for less favourable treatment of part-time workers or fixed term employees;
- (e) outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by the Authority or the Replacement Training Provider to a Transferring Training Provider Employee which would have been payable by the Training Provider or the Subcontractor if such payment should have been made prior to the Service Transfer Date and also including any payments arising in respect of pensions;
- (f) claims whether in tort, contract or statute or otherwise;
- (g) any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

"Fair Deal Employees"

means those employees of the Training Provider who at the Commencement Date are or become entitled to New Fair Deal protection in respect of any of the Statutory Schemes as notified by the Authority;

"Fair Deal Schemes"

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

"Former Supplier"

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

"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;
"New Fair Deal"	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 any amendments to that document immediately prior to the Service Transfer Date;
"Relevant Transfer Date"	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;
"Relevant Transfer"	a transfer of employment to which the Employment Regulations applies;
"Replacement Subcontractor"	a subcontractor of the Replacement Training Provider to whom Transferring Training Provider Employees will transfer on a Service Transfer Date (or any subcontractor of any such subcontractor);
"Service Transfer Date"	the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires;
"Service Transfer"	any transfer of the Services (or any part of the Services), for whatever reason, from the Training Provider or any Subcontractor to a Replacement Training Provider or a Replacement Subcontractor;
"Staffing Information"	in relation to all persons identified on the Training Provider's Provisional Training Provider Staff List or Training Provider's Final Training Provider Staff List, as the case may be, all information required in Annex E2 (Table of Staffing Information) in the format specified and with the identities of Data Subjects anonymised where possible. The Authority may acting reasonably make changes to the format or information requested in Annex E2 from time to time.
"Statutory Schemes"	means the CSPA, TPS or LGPS;
"TPS"	means 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;
"Training Provider's Final Training Provider Staff List"	a list provided by the Training Provider of all Training Provider Staff who will transfer under the Employment Regulations on the Service Transfer Date;
"Training Provider's Provisional Training Provider Staff List"	a list prepared and updated by the Training Provider of all Training Provider Staff who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Training Provider;
"Transferring Training Provider Employees"	those employees of the Training Provider and/or the Training Provider's Subcontractors to whom the

Employment Regulations will apply on the Service Transfer Date

2 INTERPRETATION

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

3 Which parts of this Schedule apply

The following parts of this Schedule shall apply to this Agreement:

- 3.1 Part C (No Staff Transfer Expected On Operational Services Commencement Date); and
- 3.2 Part E (Staff Transfer on Exit) of this Schedule will always apply to this Agreement, including:
 - 3.2.1 Annex E2 (Staffing Information).

Part A: Staff Transfer at the Commencement Date

Transferring Employees from the Authority to the Training Provider

N/A

Part B: Staff transfer at the Commencement Date

Transfer from a Former Supplier on Re-procurement

N/A

Part C: No Staff Transfer on the Commencement Date

1 WHAT HAPPENS IF THERE IS A STAFF TRANSFER

- 1.1 The Authority and the Training Provider agree that the commencement of the provision of the Services or of any part of the Services is not expected to be a Relevant Transfer in relation to any employees of the Authority and/or any Former Supplier.
- 1.2 Subject to paragraphs 1.3, 1.4 and 1.5, if any employee of the Authority and/or a Former Supplier claims, or it is determined in relation to any employee of the Authority and/or a Former Supplier, that their contract of employment has been transferred from the Authority and/or the Former Supplier to the Training Provider and/or any Subcontractor pursuant to the Employment Regulations then:
- 1.2.1 the Training Provider shall, and shall procure that the relevant Subcontractor shall, within 5 Business Days of becoming aware of that fact, notify the Authority in writing and, where required by the Authority, give notice to the Former Supplier;
 - 1.2.2 the Authority and/or the Former Supplier may offer (or may procure that a third party may offer) employment to such person, or take such other steps as it considered appropriate to resolve the matter, within 15 Business Days of receipt of notice from the Training Provider or the Subcontractor, provided always that such steps are in compliance with applicable Law;
 - 1.2.3 if such offer of employment is accepted, the Training Provider shall, or shall procure that the Subcontractor shall, immediately release the person from its employment; and
 - 1.2.4 if after the period referred to in paragraph 1.2.2 no such offer has been made, or such offer has been made but not accepted, the Training Provider may within 5 Business Days give notice to terminate the employment of such person;

and subject to the Training Provider's compliance with paragraphs 1.2.1 to 1.2.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to paragraph 1.5:

