

Date: 26/08/2022

A Contract for Education Services

At HMPYOI Feltham

Between

The Secretary of State for Justice

And

The Shaw Trust Limited

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This contract is dated:

PARTIES:

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

AND

- (2) Shaw Trust Limited (The) with registered company number 01744121 whose registered office is Black Country House, Rounds Green Road, Oldbury, England, B69 2DG (the “**Supplier**”)

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

WHEREAS

- A. Following a competitive tender process, the Authority wishes to appoint the Supplier to provide education services and related goods in a Secure Setting as described in the Specification and the Supplier agrees to provide those goods and services in accordance with these terms and conditions.

NOW IT IS HEREBY AGREED:

A. GENERAL

A1 Definitions and Interpretation

- A1.1 Unless the context otherwise requires the following terms shall have the meanings given to them below:

“**Additional Services**” means those services which may be purchased from time to time as described as such in Schedule 24 (Optional Services and Additional Services);

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

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

“**Annual Delivery Plan**” or “**ADP**” has the meaning given to it in clause F6.1(a) (Delivery of Annual Delivery Plan);

“**ADP Approval Certificate**” has the meaning given to it in clause F6.2(b)i) (Approval of Annual Delivery Plan (first Contract Year));

“**ADP Grounds of Objection**” means the grounds for objecting to the Annual Delivery Plan as set out in clause F6.2(c) (Approval of Annual Delivery Plan (first Contract Year));

“**ADP Notice of Non-Compliance**” has the meaning given to it in clause F6.2(b)ii) (Approval of Annual Delivery Plan (first Contract Year));

“**Approve**”, “**Approval**” and “**Approved**” means the prior written consent of the Authority;

“**Approved Sub-Contractor**” means those Sub-Contractors identified as such in Schedule 23 (Approved Sub-Contractors);

“Associated Person” means as it is defined in section 44(4) of the Criminal Finances Act 2017;

“Audit” means the Authority’s right to:

- a) verify the accuracy of the Prices and any other amounts paid and payable by the Authority (including proposed or actual variations to them in accordance with the Contract);
- b) verify the costs of the Supplier (including the costs of all or any Sub-Contractors and third party suppliers) in connection with the provision of the Services and Goods;
- c) verify the Supplier’s and each Sub-Contractor’s compliance with the applicable Law;
- d) verify the Supplier’s and each Sub-Contractor’s compliance with and progress against the Supplier’s responses to the ITT social value questions as included under the sub-heading entitled ‘Question 5 – Social Values’ at Part B of Schedule 1;
- e) identify or investigate actual or suspected breach of this Contract and/or Schedule 8 (Statutory Obligations and Corporate Social Responsibility), 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 Supplier of the purpose or objective of its investigations;
- f) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Sub-Contractors or their ability to provide the Services and/or Goods;
- g) 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;
- h) review any books of account and the internal contract management accounts kept by the Supplier in connection with the Contract;
- i) 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;
- j) 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;

“Authorised Representative” means the Authority representative named in a CCN as authorised to approve Changes.

“Authority Break Point Dates” means each of:

- a) the fourth anniversary of the Commencement Date;
- b) the fifth anniversary of the Commencement Date; and
- c) the sixth anniversary of the Commencement Date;

“Authority Cause” means any breach by the Authority of any Dependencies (except to the extent that it is the result of any act or omission by the Authority to which the Supplier has contributed and/or caused and/or permitted);

“Authority Data” means:

- a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (i) supplied to the Supplier by or on behalf of the Authority; or (ii) which the Supplier is required to generate, process, store or transmit pursuant to the Contract; or
- b) any Personal Data for which the Authority is the Controller;

“Authority Equipment” means any property, other than real property, issued or made available to the Supplier by the Authority (or other part of the criminal justice system) in connection with this Contract including as set out in lists to be provided by the Authority from time to time;

“Authority ICT System” means any part of the Authority System owned by the Authority and/or licensed to the Authority by a third party and which interfaces with the Supplier System or which is provided by the Authority to the Supplier in connection with this Contract;

“Authority Premises” means any premises owned, occupied or controlled by the Authority or any other Crown Body which are made available for use by the Supplier or its Sub-Contractors for provision of the Services and/or Goods;

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

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

“Baseline Security Requirements” means the security requirements in Annex 1 of Schedule 6 (Information Security & Assurance);

“BPSS” means the Government’s Baseline Personnel Security Standard for any individuals working with or on behalf of a Government;

“Breach of Security” means an occurrence of:

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

“BS 8555” means the standard published to help organisations improve their environmental performance by the British Standards Institution;

“CCN” means a change control notice in the form set out in Schedule 3 (Change Control);

“Certification Requirements” means the requirements in paragraph 5 of Schedule 6 (Information Security & Assurance);

“CESG” means the Government’s Communications Electronics Security Group;

“Change” means a change in the Specification, the Price or any of the terms or conditions of the Contract implemented in accordance with clause F4;

“Change in Law” means any change in Law which affects the performance of the Services and/or provision of the Goods which comes into force after the Commencement Date;

“Change of Control” means a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;

“Commencement Date” means 1 September 2022;

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

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

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

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

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

- a) was public knowledge at the time of disclosure otherwise than by breach of clause D4;
- b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- d) is independently developed without access to the Confidential Information;

“Continuous improvement plan” means has the meaning given to it in clause B17.1;

“Contract” means these terms and conditions, the attached Schedules and any other provisions the Parties expressly agree are included;

“Contract Year” means a consecutive period of twelve (12) Months starting on the Commencement Date;

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

“Contracts Finder” means the Government’s portal for public sector procurement opportunities;

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

“Controller” means as it is defined in GDPR;

“Copyright” has the meaning as set out in section 1 of Part 1 Chapter 1 of the Copyright, Designs and Patents Act 1988;

“Core Common Curriculum Requirements” means those curriculum requirements listed in paragraph 4.1 of Schedule 1 (Specification);

“Crown” means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including government ministers, government departments, government offices and government agencies;

“Crown Body” means a body which is part of the Crown;

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

“Data Protection Impact Assessment” means an assessment by the Controller of the effect of the envisaged processing on the protection of Personal Data;

“Data Protection Legislation” means:

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

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

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

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

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

“Default” means any breach of the obligations or warranties of the relevant Party (including abandonment of the Contract in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant

Party or the Staff in connection with the subject-matter of the Contract and in respect of which such Party is liable to the other;

“Delivery Plan” means a detailed and costed description of how the Services commissioned by the Authority for a Secure Setting will be delivered in a specified Contract Year such plan being developed and agreed in accordance with Schedule 19 (Contract Management);

“Dependencies” means the obligations to be performed (or procured to be performed) by the Authority as set out in Schedule 16 (Dependencies) and **“Dependency”** shall be construed accordingly;

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

“DPA” means the Data Protection Act 2018;

“Effective Date” means the date of this Contract;

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

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

“Equipment” means the Supplier’s equipment, consumables, plant, materials and such other items supplied and used by the Supplier from time to time in connection with the performance of the Contract and for the avoidance of doubt does not include Inherited Assets or Authority Equipment;

“Existing IPR” means any and all IPRs that are owned by or licensed to either Party and which are or have been developed independently of the Contract (whether prior to the Commencement Date or otherwise);

“Exit Day” means as it is defined in the European Union (Withdrawal) Act 2018;

“Financial Year” means the period from 1st April each year to the 31st March the following year;

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

“Force Majeure Event” means any event outside the reasonable control of either Party affecting its performance of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, flood, storm or earthquake, or disaster, and for the purposes of this definition the following shall not constitute a Force Majeure Event:

- a) any event or other consequence arising as a result of or in connection with the COVID-19 pandemic which was reasonably foreseeable on the Commencement Date;
- b) any industrial dispute relating to the Supplier or the Staff; and/or
- c) any other failure in the Supplier's supply chain;

"GDPR" means the EU General Data Protection Regulation (Regulation (EU) 2016/679) as transposed into United Kingdom national law by operation of section 3 of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019;

"General Anti-Abuse Rule" means:

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

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

"Good Industry Practice" means standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged with the relevant industry or business sector;

"Goods" means any goods supplied by the Supplier (or by a Sub-Contractor) under the Contract including any modified or alternative goods;

"Government" means Her Majesty's Government of the United Kingdom;

"Government Buying Standards" means the standards published here:

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

"Governors" means the most senior manager who is in charge of each Secure Setting that is accountable for both defining and securing delivery of the Services and Goods. For the avoidance of doubt this also includes directors and controllers as the content implies in relation to private prisons;

"Greening Government Commitments" means the Government's policy to reduce its effects on the environment, the details of which are published here:

<https://www.gov.uk/government/collections/greening-government-commitments>

"Halifax Abuse Principle" means the principle explained in the CJEU Case C-255/02 Halifax and others;

“Health and Safety Policy” means the Ministry of Justice’s health and safety policy, available from time to time at the following web address:

<https://intranet.justice.gov.uk/documents/2017/12/moj-corporate-health-and-safety-policy.pdf>

“HMRC” means HM Revenue & Customs;

“ICT Environment” means the Authority System and the Supplier System;

“Impact Assessment” means an assessment of the impact of a Change request completed in good faith, including:

- a) details of the impact of the proposed Change on the Services and/or Goods and the Supplier's ability to meet its other obligations under the Contract;
- b) details of the cost of implementing the proposed Change;
- c) details of the ongoing costs required by the proposed Change when implemented, including any increase or decrease in the Prices (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 Change; and

such other information as the Authority may reasonably request in (or in response to) the Change request;

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

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

“Inherited Assets” means the assets provided by the Authority to the Supplier as identified as such in lists to be provided by the Authority from time to time;

“Insolvency Event” in relation to a 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 a LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or
 - ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986;
- b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, a LLP 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, a LLP or a partnership:
 - i) a petition is presented (which is not dismissed within fourteen (14) days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;
 - ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that person;
 - iii) (being a company or a LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or
 - iv) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or
- g) any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;

"Insurances" has the meaning given to it in clause G1.8;

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

"IP Materials" has the meaning given to it in clause E1.6(b);

"ISMS" means the Supplier's information and management system and processes to manage information security as set out in paragraph 2.3 of Schedule 6 (Information Assurance & Security);

"ISO 14001" means the family of standards related to environmental management published by the International Organisation for Standardisation;

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

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

“Key Personnel” mean the people named in the Tender as key personnel, if any;

“Key Performance Indicators (KPIs)” has the meaning set out in Schedule 14 (Performance Management);

“Key Role” means the roles set out in clause B7.1;

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

“Law” any applicable law, statute, bye law, regulation, order, regulatory policy (including any requirement or notice of any regulatory body), guidance or code of practice, rule of court or directives, delegated or subordinate legislation in force from time to time and as amended from time to time;

“Learner” means a child or young person subject to detention by Her Majesty’s Prison and Probation Service engaged in learning and skills activities with the Supplier at the Secure Setting;

“Lock Down” means a disruption that requires Learners to remain locked in their rooms at the Secure Setting;

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

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

“Mandatory Policies” means the policies of the Authority including (without limit) those set out in Schedule 17 (Mandatory Policies) and as otherwise notified by the Authority to the Supplier, as updated from time to time;

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

- a) a substantial portion of the Contract; or
- b) any of the obligations set out in [clauses D1, D2, D3, D4, G3, 0 or paragraph [9] of Schedule 8 (Statutory Obligations and Corporate Social Responsibility)];

“Milestone” means the milestones identified as such in the Mobilisation Plan;

“Milestone Date” means the dates on which Milestones are to be achieved as set out in the Mobilisation Plan;

“Mobilisation Plan” has the meaning given in schedule 13 (Mobilisation Plan);

“Modern Slavery Helpline” means the point of contact for reporting suspicion, seeking help or advice and information on the subject of modern slavery available by telephone on 08000 121 700 or online at: <https://www.modernslaveryhelpline.org/report>

“Month” means calendar month and **“Monthly”** shall be interpreted accordingly;

“MSA” means the Modern Slavery Act 2015;

“New IPR” means

- a) IPR in items developed or created by the Supplier, its Affiliates and/or any Sub-Contractor (or by a third party on behalf of the Supplier, or such Affiliate and/or Sub-Contractor) specifically for the purposes of this Contract and updates and amendments of these items including (but not limited to) database schema; and/or
- b) IPR in or arising as a result of or in connection with the performance of the Supplier’s obligations under this Contract and all updates and amendments to the same;

including all Intellectual Property Rights falling within the Prescribed Documentation and/or in or to procedures, methods and know-how (all as may be modified and upgraded from time to time) but excluding the Supplier’s Existing IPR;

“NICs” means National Insurance Contributions;

“Occasion of Tax Non-Compliance” means:

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

“Optional Services” means those services which may be purchased from time to time as described as such in Schedule 24 (Optional Services and Additional Services);

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

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

“Prescribed Documentation” means any item or document which is produced by the Supplier and relates to the Services and/or Goods, including, teaching materials, drawings, reports (including a progress report on special cases of Learners, in a form to be notified by

the Authority from time to time) and records (including Learner records), data sheets, schedules, presentation brochures, photographs, court evidence, models and samples;

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

“Prison Education DPS” a dynamic purchasing system concluded by the Authority for the provision of prison education services that do not fall within the definition of the Core Common Curriculum Requirements;

“Processor” means as it is defined in GDPR;

“Prohibited Act” means:

- a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:
 - i) induce that person to perform improperly a relevant function or activity; or
 - ii) reward that person for improper performance of a relevant function or activity;
- b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract;
- c) an offence:
 - i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act;
 - ii) under legislation or common law concerning fraudulent acts (including offences by the Supplier under Part 3 of the Criminal Finances Act 2017); or
 - iii) the defrauding, attempting to defraud or conspiring to defraud the Authority;
- d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct has been carried out in the UK;

“Property” means the property, other than real property, issued or made available to the Supplier by the Authority in connection with the Contract;

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

“PSI 67/2011” is the Prison Service Instruction published on 1st November 2011 as amended from time to time relating to the searching of the person the current version of which is available at:

<https://www.justice.gov.uk/offenders/psis/prison-service-instructions-2011>

“PSI 10/2012” is the Prison Service Instruction published on 26 March 2012 as amended from time to time relating to the Conveyance and Possession of Prohibited Items and other Related Offences the current version of which is available at:

<https://www.justice.gov.uk/offenders/psis/prison-service-instructions-2012>

“PSI 07/2014” is the Prison Service Instruction published on 2nd June 2014 as amended from time to time relating to security vetting the current version of which is available at:

<https://www.justice.gov.uk/offenders/psis/prison-service-instructions-2014>

“PSI 24/2014” is the Prison Service Instruction published on 1st May 2014 as amended from time to time relating to information assurance the current version of which is available at:

<https://www.justice.gov.uk/offenders/psis/prison-service-instructions-2014>

“Receipt” means the physical or electronic arrival of the invoice at the address specified in clause C1.12 or at any other address given by the Authority to the Supplier for the submission of invoices from time to time;

“Reduced Performance” has the meaning set out in paragraph 5.1 of Schedule 14 (Performance Management);

“Regulations” means the Public Contract Regulations 2015 (SI 2015/102);

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

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

“Relevant Conviction” means a conviction that is relevant to the nature of the Services and/or Goods or as listed by the Authority and/or relevant to the work of the Authority;

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

“Relevant Tax Authority” means HMRC or, if applicable, a tax authority in the jurisdiction in which the Supplier is established;

“Replacement Supplier” means any third-party supplier appointed by the Authority to supply any goods and/or services which are substantially similar to any of the Services in substitution for any of the Services following the expiry, termination or partial termination of the Contract;

“Request for Information” means a request for information under the FOIA or the EIR;

“Required Insurances” means the insurances required by Schedule 20 (Insurance Requirements);

“Results” means any guidance, specifications, reports, studies, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material which is:

- a) prepared by or for the Supplier for use in relation to the performance of its obligations under the Contract; or
- b) the result of any work done by the Supplier or any Staff in relation to the provision of the Services;

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

“Secure Setting” means HMPYOI Feltham;

“Security Plan” means the plan prepared by the Supplier which includes the matters set out in paragraph 3.2 of Schedule 6 (Information Security & Assurance);

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

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

“Services” means the services set out in Schedule 1 (Specification and Tender) (including any modified or alternative services) together with all Additional Services and all other obligations to be performed by the Supplier in accordance with this Contract;

“Services Commencement Date” means the date on which the Supplier is to begin providing Services which address the Core Common Curriculum Requirements which shall be 1 September 2022;

“Sites” means any premises (including the Authority Premises, the Supplier’s premises or third party premises) from, to or at which:

- a) the Services are (or are to be) provided; or
- b) the Supplier manages, organises or otherwise directs the provision or the use of the Services;

“SME” means an enterprise falling within the category of micro, small and medium-sized enterprises defined by the European Commission’s Recommendation of 6 May 2003 available at:
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:124:0036:0041:en:PDF>

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

“Specification” means the description of the Goods and Services to be supplied under the Contract as set out in Part A (Specification) of Schedule 1 (Specification and Tender) including, where appropriate, the Key Personnel, the Sites and the Standards;