- (a) the Authority will indemnify the Training Provider and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Authority's employees referred to in paragraph 1.2 provided that the Training Provider takes all reasonable steps to minimise any such Employee Liabilities; and
 - (b) the Authority will procure that the Former Supplier indemnifies the Training Provider and/or any Subcontractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier referred to in paragraph 1.2 provided that the Training Provider takes, or shall procure that the relevant Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 1.3 If any such person as is described in paragraph 1.2 is neither re employed by the Authority and/or the Former Supplier as appropriate nor dismissed by the Training Provider and/or any Subcontractor within the 15 Business Day period referred to in paragraph 1.2 such person shall be treated as having transferred to the Training Provider and/or the Subcontractor (as appropriate) and the Training Provider shall, or shall procure that the Subcontractor shall, comply with such obligations as may be imposed upon it under Law.

- 1.4 Where any person remains employed by the Training Provider and/or any Subcontractor pursuant to paragraph 1.3, all Employee Liabilities in relation to such employee shall remain with the Training Provider and/or the Subcontractor and the Training Provider shall indemnify the Authority and any Former Supplier, and shall procure that the Subcontractor shall indemnify the Authority and any Former Supplier, against any Employee Liabilities that either of them may incur in respect of any such employees of the Training Provider and/or employees of the Subcontractor.
- 1.5 The indemnities in paragraph 1.2 shall not apply to any claim:
- 1.5.1 for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief;
 - 1.5.2 or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,
- in relation to any alleged act or omission of the Training Provider and/or Subcontractor; or
- 1.5.3 any claim that the termination of employment was unfair because the Training Provider and/or any Subcontractor neglected to follow a fair dismissal procedure.
- 1.6 The indemnities in paragraph 1.2 shall not apply to any termination of employment occurring later than 6 months from the Relevant Transfer Date.
- 1.7 If the Training Provider and/or the Subcontractor does not comply with paragraph 1.2, all Employee Liabilities in relation to such employees shall remain with the Training Provider and/or the Subcontractor and the Training Provider shall indemnify the Authority and any Former Supplier against any Employee Liabilities that either of them may incur in respect of any such employees of the Training Provider and/or employees of the Subcontractor.

2 LIMITS ON THE FORMER SUPPLIER'S OBLIGATIONS

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

Part D: Pensions

N/A

Part E: Staff Transfer on Exit

1 OBLIGATIONS BEFORE A STAFF TRANSFER

- 1.1 The Training Provider agrees that within twenty (20) Business Days of the earliest of:
- 1.1.1 receipt of a notification from the Authority of a Service Transfer or intended Service Transfer;
 - 1.1.2 receipt of the giving of notice of early termination of the relevant Agreement; and
 - 1.1.3 the date which is twelve (12) months before the end of the Term; or
 - 1.1.4 receipt of a written request of the Authority at any time (provided that the Authority shall only be entitled to make one such request in any six (6) month period),
- it shall provide in a suitably anonymised format so as to comply with the Data Protection Laws, the Training Provider's Provisional Training Provider Staff List, together with the Staffing Information in relation to the Training Provider's Provisional Training Provider Staff List and it shall provide an updated Training Provider's Provisional Training Provider Staff List at such intervals as are reasonably requested by the Authority.
- 1.2 At least twenty (20) Business Days prior to the Service Transfer Date, the Training Provider shall provide to the Authority or at the direction of the Authority to any Replacement Training Provider and/or any Replacement Subcontractor
- 1.2.1 the Training Provider's Final Training Provider Staff List, which shall identify the basis upon which they are Transferring Training Provider Employees and
 - 1.2.2 the Staffing Information in relation to the Training Provider's Final Training Provider Staff 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 Training Provider under paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Training Provider and/or Replacement Subcontractor.
- 1.4 The Training Provider warrants, for the benefit of the Authority, any Replacement Training Provider, and any Replacement Subcontractor that all information provided pursuant to paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in paragraphs 1.1.1, 1.1.2 and 1.1.3, the Training Provider agrees that it shall not assign any person to the provision of the Services who is not listed on the Training Provider's Provisional Training Provider Staff List and shall, unless otherwise instructed by the Authority (acting reasonably):
- 1.5.1 not replace or re-deploy any Training Provider Staff listed on the Training Provider's Provisional Training Provider Staff List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person they replace
 - 1.5.2 not make, promise, propose, permit or implement any material changes to the terms and conditions of (i) employment and/or (ii) pensions, retirement and death benefits (including not to make pensionable any category of earnings which were not previously pensionable or reduce the pension contributions payable) of the Training Provider Staff (including any payments connected with the termination of employment);