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

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

“Standards” means any:

- a) standards published by British Standards Institution (BSI), the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;
- b) standards detailed in the specification in Part A (Specification) of Schedule 1 (Specification and Tender);
- c) relevant Government codes of practice and guidance applicable from time to time;

“Sub-Contract” means a contract between two or more suppliers, at any stage of remoteness from the Authority in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of the Contract and **“Sub-Contractor”** shall be construed accordingly;

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

“Supplier Assets” means all assets and rights used by the Supplier to provide the Services in accordance with this Contract but excluding the Authority Assets;

“Supplier Non-Performance” means a failure by the Supplier to carry out its obligations in accordance with this Contract which for the avoidance of doubt includes a failure to achieve Key Performance Indicators and/ or a failure to comply with the Mobilisation Plan;

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

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

“Tender” means the Supplier’s tender submitted in response to the Authority’s invitation to suppliers for offers to supply the Services as set out in Part B (Tender) in Schedule 1 (Specification and Tender);

“Term” means the period from the Commencement Date to the End Date or such earlier date of termination or partial termination of the Contract in accordance with the Law or the Contract;

“TFEU” means the Treaty on the Functioning of the European Union;

“Third Party Beneficiary” has the meaning given to it in clause I4.1 (Rights of Third Parties);

“Third Party IP Claim” has the meaning given to it in clause E1.10 (Intellectual Property Rights);

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

“Treaties” means the TFEU and the Treaty on European Union;

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

“Valid Invoice” means an invoice containing the information set out in clause C1.2;

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

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

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

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

A1.2 In the Contract, unless the context implies otherwise:

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

application of s.3 of the European Union (Withdrawal) Act 2018 and which shall be read on and after Exit Day as a reference to the EU References as they form part of domestic law by virtue of s.3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and

- ii) any EU institution or EU authority or other such EU body shall be read on and after Exit Day as a reference to the UK institution, authority or body to which its functions were transferred.

A1.3 If there is any conflict between the clauses and the Schedules and/or any Annexes to the Schedules, the conflict shall be resolved in accordance with the following order of precedence:

- (a) firstly, the clauses;
- (b) Part A (Specification) of Schedule 1 (Specification and Tender) and Schedule 14 (Performance Management); then
- (c) any other Schedules and their Annexes (other than Part B (Tender) of Schedules 1 (Specification and Tender) and its Annexes); and finally
- (d) Part B (Tender) of Schedule 1 (Specification and Tender) and its Annexes.

A2 Authority Obligations

A2.1 Save as expressly provided, the Authority's obligations under the Contract are the Authority's obligations in its capacity as a contracting counterparty and nothing in the Contract operates as an obligation on, or in any other way fetters or constrains, the Authority in any other capacity.

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

A2.3 Subject to clause A2.4, in the event of Supplier Non-Performance arising from an Authority Cause:

- (a) the Authority shall not be entitled to treat the Supplier Non-Performance as a Default or terminate a Contract under clause H2 to the extent that such Default arises from such Authority Cause;
- (b) the Supplier shall be entitled to relief from its obligations to the extent of the Authority Cause; and
- (c) the Supplier shall not be entitled to suspend the continued supply of Services.

A2.4 Clause A2.3 shall be subject to the Supplier:

- (a) giving notice to the Authority as soon as reasonably practicable and in any event within five (5) Working Days of becoming aware of the Authority Cause;
- (b) demonstrating that the Supplier Non-Performance would not have occurred but for the Authority Cause; and
- (c) mitigating the impact of the Authority Cause.

A3 Supplier's Status

- A3.1 The Supplier is an independent contractor and nothing in the Contract creates a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and accordingly neither Party is authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the Contract.
- A3.2 The Supplier shall not (and shall ensure that any other person engaged in relation to the Contract shall not) say or do anything that might lead another person to believe that the Supplier is acting as the agent or employee of the Authority.
- A3.3 The Supplier acknowledges and agrees that it is appointed as a non-exclusive provider of the Services to the Authority and that the Authority may purchase services which are the same as or similar to the Services by other means including using the Prison Education DPS.

A4 Mistakes in Information

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

A5 Term

- A5.1 The Contract starts on the Commencement Date and ends on the seventh anniversary of the Commencement Date (the "**End Date**") unless it is terminated early in accordance with the Contract.

B. THE GOODS AND SERVICES

B1 Basis of the Contract

- B1.1 In consideration of the Supplier's performance of its obligations under and in accordance with the Contract the Authority shall pay the Supplier the Price in accordance with clause C1.
- B1.2 The terms and conditions contained in the Contract apply to the exclusion of any other terms and conditions the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

B2 Quality

- B2.1 The Supplier shall perform its obligations under the Contract:
- (a) in compliance with Schedule 1 (Specification and Tender) and the Contract;
 - (b) with appropriately experienced, qualified and trained personnel with all due skill, care and diligence;
 - (c) in accordance with Good Industry Practice, all applicable Laws and the Mandatory Policies; and
 - (d) in accordance with the standards and requirements set out in Schedule 8 (Statutory Obligations and Corporate Social Responsibility).

B3 Goods

- B3.1 Subject to clauses B4.2 and B4.3, risk in the Goods shall, without prejudice to any other rights or remedies of the Authority (including the Authority's rights and remedies under clause F1 (Contract Performance)), pass to the Authority on completion of delivery.
- B3.2 Title in the Goods shall, without prejudice to any other rights or remedies of the Authority (including the Authority's rights and remedies under clause F1), pass to the Authority on completion of delivery (or payment, if earlier).
- B3.3 If and to the extent that in providing the Services, the Supplier provides any Goods:
- (a) all Goods delivered must be new (or as new if recycled), unused and of recent origin;
 - (b) all manufacturer warranties covering the Goods must be assignable to the Authority and shall be assigned at no cost upon request from the Authority;
 - (c) the Supplier warrants that it has full and unrestricted title in all the Goods at the date of transfer of title; and
 - (d) the Supplier shall deliver the Goods on the date and to the location of delivery specified by the Authority during the Authority's working hours on Working Days.

B4 Services

- B4.1 The Supplier acknowledges that the Authority relies on the skill and judgment of the Supplier in the supply of the Services and the performance of the Supplier's obligations under the Contract.
- B4.2 Where the Supplier installs equipment as part of the Services, the Supplier shall notify the Authority in writing when it has completed installation. Following receipt of such notice, the Authority shall inspect the installation and shall, by giving notice to the Supplier:
- (a) accept the installation; or
 - (b) reject the installation and inform the Supplier why, in the Authority's reasonable opinion, the installation does not satisfy the requirements in this Contract.
- B4.3 If the Authority rejects the installation pursuant to clause B4.2(b), the Supplier shall immediately rectify or remedy any defects and if, in the Authority's reasonable opinion, the installation does not, within 2 Working Days or such other period agreed by the Parties, comply with the requirements in the Contract, the Authority may terminate the Contract with immediate effect.
- B4.4 The installation is complete when the Supplier receives a notice issued by the Authority in accordance with clause B4.2(a). Notwithstanding acceptance of any installation in accordance with clause B4.2(a), the Supplier is solely responsible for ensuring that the Services and the installation conform to the Specification. No rights of estoppel or waiver shall arise as a result of the acceptance by the Authority of the installation.
- B4.5 During the Term, the Supplier shall:
- (a) at all times have all licences, approvals and consents necessary to enable the Supplier and Staff to carry out the installation;

- (b) provide all tools and equipment (or procure the provision of all tools and equipment) necessary for completion of the installation; and
- (c) not, in delivering the Services, in any manner endanger the safety or convenience of Learners, Authority staff (including contractors) or the public.

B4.6 The Authority may inspect the manner in which the Supplier supplies the Services at the Sites during normal business hours on reasonable notice. The Supplier shall provide at its own cost all such facilities as the Authority may reasonably require for such inspection. In this clause B4, Services include planning or preliminary work in connection with the supply of the Services.

B4.7 If reasonably requested to do so by the Authority, the Supplier shall co-ordinate its activities in supplying the Services with those of the Authority and other contractors engaged by the Authority.

B4.8 Not used.

B4.9 If the Authority informs the Supplier in writing that the Authority reasonably believes that any part of the Services do not meet the requirements of the Contract or differs in any way from those requirements the Supplier shall, subject to clause A2.3, at its own expense re-schedule and carry out the Services in accordance with the requirements of the Contract within such reasonable time as may be specified by the Authority.

B4.10 If, in delivering the Goods or Services, the Supplier is required to visit Authority Premises which are Secure Settings, the Supplier shall comply with Schedule 7 (Secure Settings).