- 1.5.3 not increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Training Provider Staff save for fulfilling assignments and projects previously scheduled and agreed;
- 1.5.4 not introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Training Provider's Provisional Training Provider Staff List;
- 1.5.5 not increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services);
- 1.5.6 not terminate or give notice to terminate the employment or contracts of any persons on the Training Provider's Provisional Training Provider Staff List save by due disciplinary process;
- 1.5.7 not dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Authority and/or the Replacement Training Provider and/or Replacement Subcontractor;
- 1.5.8 give the Authority and/or the Replacement Training Provider and/or Replacement Subcontractor reasonable access to Training Provider Staff and/or their consultation representatives to inform them of the intended transfer and consult any measures envisaged by the Authority, Replacement Training Provider and/or Replacement Subcontractor in respect of persons expected to be Transferring Training Provider Employees;
- 1.5.9 co-operate with the Authority and the Replacement Training Provider to ensure an effective consultation process and smooth transfer in respect of Transferring Training Provider Employees in line with good employee relations and the effective continuity of the Services, and to allow for participation in any pension arrangements to be put in place to comply with New Fair Deal;
- 1.5.10 promptly notify the Authority or, at the direction of the Authority, any Replacement Training Provider and any Replacement Subcontractor of any notice to terminate employment given by the Training Provider or received from any persons listed on the Training Provider's Provisional Training Provider Staff List regardless of when such notice takes effect;
- 1.5.11 not for a period of twelve (12) months from the Service Transfer Date re-employ or re-engage or entice any employees, suppliers or Subcontractors whose employment or engagement is transferred to the Authority and/or the Replacement Training Provider (unless otherwise instructed by the Authority (acting reasonably));
- 1.5.12 not to adversely affect pension rights accrued by all and any Fair Deal Employees in the period ending on the Service Transfer Date;
- 1.5.13 fully fund any Broadly Comparable pension schemes set up by the Training Provider;
- 1.5.14 provide all such co-operation and assistance (including co-operation and assistance from the Broadly Comparable pension scheme's Actuary) as the Replacement Training Provider and or CSPA and / or the relevant Administering Authority and / or the Authority may reasonably require, to enable the Replacement Training Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Employee that remains eligible for New Fair Deal protection following a Service Transfer;