B5 Assets and Equipment

B5.1 The Authority will sell and Supplier will purchase the Inherited Assets in consideration for the payment by the Supplier to the Authority of £1 (receipt of which is hereby acknowledged). The Supplier will only use the Inherited Assets in connection with the provision of the Services. Such transfer shall become effective on such date as the Authority may notify to the Supplier.

B5.2 The Authority will make the Authority Equipment available (on a non exclusive basis) to the Supplier for use in connection with the provision of the Services and the Supplier will not use the Authority Equipment for any other purpose. Such use of the Authority Equipment may commence from such date as the Authority may notify to the Supplier.

B5.3 The Supplier will ensure that the Inherited Assets and the Authority Equipment are kept in good condition and will maintain and refresh the Inherited Assets as necessary throughout the Term (subject to any exceptions that are specifically agreed with the Authority). Subject to prior agreement with the Authority, selected Inherited Assets nominated by the Supplier can be decommissioned if not required for delivery of the Services. The Supplier shall be responsible for the cost of such decommissioning.

B5.4 The Supplier shall be responsible for:

- (a) the maintenance, repair, replacement, insurance and security of all Inherited Assets, Authority Equipment and Equipment; and
- (b) undertaking appropriate safety checks on the Inherited Assets, Authority Equipment and Equipment and for ensuring that it complies with Law.

- B5.5 The Inherited Assets and Authority Equipment are provided on an “as is” basis and all warranties and implied terms relating to such assets are excluded to the maximum extent permitted by Law.
- B5.6 All Inherited Assets, Authority Equipment and Equipment shall be at the risk of the Supplier. The Authority shall have no liability for any loss of or damage to any of it unless the Supplier is able to demonstrate that such loss or damage was caused or contributed to by the negligence or wilful default of the Authority and in that event the Authority's liability shall be proportionate to the damage caused by the Authority.
- B5.7 The Supplier shall provide for the transportation of the Equipment to and from the Authority Premises.
- B5.8 The Supplier shall be responsible for all costs associated with the provision and/or use of assets (including the Inherited Assets and Authority Equipment) in connection with the provision of the Services. The Supplier will not receive any additional funds from the Authority in relation to the purchase and /or provision of such assets in order to enable it to provide the Services.
- B5.9 Subject to clauses B5.1 and B5.2, the Supplier shall provide all assets and equipment which are reasonably necessary in connection with the provision of the Services.
- B5.10 Where use of the Inherited Assets and Authority Equipment is subject to permissions that may be required from third parties (including without limit maintenance arrangements) then the Parties will take all such steps as may be reasonable to procure such permissions.
- B5.11 The Supplier shall make the Inherited Assets, Authority Equipment and any other Equipment used by the Supplier in connection with the provision of the Services available to other persons (nominated by the Authority from time to time) who provide education services to the Authority to use in connection with such services. Such use of Inherited Assets and Equipment may be provided on reasonable commercial terms as notified by the Supplier from time to time.
- B5.12 The Supplier shall ensure that it keeps an accurate and up to date register of all assets used by it in connection with the provision of the Services (including details of the Inherited Assets and Authority Equipment) and will provide a copy of such register to the Authority on demand and in any event the Supplier shall provide an up to date copy of such list to the Authority at least 3 months prior to the End Date or as soon as reasonably practicable where this Contract is terminated.
- B5.13 Paragraph [8] of Schedule 15 (Exit Management) shall apply to assets on expiry or earlier termination of this Contract.
- B5.14 The Supplier shall provide all Equipment as is necessary for the provision of the Services and shall list all such Equipment in the register referred to in clause [B5.12 above].
- B5.15 In the case of any item of the Equipment which is leased to the Supplier, the Supplier shall ensure that throughout the Term it and its sub-contractors comply with all its obligations under the lease and in particular that the item of the Equipment is maintained fully in accordance with the requirements of the lessor.
- B5.16 Where required by the Authority, the Supplier shall provide the Authority with such details as the Authority may require in respect of any of the Equipment which is leased to the Supplier, including copies of the relevant lease and any other relevant documentation to enable the

Authority to satisfy itself that the Supplier or relevant sub-contractor has complied with its obligations under the lease.

- B5.17 The Supplier shall not deliver any Equipment to, or begin any work on, the Sites without Approval.
- B5.18 Equipment brought onto the Sites remains the property of the Supplier.
- B5.19 If the cost of any Equipment is reimbursed to the Supplier such Equipment shall be the property of the Authority and shall on request be delivered to the Authority as directed by the Authority. The Supplier will keep a full and accurate inventory of such Equipment and will deliver that inventory to the Authority on request and on completion of the Services.
- B5.20 The Supplier shall, at the Authority's written request, at its own cost and as soon as reasonably practicable:
- (a) remove immediately from the Sites Equipment which is, in the Authority's opinion, hazardous, noxious or not supplied in accordance with the Contract; and
 - (b) replace such item with a suitable substitute item of Equipment.
- B5.21 Within 20 Working Days of the end of the Term, the Supplier shall remove the Equipment together with any other materials used by the Supplier to supply the Services and shall leave the Authority Premises in a clean, safe and tidy condition. The Supplier shall make good any damage to those Authority Premises and any fixtures and fitting in the Authority Premises which is caused by the Supplier or Staff.

Authority Software

- B5.22 Where the Authority instructs the Supplier to use Authority Software, the Supplier shall use such Authority Software for the purpose specified by the Authority provided that the Authority shall arrange for access to such Authority Software, funding of licence costs and making available user material where available to the Authority.

B6 Key Personnel

- B6.1 The Supplier acknowledges that Key Personnel are essential to the proper provision of the Services.
- B6.2 Key Personnel shall not be released from supplying the Services without Approval except by reason of long-term sickness, maternity leave, paternity leave or termination of employment or other similar extenuating circumstances.
- B6.3 The Authority may interview and assess any proposed replacement for Key Personnel and any replacements to Key Personnel are subject to Approval. Such replacements shall be of at least equal status, experience and skills to Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.
- B6.4 The Authority shall not unreasonably withhold approval under clauses B6.2 or B6.3. Such agreement is conditional on appropriate arrangements being made by the Supplier to minimise any adverse effect on the Services which could be caused by a change in Key Personnel.

B6.5 The Supplier shall:

- (a) notify the Authority promptly of the absence of any Key Personnel (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
- (b) ensure that any Key Role is not vacant for any longer than ten (10) Working Days;

B7 Key Personnel Management Structure

B7.1 The Supplier's management structure should include functions and Key Roles which cover the areas described in the table below. The exact structure, roles and organisation are matters for the Supplier to determine.

Function	Description of Role
Head of Education	The most senior member of the Supplier's staff and key Supplier contact for the Authority and/or Buyer as necessary, having the authority to make key decisions about service rectification and financial issues relating to the Service and overall responsibility for effective delivery and quality assurance of all Services.
Special Needs Coordinator	[As defined in Part 3, Regulation 50 of The Special Educational Needs and Disability Regulations 2014.

B8 Staff

B8.1 The Supplier shall ensure that all Staff shall:

- (a) be appropriately trained, qualified and experienced;
- (b) act in a responsible and professional manner;
- (c) deliver the Services with the due care and diligence expected of a skilled professional;
- (d) be vetted in accordance with Good Industry Practice and the Mandatory Policies; and
- (e) comply with all requirements and policies concerning conduct on the Authority Premises.

B8.2 The Supplier shall replace with alternative suitably qualified persons any Staff whom the Authority deems in its absolute discretion to be unsuitable to undertake work under a Contract.

B8.3 The Supplier shall provide a list of Supplier Personnel requiring access to the Authority Premises including the reasons access is required.

B8.4 The Supplier shall ensure that Staff respond flexibly and within agreed timescales set by the Authority in response to requests, including changes to planned Services or cancellations.

- B8.5 Staff shall not be expected to be involved in 'rub down' or 'wandering' of Learners entering or leaving the learning environment or movement of Learners other than within the learning environment.
- B8.6 The Supplier shall indemnify the Authority against all claims brought by any person arising from any breach of the Contract by the Supplier and/or any negligent act or omission of the Supplier or any Staff in connection with the provision of the Services.
- B8.7 The Authority may, by notice to the Supplier, refuse to admit onto, or withdraw permission to remain on, the Authority Premises:
- (a) any member of the Staff; or
 - (b) any person employed or engaged by any member of the Staff,
- whose admission or continued presence would, in the Authority's reasonable opinion, be undesirable.
- B8.8 The Supplier shall comply with all security requirements of the Authority while on the Authority Premises and ensure that all Staff comply with such requirements.
- B8.9 At the Authority's written request, the Supplier shall, at its own cost, provide a list of the names, addresses, national insurance numbers and immigration status of all people who may require admission to the Authority Premises, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Authority may reasonably request.
- B8.10 The Supplier shall ensure that all Staff who have access to the Authority Premises, the Authority System or the Authority Data have been cleared in accordance with the BPSS.
- B8.11 The Supplier shall co-operate with any investigation relating to security carried out by the Authority or on behalf of the Authority and, at the Authority's request:
- (a) use reasonable endeavours to make available any Staff requested by the Authority to attend an interview for the purpose of an investigation; and
 - (b) provide documents, records or other material in whatever form which the Authority may reasonably request or which may be requested on the Authority's behalf, for the purposes of an investigation.