- 1.5.15 maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer of any person engaged or employed by the Training Provider or any Subcontractor in the provision of the Services on the expiry or termination of this Agreement (including identification of the Fair Deal Employees);
 - 1.5.16 promptly provide to the Authority such documents and information in relation to any Fair Deal Employees or any Fair Deal Schemes which the Authority may reasonably request in advance of the expiry or termination of this Agreement; and
 - 1.5.17 fully co-operate (and procure that the trustees of any Broadly Comparable pension scheme shall fully co-operate) with the reasonable requests of the Training Provider relating to any administrative tasks necessary to deal with the pension aspects of any onward transfer of any person engaged or employed by the Training Provider or any Subcontractor in the provision of the Services on the expiry or termination of this Agreement.
- 1.6 On or around each anniversary of the Commencement Date and up to four times during the last twelve (12) months of the Term, the Authority may make written requests to the Training Provider for information relating to the manner in which the Services are organised. Within twenty (20) Business Days of receipt of a written request the Training Provider shall provide such information as the Authority may reasonably require which shall include:
- 1.6.1 the numbers of Training Provider Staff engaged in providing the Services;
 - 1.6.2 the percentage of time spent by each Training Provider Staff engaged in providing the Services;
 - 1.6.3 the extent to which each employee qualifies for membership of any of the Fair Deal Schemes; and
 - 1.6.4 a description of the nature of the work undertaken by each Training Provider Staff by location.
- 1.7 The Training Provider shall provide all reasonable cooperation and assistance to the Authority, any Replacement Training Provider and/or any Replacement Subcontractor to ensure the smooth transfer of the Transferring Training Provider 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 Training Provider Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within five (5) Business Days following the Service Transfer Date, the Training Provider shall provide to the Authority or, at the direction of the Authority, to any Replacement Training Provider and/or any Replacement Subcontractor (as appropriate), in respect of each person on the Training Provider's Final Training Provider Staff List who is a Transferring Training Provider Employee:
- 1.7.1 the most recent month's copy pay slip data;
 - 1.7.2 details of cumulative pay for tax and pension purposes;
 - 1.7.3 details of cumulative tax paid;
 - 1.7.4 tax code;
 - 1.7.5 details of any voluntary deductions from pay;
 - 1.7.6 a copy of any personnel file and/or any other records regarding the service of the Transferring Training Provider Employee;

1.7.7 a complete copy of the information required to meet the minimum recording keeping requirements under the Working Time Regulations 1998 and the National Minimum Wage Regulations 1998; and

1.7.8 bank/building society account details for payroll purposes.

1.8 From the date of the earliest event referred to in paragraph 1.1.1, 1.1.2 and 1.1.3 the Training Provider agrees that following within twenty (20) Business Days of a request from the Authority it shall and shall procure that each Subcontractor shall use reasonable endeavours to comply with any reasonable request to align and assign Training Provider Staff to any future delivery model proposed by the Authority for Replacement Services within thirty (30) Business Days or such longer timescale as may be agreed.

1.9 Any changes necessary to this Agreement as a result of alignment referred to in paragraph 1.8 shall be agreed in accordance with the Variation Procedure.

2 STAFF TRANSFER WHEN THE CONTRACT ENDS

2.1 The Authority and the Training Provider 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 of this Agreement or otherwise) resulting in the Services being undertaken by a Replacement Training Provider and/or a Replacement Subcontractor. Such change in the identity of the Training Provider of such services may constitute a Relevant Transfer to which the Employment Regulations will apply. The Authority and the Training Provider further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Training Provider and the Transferring Training Provider Employees (except in relation to any contract terms disapplied through operation of regulation 10 of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Training Provider and/or a Replacement Subcontractor (as the case may be) and each such Transferring Training Provider Employee

2.2 The Training Provider shall, and shall procure that each Subcontractor shall, comply with all its obligations under the Employment Regulations and in particular obligations in respect of the Transferring Training Provider Employees arising under the Employment Regulations in respect of the period up to (but excluding) the Service Transfer Date and shall perform and discharge, and procure that each Subcontractor shall perform and discharge, all its obligations in respect of any person identified in the Training Provider's Final Training Provider Staff List arising in respect of the period up to (but excluding) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Statutory Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part to the period ending on (but excluding) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Training Provider and/or the Subcontractor (as appropriate); and (ii) the Replacement Training Provider and/or Replacement Subcontractor.

2.3 Subject to paragraph 2.4, the Training Provider shall indemnify the Authority and/or the Replacement Training Provider and/or any Replacement Subcontractor against any Employee Liabilities arising from or as a result of:

2.3.1 any act or omission of the Training Provider or any Subcontractor in respect of any Transferring Training Provider Employee or any appropriate employee representative

(as defined in the Employment Regulations) of any Transferring Training Provider Employee whether occurring before, on or after the Service Transfer Date.