B9 Head of Education

- B9.1 The Supplier shall appoint the Head of Education who, for the avoidance of doubt, shall be a Key Personnel.
- B9.2 The Supplier shall not remove or replace the Head of Education unless:
- (a) requested to do so by the Authority;
 - (b) the person is on long-term sick leave;
 - (c) the person resigns from their employment with the Supplier; or
 - (d) the Supplier obtains the prior written consent of the Authority.

- B9.3 The Supplier shall inform the Authority of the identity and background of any replacement for the Head of Education as soon as a suitable replacement has been identified. The Authority shall be entitled to interview any such person and may withhold its consent to any such proposed appointment if, in its reasonable opinion, it considers the proposed replacement to be unsuitable for any reason.
- B9.4 Any replacement shall be as, or more, qualified as the previous incumbent and fully competent to carry out the tasks assigned to the Head of Education whom he or she has replaced.

B10 Due Diligence

Save as the Authority may otherwise direct, the Supplier is deemed to have inspected the Sites (either in person or virtually) before submitting its Tender and to have completed due diligence in relation to all matters connected with the performance of its obligations under the Contract.

B11 Licence to Occupy

- B11.1 Any land or Authority Premises made available from time to time to the Supplier by the Authority in connection with the Contract are on a non-exclusive licence basis free of charge and are used by the Supplier solely for the purpose of performing its obligations under the Contract. The Supplier has the use of such land or Authority Premises as licensee and shall vacate the same on termination of the Contract.
- B11.2 The Supplier shall limit access to the land or Authority Premises to such Staff as is necessary for it to perform its obligations under the Contract and the Supplier shall co-operate (and ensure that its Staff co-operate) with other persons working concurrently on such land or Authority Premises as the Authority may reasonably request.
- B11.3 If the Supplier requires modifications to the land or Authority Premises such modifications are subject to Approval and shall be carried out by the Authority at the Supplier's cost. The Authority shall undertake Approved modification work without undue delay.
- B11.4 The Supplier shall (and shall ensure that any Staff on the Authority Premises shall) observe and comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when on the Authority Premises as determined by the Authority.
- B11.5 The Contract does not create a tenancy of any nature in favour of the Supplier or its Staff and no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to the Contract, the Authority may use the Authority Premises owned or occupied by it in any manner it sees fit.
- B11.6 If keys (including key cards) to any part of the Authority Premises are issued to the Supplier, the Supplier shall be deemed by this Contract to have given an undertaking that the keys will not be copied, lent or used by any person other than a person authorised in writing by the Supplier and the Supplier shall supply to the Authority the names and addresses of such authorised persons. It shall be the responsibility of the Supplier to ensure that the windows, doors or other access points opened or unsecured by the Staff be firmly closed and secured where necessary, both while the Services are being provided, and after any part of the Services have been provided, and that in the event that any failure to do so results in losses or other costs falling upon the Authority, such losses and costs shall be recoverable from the Supplier by the Authority. If any keys are lost by the Supplier, or Staff, then the Supplier shall immediately notify the Authority. The Supplier shall be liable for all losses, or other costs

falling upon the Authority as a result of the loss of such keys including the loss or damage to property and the costs of replacing locks and lost keys.

B12 Offers of Employment

B12.1 Neither Party shall, directly or indirectly, solicit or procure (otherwise than by general advertising or under TUPE, any employees or contractors (including the Staff) of the other Party who are directly employed or engaged in connection with the provision of the Services while such persons are employed or engaged and for a period of 6 Months thereafter.

B12.2 If either Party breaches the clause B12.1, it shall pay the other Party a sum equivalent to 20% of the annual base salary payable by the Party in breach in respect of the first year of person's employment.

B12.3 The Parties agree that the sum specified in clause B12.2 is a reasonable pre-estimate of the loss and damage which the party not in breach would suffer if there was a breach of clause B12.1

B13 Employment

B13.1 The Parties shall comply with the provisions of Schedule 18 (Staff Transfer).

B14 Preparedness to operate

B14.1 Mobilisation Plan

From and including the Commencement Date until immediately before the Services Commencement Date, the Supplier shall implement and comply with the Mobilisation Plan having followed the process set out at Schedule 13 (Mobilisation Plan) to ensure that the Services relating to the Core Common Curriculum Requirements are able to be provided on and from the Services Commencement Date.

B15 Notification of Delay

B15.1 Notice

Without prejudice to the Supplier's obligation to comply with the Mobilisation Plan, and notwithstanding clause A2.4, if at any time the Supplier becomes aware that there will be or is likely to be a delay such that any element of the Mobilisation Plan may not be delivered by the applicable date and/or the Services Commencement Date may not be achieved on or before the Services Commencement Date, the Supplier shall as soon as reasonably practicable and in any event within five (5) Working Days of becoming aware of the likely delay give notice to the Authority to that effect specifying the reason for the delay or likely delay and an estimate of the likely effect of the delay on the provision of the Services including the achievement of the Services Commencement Date.

B15.2 Supply of Information

Following service of a notice by the Supplier pursuant to clause B15.1 (Notice), the Supplier shall promptly supply to the Authority any further information relating to the delay which:

- (a) is received by the Supplier; or
- (b) is reasonably requested by the Authority.

B15.3 Additional Resources

In respect of any anticipated or actual delay, the Supplier shall, without prejudice to the Authority's other rights or remedies, take all remedial action that is reasonable to rectify or to prevent the delay from taking place or recurring (as appropriate).

B15.4 Duty to Mitigate

The Supplier shall take all reasonable steps to mitigate the delay and any consequences of the delay which is the subject of a notice pursuant to clause B15.1 (Notice).

B15.5 Liability for Delay

Without prejudice to the Supplier's obligation to comply with the Mobilisation Plan, and subject to clause A2.3, to the extent that the Supplier has failed to implement and comply with the Mobilisation Plan and as a consequence the Supplier is unable to provide the Services on or before the Services Commencement Date, the Authority, without prejudice to its or their other rights or remedies, may recover from the Supplier the costs reasonably incurred in making other arrangements for the provision of the Services up to the Services Commencement Date provided that in the payment of such compensation by the Supplier only the difference in cost between the amount that would have been paid by the Authority for the provision of the Services by the Supplier and amounts reasonably incurred by the Authority for the delivery of the Services by an alternative provider (which the Authority shall take reasonable steps to mitigate) shall be paid by the Supplier to the Authority. The amount which would have been paid to the Supplier shall, for the purposes of this clause B15.5 (Liability for Delay), be calculated on the basis of the Contract Price that would have been payable pursuant to Schedule 2 (Prices and Invoicing).

B16 Business Continuity

The Parties shall comply with the provisions of Schedule 12 (Business Continuity & Disaster Recovery).

B17 Innovation, Transformation and Service Improvement

B17.1 The Supplier shall produce prior to the start of the second (2nd) Contract Year and prior to the start of each subsequent Contract Year thereafter during the Term a plan for improving the provision of Services and/or reducing the Prices (without adversely affecting the performance of this Contract) during that Contract Year ("**Continuous Improvement Plan**") for the Authority's Approval. The Continuous Improvement Plan shall accompany and be produced to the same timetable as the Delivery Plan referred to in Schedule 19 (Contract Management).

B17.2 The Supplier shall have an ongoing obligation throughout the Term to identify new or potential improvements to the Services in accordance with this clause B17 (Innovation, Transformation and Service Improvement). As part of this obligation the Supplier shall report to the Authority's representative quarterly from the Services Commencement Date on:

- (a) the emergence of new and evolving relevant technologies which could improve any of the Services, and those technological advances potentially available to the Supplier or the Authority which the Authority may wish to adopt; and/or
- (b) new or potential improvements to any of the Services including the quality, responsiveness, procedures, likely performance mechanisms and customer support services in relation to the Services; and/or

- (c) new or potential improvements to the interfaces or integration of the Services which might result in efficiency or productivity gains or in reduction of operational risk; and/or
- (d) advances or improvements in the delivery of education that would result in greater educational attainment by Learners; and/or
- (e) changes in business processes and ways of working that would enable any of the Services to be delivered at lower costs and/or at greater benefits to the Authority.

B17.3 The Supplier 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 Supplier shall provide any further information that the Authority requests.

B17.4 If the Authority wishes to incorporate any improvement identified by the Supplier the Authority shall raise a Change.

C. PAYMENT

C1 Payment and VAT

C1.1 The Supplier shall submit invoices to the Authority in accordance with this clause C1 and Schedule 2 (Prices and Invoicing).

C1.2 A Valid Invoice is an invoice which includes the information set out in Part 2 of Schedule 2 (Prices and Invoicing) and, if requested by the Authority:

- (a) timesheets for Staff engaged in providing the Services signed and dated by the Authority's representative on the Site on the day;
- (b) the name of the individuals to whom the timesheet relates and hourly rates for each;
- (c) identification of which individuals are Supplier's staff and which are Sub-Contractors' staff;
- (d) the address of the Site and the date on which work was undertaken;
- (e) the time spent working on the Site by the individuals concerned;
- (f) details of the type of work undertaken by the individuals concerned;
- (g) details of plant or materials operated and on standby;
- (h) separate identification of time spent travelling and/or meal or rest breaks; and
- (i) if appropriate, details of journeys made and distances travelled.

C1.3 The Authority shall not pay an invoice which is not a Valid Invoice.

C1.4 The Authority shall not pay the Supplier's overhead costs unless Approved and overhead costs include, without limitation: facilities, utilities, insurance, tax, head office overheads, indirect staff costs and other costs not specifically and directly ascribable solely to the provision of the Services.

C1.5 Not used.

- C1.6 The Authority shall not pay for plant or equipment which is stood down during any notice period pursuant to clauses H1, H2 and/or H3 and the Supplier shall mitigate such costs as far as is reasonably possible, for example, by reutilising Staff, plant, materials and services on other contracts.
- C1.7 The Supplier may claim expenses only if they are clearly identified, supported by original receipts and Approved.
- C1.8 If the Authority pays the Supplier prior to the submission of a Valid Invoice this payment is on account of and deductible from the next payment to be made.
- C1.9 If any overpayment has been made or the payment or any part is not supported by a Valid Invoice the Authority may recover this payment against future invoices raised or directly from the Supplier. All payments made by the Authority to the Supplier are on an interim basis pending final resolution of an account with the Supplier in accordance with the terms of this clause C1.
- C1.10 The Supplier shall:
- (a) add VAT to the Price at the prevailing rate as applicable and show the amount of VAT payable separately on all invoices as an extra charge. If the Supplier fails to show VAT on an invoice, the Authority is not, at any later date, liable to pay the Supplier any additional VAT;
 - (b) ensure that a provision is included in all Sub-Contracts which requires payment to be made of all sums due to Sub-Contractors within 30 days from the receipt of a valid invoice; and
 - (c) not suspend the Services unless the Supplier is entitled to terminate the Contract under clause H2.3 for failure to pay undisputed sums of money.
- C1.11 The Supplier indemnifies the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Authority at any time in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under the Contract. Any amounts due under this clause C1.11 shall be paid by the Supplier to the Authority not less than 5 Working Days before the date upon which the tax or other liability is payable by the Authority.
- C1.12 The Authority shall:
- (a) in addition to the Price and following Receipt of a Valid Invoice, pay the Supplier a sum equal to the VAT chargeable on the value of the Services supplied in accordance with the Contract;
 - (b) pay all sums due to the Supplier within 30 days of Receipt of a Valid Invoice. Valid Invoices should be submitted for payment to the following address:

APinvoices-NMS-U@gov.sscl.com (the Authority's preferred option); or SSCL – National Offender Management Service, PO Box 741, Newport, Gwent, NP10 8FZ ;

and
 - (c) accept and process for payment Valid Invoices submitted for payment electronically if they comply with the standard on electronic invoicing.

- C1.13 For the purposes of clause C1.12 (c) an electronic invoice complies with the standard on electronic invoicing if it complies with the European standard and any of the syntaxes published in Commission Implementing decision (EU) 2017/1870.
- C1.14 Any late payment of undisputed invoices by the Authority will be subject to interest at the rate of a maximum of 3% above the base rate from time to time of Barclays Bank.
- C1.15 The Supplier shall ensure that all Sub-Contractors are paid, in full, within thirty (30) days of receipt of a valid, undisputed invoice.
- C1.16 Notwithstanding any provision of clause D4 (Confidential Information), if the Supplier fails to pay a Sub-Contractor's invoice in accordance with clause C1.15, the Authority shall be entitled to publish the details of the late payment or non-payment (including on government websites and in the press).
- C1.17 If the Authority is able to obtain from any Sub-Contractor or any other third party more favourable commercial terms with respect to the supply of any materials, goods or services used by the Supplier in the supply of the Services, then the Authority may:
- (a) require the Supplier to replace its existing commercial terms with its Sub-Contractor with the more favourable commercial terms obtained by the Authority in respect of the relevant item; or
 - (b) enter into a direct agreement with that Sub-Contractor or third party in respect of the relevant item.
- C1.18 The Supplier may submit invoices in arrears no earlier than the first day of the month following the month in which the Services were performed.

C2 Recovery of Sums Due

- C2.1 If under the Contract any sum of money is recoverable from or payable by the Supplier to the Authority (including any sum which the Supplier is liable to pay to the Authority in respect of any breach of the Contract), the Authority may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Supplier from the Authority under the Contract or under any other agreement with the Authority or the Crown.
- C2.2 Any overpayment by either Party, whether of the Price or of VAT or otherwise, is a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.
- C2.3 The Supplier shall make all payments due to the Authority without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Supplier has a valid court order requiring an amount equal to such deduction to be paid by the Authority to the Supplier.
- C2.4 All payments due shall be made within a reasonable time unless otherwise specified in the Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.

D. PROTECTION OF INFORMATION

D1 Authority Data

D1.1 The Supplier shall:

- (a) not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Supplier of its obligations under the Contract or as otherwise Approved;
- (b) preserve the integrity of Authority Data and prevent the corruption or loss of Authority Data;
- (c) not delete or remove any proprietary notices contained within or relating to the Authority Data;
- (d) to the extent that Authority Data is held and/or processed by the Supplier, supply Authority Data to the Authority as requested by the Authority in the format specified in the Specification;
- (e) perform secure back-ups of all Authority Data and ensure that up-to-date back-ups are stored securely off-site. The Supplier shall ensure that such back-ups are made available to the Authority immediately upon request;
- (f) ensure that any system on which the Supplier holds any Authority Data, including back-up data, is a secure system that complies with the Security Policy Framework;
- (g) identify, and disclose to the Authority on request those members of Staff with access to or who are involved in handling Authority Data;
- (h) on request, give the Authority details of its policy for reporting, managing and recovering from information risk incidents, including losses of Personal Data, and its procedures for reducing risk;
- (i) notify the Authority immediately and inform the Authority of the remedial action the Supplier proposes to take if it has reason to believe that Authority Data has or may become corrupted, lost or sufficiently degraded in any way for any reason; and
- (j) comply with Schedule 6 (Information Assurance & Security).

D1.2 If Authority Data is corrupted, lost or sufficiently degraded as a result of the Supplier's Default so as to be unusable, the Authority may:

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

D2 Data Protection and Privacy

D2.1 The Parties acknowledge that for the purposes of Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under this Contract will determine the status of each Party under the Data Protection Legislation. A

Party may act as:

- (a) “Controller” (where the other Party acts as the “Processor”);
- (b) “Processor” (where the other Party acts as the “Controller”);
- (c) “Joint Controller” (where both Parties are considered to jointly control the same Personal Data); or
- (d) “Independent Controller” of the Personal Data where the other Party is also “Controller” of the same Personal Data in its own right (but there is no element of joint control);

and the Parties shall set out in Schedule 9 (Data Processing) which scenario or scenarios are intended to apply under this Contract.

Where the Authority is Controller and the Supplier its Processor

D2.2 Where the Supplier is Processor, the only processing that it is authorised to do is listed in Schedule 9 (Data Processing) by the Authority.