- 2.3.2 the breach or non-observance by the Training Provider or any Subcontractor occurring before but excluding the Service Transfer Date of:
- (a) any collective agreement applicable to the Transferring Training Provider Employees; and/or
 - (b) any other custom or practice with a trade union or staff association in respect of any Transferring Training Provider Employees which the Training Provider or any Subcontractor is contractually bound to honour;
- 2.3.3 any claim by any trade union or other body or person representing any Transferring Training Provider Employees arising from or connected with any failure by the Training Provider or a Subcontractor to comply with any legal obligation to such trade union, body or person arising before but excluding the Service Transfer Date;
- 2.3.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Training Provider Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before but excluding the Service Transfer Date; and
 - (b) in relation to any employee who is not identified in the Training Provider's Final Training Provider Staff List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer their employment from the Training Provider to the Authority and/or Replacement Training Provider and/or any Replacement Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before but excluding the Service Transfer Date;
- 2.3.5 a failure of the Training Provider or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Training Provider Employees in respect of the period up to (but excluding) the Service Transfer Date);
- 2.3.6 any claim made by or in respect of any person employed or formerly employed by the Training Provider or any Subcontractor other than a Transferring Training Provider Employee identified in the Training Provider's Final Training Provider Staff List for whom it is alleged the Authority and/or the Replacement Training Provider and/or any Replacement Subcontractor may be liable by virtue of this Agreement and/or the Employment Regulations; and
- 2.3.7 any claim made by or in respect of a Transferring Training Provider Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Training Provider Employee relating to any act or omission of the Training Provider or any Subcontractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Authority and/or Replacement Training Provider to comply with regulation 13(4) of the Employment Regulations.

2.4 The indemnity in paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Training Provider and/or any Replacement Subcontractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:

2.4.1 arising out of the resignation of any Transferring Training Provider Employee before the Service Transfer Date on account of substantial detrimental changes to their working conditions proposed by the Replacement Training Provider and/or any Replacement Subcontractor to occur in the period on or after the Service Transfer Date); or

2.4.2 arising from the Replacement Training Provider's failure, and/or Replacement Subcontractor's failure, to comply with its obligations under the Employment Regulations.

2.5 Subject to paragraphs 2.6 and 2.7, if any employee of the Training Provider who is not identified in the Training Provider's Final Transferring Training Provider Employee List claims, or it is determined in relation to any employees of the Training Provider, that their contract of employment has been transferred from the Training Provider to the Replacement Training Provider and/or Replacement Subcontractor pursuant to the Employment Regulations then:

2.5.1 the Replacement Training Provider and/or Replacement Subcontractor will, within five (5) Business Days of becoming aware of that fact, notify the Authority and the Training Provider in writing;

2.5.2 the Training Provider may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within fifteen (15) Business Days of receipt of notice from the Replacement Training Provider and/or Replacement Subcontractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law;

2.5.3 if such offer of employment is accepted, or if the situation has otherwise been resolved by the Training Provider or a Subcontractor, the Replacement Training Provider and/or Replacement Subcontractor shall immediately release the person from its employment or alleged employment;

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

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

2.6 The indemnity in paragraph 2.5 shall not apply to:

2.6.1 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,

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

- 2.6.2 any claim that the termination of employment was unfair because the Replacement Training Provider and/or Replacement Subcontractor neglected to follow a fair dismissal procedure.

- 2.7 The indemnity in paragraph 2.5 shall not apply to any termination of employment occurring later than six (6) months from the Service Transfer Date.

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

- 2.9 The Training Provider shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of any person identified in the Training Provider's Final Training Provider Staff List before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

- 2.9.1 the Training Provider and/or any Subcontractor; and

- 2.9.2 the Replacement Training Provider and/or the Replacement Subcontractor.

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

- 2.11 Subject to paragraph 2.12, the Authority shall procure that the Replacement Training Provider indemnifies the Training Provider on its own behalf and on behalf of any Replacement Subcontractor and its Subcontractors against any Employee Liabilities arising from or as a result of:

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

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

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

Training Provider Employees identified in the Training Provider's Final Training Provider Staff List in respect of the period from (and including) the Service Transfer Date; and

2.11.8 any claim made by or in respect of a Transferring Training Provider Employee identified in the Training Provider's Final Training Provider Staff List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Training Provider Employee relating to any act or omission of the Replacement Training Provider or Replacement Subcontractor in relation to obligations under regulation 13 of the Employment Regulations.