D2.3 The Supplier shall:

- (a) notify the Authority immediately if it considers any Authority instructions infringe the Data Protection Legislation;
- (b) at its own cost, provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to starting any processing. Such assistance may, at the Authority’s discretion, include:
 - i) a systematic description of the envisaged processing operations and the purpose of the processing;
 - ii) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - iii) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - iv) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data
- (c) in relation to any Personal Data processed in connection with its obligations under the Contract:
 - i) process that Personal Data only in accordance with Schedule 9 (Data Processing) unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;
 - ii) ensure that it has in place Protective Measures which are appropriate to protect against a Data Loss Event having taken account of the nature of the data to be protected, harm that might result from a Data Loss Event, the state of technological development and the cost of implementing any measures;
- (d) ensure that:

- i) Staff do not process Personal Data except in accordance with the Contract (and in particular Schedule 9 (Data Processing));
- ii) it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to Personal Data and ensure that they:
 - A) are aware of and comply with the Supplier's duties under this clause D2;
 - B) are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;
 - C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Authority or as otherwise allowed under the Contract;
 - D) have undergone adequate training in the use, care, protection and handling of the Personal Data
- (e) not transfer Personal Data outside the UK unless Approved and:
 - i) the Authority or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or s.75 of the DPA) as determined by the Authority;
 - ii) the Data Subject has enforceable rights and effective legal remedies;
 - iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Authority in meeting its obligations); and
 - iv) the Supplier complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;
- (f) at the written direction of the Authority, delete or return Personal Data (and any copies of it) to the Authority on termination of the Contract unless the Supplier is required by Law to retain the Personal Data;
- (g) subject to clause D2.4, notify the Authority immediately if it:
 - i) receives a Data Subject Request (or purported Data Subject Request);
 - ii) receives a request to rectify, block or erase any Personal Data;
 - iii) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - iv) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under the Contract;

- v) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- vi) becomes aware of a Data Loss Event.

D2.4 The Supplier's obligation to notify under clause D2.3 (g) includes the provision of further information to the Authority in phases as details become available.

D2.5 Taking into account the nature of the processing, the Supplier shall provide the Authority with full assistance in relation to either Party's obligations under the Data Protection Legislation and any complaint, communication or request made under clause D2.3 (g) (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:

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

D2.6 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause D2.

D2.7 The Supplier shall allow audits of its Data Processing activity by the Authority or the Authority's designated auditor.

D2.8 The Supplier shall designate a Data Protection Officer if required by the Data Protection Legislation.

D2.9 Before allowing any Sub-processor to process any Personal Data in connection with the Contract, the Supplier shall:

- (a) notify the Authority in writing of the intended Sub-processor and processing;
- (b) obtain Approval;
- (c) enter into a written agreement with the Sub-processor which gives effect to the terms set out in this clause D2 such that they apply to the Sub-processor; and
- (d) provide the Authority with such information regarding the Sub-processor as the Authority reasonably requires.

D2.10 The Supplier remains fully liable for the acts and omissions of any Sub-processor.

D2.11 Notwithstanding the provisions of clause E4, the Authority may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to

processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).

D2.12 The Parties shall take account of any guidance published by the Information Commissioner's Office and, notwithstanding the provisions of clause F4, the Authority may on not less than 30 Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance published by the Information Commissioner's Office.

Where the Parties are Joint Controllers of Personal Data

D2.13 In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall comply with the terms set out in Annex 1 to Schedule 9 (Data Processing).

Where the Parties are Independent Controllers of Personal Data

D2.14 With respect to Personal Data provided by one Party to the other Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their processing of such Personal Data as Controller.

D2.15 Each Party shall process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.

D2.16 Where a Party has provided Personal Data to the other Party in accordance with clause D2.14, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.

D2.17 The Parties shall be responsible for their own compliance with Articles 13 and 14 GDPR in respect of the processing of Personal Data for the purposes of the Contract.

D2.18 Each Party shall only provide Personal Data to the other Party:

- (a) to the extent necessary to perform the respective obligations under the Contract;
- (b) in compliance with the Data Protection Legislation (including by ensuring all required fair processing information has been given to affected Data Subjects); and
- (c) where it has recorded it in Schedule 9 (Data Processing).

D2.19 Each Party shall, with respect to its processing of Personal Data as independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the GDPR.

D2.20 Each shall maintain a record of its Personal Data processing activities under the Contract in accordance with Article 30 GDPR and shall make the record available to the other Party upon reasonable request.

D2.21 Where either Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract ("**the Request Recipient**");

- (a) the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
- (b) where the request or correspondence is directed to the other party and/or relates to the other party's Processing of the Personal Data, the Request Recipient will:
 - i) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
 - ii) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.

D2.22 Each party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other party pursuant to the Contract and shall:

- (a) do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
- (b) implement any measures necessary to restore the security of any compromised Personal Data;
- (c) work with the other Party to make any required notifications to the Information Commissioner's Office and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
- (d) not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.

D2.23 Notwithstanding the general application of clauses D2.2 to D2.12 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with clauses D2.14 to D2.22.

D2.24 This clause D2 applies during the Term and indefinitely after its expiry.

D3 Official Secrets Acts and Finance Act

D3.1 The Supplier shall comply with:

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

D4 Confidential Information

D4.1 Except to the extent set out in this clause D4 or if disclosure or publication is expressly allowed elsewhere in the Contract each Party shall treat all Confidential Information belonging to the other Party as confidential and shall not disclose any Confidential Information belonging to the other Party to any other person without the other Party's consent, except to such persons and to such extent as may be necessary for the performance of the Party's obligations under the Contract.

- D4.2 The Supplier hereby gives its consent for the Authority to publish the whole Contract (but with any information which is Confidential Information belonging to the Authority redacted) including from time to time agreed changes to the Contract, to the general public.
- D4.3 If required by the Authority, the Supplier shall ensure that Staff, professional advisors and consultants sign a non-disclosure agreement prior to commencing any work in connection with the Contract in a form approved by the Authority. The Supplier shall maintain a list of the non-disclosure agreements completed in accordance with this clause D4.3.
- D4.4 If requested by the Authority, the Supplier shall give the Authority a copy of the list and, subsequently upon request by the Authority, copies of such of the listed non-disclosure agreements as required by the Authority. The Supplier shall ensure that Staff, professional advisors and consultants are aware of the Supplier's confidentiality obligations under the Contract.
- D4.5 The Supplier may disclose the Authority's Confidential Information only to Staff who are directly involved in providing the Services and who need to know the information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality.
- D4.6 The Supplier shall not, and shall procure that the Staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes of the Contract.
- D4.7 Clause D4.1 shall not apply to the extent that:
- (a) such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the EIR;
 - (b) such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
 - (c) such information was obtained from a third party without obligation of confidentiality;
 - (d) such information was already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or
 - (e) it is independently developed without access to the other Party's Confidential Information.
- D4.8 Nothing in clause D4.1 prevents the Authority disclosing any Confidential Information obtained from the Supplier:
- (a) for the purpose of the examination and certification of the Authority's accounts;
 - (b) for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
 - (c) to Parliament and Parliamentary committees;
 - (d) to any Crown Body or any Contracting Authority and the Supplier hereby acknowledges that all government departments or Contracting Authorities receiving such Confidential Information may further disclose the Confidential Information to other government departments or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any Contracting Authority; or

(e) to any consultant, contractor or other person engaged by the Authority

provided that in disclosing information under clauses D4.8 (d) and (e) the Authority discloses only the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.

D4.9 Nothing in clauses D4.1 to D4.6 prevents either Party from using any techniques, ideas or Know-How gained during the performance of its obligations under the Contract in the course of its normal business, to the extent that this does not result in a disclosure of the other Party's Confidential Information or an infringement of the other Party's Intellectual Property Rights.

D4.10 The Authority shall use reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or Sub-Contractor to whom the Supplier's Confidential Information is disclosed pursuant to clause D4.8 is made aware of the Authority's obligations of confidentiality.

D4.11 If the Supplier does not comply with clauses D4.1 to D4.8 the Authority may terminate the Contract immediately on notice.

D4.12 To ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the supply of the Services, the Supplier shall maintain adequate security arrangements that meet the requirements of professional standards and best practice.

D4.13 The Supplier shall:

- (a) immediately notify the Authority of any breach of security in relation to Confidential Information and all data obtained in the supply of the Services and will keep a record of such breaches;
- (b) use best endeavours to recover such Confidential Information or data however it may be recorded;
- (c) co-operate with the Authority in any investigation as a result of any breach of security in relation to Confidential Information or data; and
- (d) at its own expense, alter any security systems at any time during the Term at the Authority's request if the Authority reasonably believes the Supplier has failed to comply with clause D4.12.

D5 Freedom of Information

D5.1 The Supplier acknowledges that the Authority is subject to the requirements of the FOIA and the EIR.

D5.2 The Supplier shall transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within 2 Working Days of receipt and shall:

- (a) give the Authority a copy of all Information in its possession or control in the form that the Authority requires within 5 Working Days (or such other period as the Authority may specify) of the Authority's request;
- (b) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and EIR; and

- (c) not respond to directly to a Request for Information unless authorised to do so in writing by the Authority.