2.12 The indemnity in paragraph 2.11 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Training Provider and/or any Subcontractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Training Provider and/or any Subcontractor (as applicable) to comply with its obligations under the Employment Regulations, or to the extent the Employee Liabilities arise out of the termination of employment of any person who is not identified in the Training Provider's Final Training Provider Staff List in accordance with paragraph 2.5 (and subject to the limitations set out in paragraphs 2.6 and 2.7 above).

Annex E1: List of Notified Subcontractors

N/A

Annex E2: Staffing Information

EMPLOYEE INFORMATION (ANONYMISED)

Name of Transferor: [Insert name of Transferor]

Number of Employees in-scope to transfer: [Insert number]

[Guidance notes

- 1. *This spreadsheet is used to collect information from the current employer (transferor) about employees performing the relevant services to help plan for a potential TUPE transfer. Some or all of this information may be disclosed to bidders as part of a procurement process. The information should not reveal the employees' identities.***
- 2. *If the information cannot be included on this form, attach the additional information, such as relevant policies, and cross reference to the item number and employee number where appropriate.]***

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

		EMPLOYEE DETAILS & KEY TERMS								
	Details	Contract end date (if fixed term contract or temporary contract)	Contractual notice period	Contractual weekly hours	Regular overtime hours per week	Mobility or flexibility clause in contract?	Previously TUPE transferred to organisation? If so, please specify (i) date of transfer, (ii) name of transferor, and (iii) whether ex public sector	Any collective agreements?		
	Emp No 1									
	Emp No 2									
	Emp No									
	Emp No									
	Emp No									
	Emp No									
	Emp No									
		ASSIGNMENT		CONTRACTUAL PAY AND BENEFITS						
	Details	% of working time dedicated to the provision of services under the contract		Salary (or hourly rate of pay)	Payment interval (weekly / fortnightly / monthly)	Bonus payment for previous 12 months (please specify whether contractual or discretionary entitlement)	Pay review method	Frequency of pay reviews	Agreed pay increases	Next pay review date

Emp No 1									
Emp No 2									
Emp No									
Emp No									
Emp No									
Emp No									
Emp No									

CONTRACTUAL PAY AND BENEFITS

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

Emp No								
Emp No								

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

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

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

Emp No			
Emp No			
Emp No			
Emp No			
Emp No			

SCHEDULE 17
TENDER RESPONSE

Redacted Under FOIA Section 43, Commercial
Interests

SCHEDULE 18

TRANSPARENCY REPORTS

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

ANNEX 1: LIST OF TRANSPARENCY REPORTS

TITLE	CONTENT	FORMAT	FREQUENCY
Charges	Total Charges over specified period(s)	As notified by the Authority from time to time	As notified by the Authority from time to time
Training Provider Performance Report	Delivery against Service Levels in accordance with Schedule 4	As per Schedule 4	Monthly
Equalities report	Ethnicity, gender, age, religion, disability etc.	As notified by the Authority from time to time	As notified by the Authority from time to time
Workforce and staffing	FTE / headcount by service activity Job roles Geography	As notified by the Authority from time to time	As notified by the Authority from time to time
Complaints	Details of any complaints received relating to the Services	As notified by the Authority from time to time	As notified by the Authority from time to time

SCHEDULE 19

COMMERCIALLY SENSITIVE INFORMATION

1 WHAT IS THE COMMERCIALLY SENSITIVE INFORMATION?

- 1.1 In this Schedule the Parties have sought to identify the Training Provider's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.
- 1.2 Where possible, the Parties have sought to identify when any relevant information will cease to fall into the category of information to which this Schedule applies in the table below.
- 1.3 Without prejudice to the Authority's obligation to disclose information in accordance with FOIA or Clause 37, the Authority will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following information:

Redacted Under FOIA Section 43, Commercial Interests

SCHEDULE 20
APPRENTICE FORECASTS

Regions	Indicative learner volumes				Total
	2025	2026	2027	2028	
[Lot 2 - South West, South Central, Kent, Surrey, Sussex, East of England, London, Wales]	[450]	[490]	[510]	[490]	[1940]

Indicative learner volumes accurate as of contract award.