D5.3 The Authority shall determine in its absolute discretion and notwithstanding any other provision in the Contract or any other agreement whether the Commercially Sensitive Information and any other Information is exempt from disclosure in accordance with the FOIA and/or the EIR.

D6 Publicity, Branding and Media

D6.1 The Supplier shall not:

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

without Approval.

D6.2 Each Party acknowledges that nothing in the Contract either expressly or impliedly constitutes an endorsement of any products or services of the other Party (including the Services and the ICT Environment) and each Party shall not conduct itself in such a way as to imply or express any such approval or endorsement.

D6.3 The Supplier shall use reasonable endeavours to ensure that its Staff and professional advisors comply with clause D6.1.

E. INTELLECTUAL PROPERTY

E1 Intellectual Property Rights

E1.1 Each Party shall keep ownership of its own Existing IPR. The Supplier gives the Authority a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR used in connection with the Services to enable it to:

- (a) receive and use the Services;
- (b) make use of services provided by a Replacement Supplier to enable a smooth transfer of services to the Replacement Supplier; and
- (c) make use of services provided by any other providers of education services (subject to the prior consent of the Supplier which shall not be unreasonably withheld or delayed).

E1.2 Where the Authority makes available to the Supplier the use of Authority procured software, any use of such software shall be on and subject to the terms of such licences as are applicable to such software.

E1.3 Any New IPR created under this Contract shall be owned by the Authority. The Authority gives the Supplier a licence to use:

- (a) any Authority Existing IPR for the purpose of fulfilling its obligations under this Contract during the Term;
- (b) any New IPR on a non-exclusive, perpetual, royalty-free, worldwide and irrevocable basis including the right for the Supplier to sub-license, transfer, novate or assign to third parties for any purpose including (without limit) commercial exploitation of the same.

E1.4 Where a Party acquires ownership of IPRs that is inconsistent with the allocation of title set out under this Contract, it shall assign in writing such IPRs as it has acquired to the other Party on request and at its own cost do all things reasonably necessary to complete such transfer.

E1.5 Neither Party shall have the right to use the other Party's IPR, including any use of the other Party's names, logos or trademarks, except as provided in this clause E or otherwise agreed in writing.

E1.6 All Intellectual Property Rights in:

- (a) the Results; or
- (b) any guidance, specifications, reports, studies, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material which is furnished to or made available to the Supplier by or on behalf of the Authority (together with the Results, the "**IP Materials**")

shall vest in the Authority (save for Copyright and Database Rights which shall vest in Her Majesty the Queen) and the Supplier shall not, and shall ensure that the Staff shall not, use or disclose any IP Materials without Approval save to the extent necessary for performance by the Supplier of its obligations under the Contract.

E1.7 The Supplier hereby assigns:

- (a) to the Authority, with full title guarantee, all Intellectual Property Rights (save for Copyright and Database Rights) which may subsist in the IP Materials. This assignment shall take effect on the date of the Contract or (in the case of rights arising after the date of the Contract) as a present assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights produced by the Supplier; and
- (b) to Her Majesty the Queen, with full title guarantee, all Copyright and Database Rights which may subsist in the IP Materials and shall execute all documents and do all acts as are necessary to execute these assignments.

E1.8 The Supplier shall:

- (a) waive or procure a waiver of any moral rights held by it or any third party in copyright material arising as a result of the Contract or the performance of its obligations under the Contract;
- (b) ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Services grants to the Authority a non-exclusive licence or, if itself a licensee of those rights, shall grant to the Authority an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty-free, worldwide and irrevocable and shall include the right for the Authority to

sub-license, transfer, novate or assign to other Contracting Authorities, the Crown, the Replacement Supplier or to any other third party supplying goods and/or services to the Authority ("**Indemnified Persons**");

- (c) not infringe any Intellectual Property Rights of any third party in supplying the Services; and
- (d) during and after the Term, indemnify and keep indemnified the Authority and Indemnified Persons from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority and Indemnified Persons may suffer or incur as a result of or in connection with any breach of this clause E1.8, except to the extent that any such claim results directly from:
 - i) items or materials based upon designs supplied by the Authority; or
 - ii) the use of data supplied by the Authority which is not required to be verified by the Supplier under any provision of the Contract.

E1.9 The Authority shall notify the Supplier in writing of any claim or demand brought against the Authority or Indemnified Person for infringement or alleged infringement of any Intellectual Property Right in materials supplied and/or licensed by the Supplier to the Authority.

E1.10 The Supplier shall at its own expense conduct all negotiations and any litigation arising in connection with any claim, demand or action by any third party for infringement or alleged infringement of any third party Intellectual Property Rights (whether by the Authority, the Supplier or Indemnified Person) arising from the performance of the Supplier's obligations under the Contract ("**Third Party IP Claim**"), provided that the Supplier shall at all times:

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

E1.11 The Authority shall, at the request of the Supplier, afford to the Supplier all reasonable assistance for the purpose of contesting any Third-Party IP Claim and the Supplier shall indemnify the Authority for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Supplier shall not be required to indemnify the Authority under this clause E1.11 in relation to any costs and expenses to the extent that such arise directly from the matters referred to in clauses E1.8 (d) i) and ii).

E1.12 The Authority shall not, without the Supplier's consent, make any admissions which may be prejudicial to the defence or settlement of any Third-Party IP Claim.

E1.13 If any Third-Party IP Claim is made or in the reasonable opinion of the Supplier is likely to be made, the Supplier shall notify the Authority and any relevant Indemnified Person, at its own expense and subject to Approval (not to be unreasonably withheld or delayed), shall (without prejudice to the rights of the Authority under clauses E1.8 (b) and G2.1 (g)) use its best endeavours to:

- (a) modify any or all of the Services without reducing the performance or functionality of the same, or substitute alternative services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement; or

- (b) procure a licence to use the Intellectual Property Rights and supply the Services which are the subject of the alleged infringement, on terms which are acceptable to the Authority

and if the Supplier is unable to comply with clauses E1.13 (a) or (b) within 20 Working Days of receipt by the Authority of the Supplier's notification the Authority may terminate the Contract immediately by notice to the Supplier.

E1.14 The Supplier grants to the Authority and, if requested by the Authority, to a Replacement Supplier, a royalty-free, irrevocable, worldwide, non-exclusive licence (with a right to sub-license) to use any Intellectual Property Rights that the Supplier owned or developed prior to the Commencement Date and which the Authority (or the Replacement Supplier) reasonably requires in order for the Authority to exercise its rights under, and receive the benefit of, the Contract (including, without limitation, the Services).

F. CONTROL OF THE CONTRACT

F1 Contract Performance

F1.1 The Supplier shall immediately inform the Authority if any of the Services are not being or are unable to be performed, the reasons for non-performance, any corrective action and the date by which that action will be completed.

F1.2 At or around 6 Months from the Commencement Date and each anniversary of the Commencement Date thereafter, the Authority may carry out a review of the performance of the Supplier (a "**Review**"). Without prejudice to the generality of the foregoing, the Authority may in respect of the period under review consider such items as (but not limited to):

- (a) the Supplier's delivery of the Services;
- (b) the Supplier's contribution to innovation in the Authority; whether the Services provide the Authority with best value for money; consideration of any changes which may need to be made to the Services;
- (c) a review of future requirements in relation to the Services; and
- (d) progress against key milestones.

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

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

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

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

F1.7 Actions required to resolve shortcomings and implement improvements (either as a consequence of the Supplier's failure to meet its obligations under the Contract identified by the Review Report, or those which result from the Supplier's failure to meet the Authority's

expectations notified to the Supplier or of which the Supplier ought reasonably to have been aware) shall be implemented at no extra cost to the Authority.

F2 Remedies

F2.1 If the Authority reasonably believes:

- (a) the Supplier has committed a Material Breach it may, without prejudice to its other rights and remedies (including under clause H2 (Default)), do any of the following:
 - i) without terminating the Contract, itself supply or procure the supply of all or part of the Services until such time as the Supplier has demonstrated to the Authority's reasonable satisfaction that the Supplier will be able to supply the Services in accordance with the Specification;
 - ii) without terminating the whole of the Contract, terminate the Contract in respect of part of the Services only (whereupon a corresponding reduction in the Price shall be made) and thereafter itself supply or procure a third party to supply such part of the Services;
 - iii) terminate the Contract in accordance with clause H2.
- (b) the Supplier has not provided the Services in accordance with this Contract, it may, without prejudice to its other rights and remedies (including under clause H2 (Default)), withhold or reduce payments to the Supplier in such amount as the Authority reasonably deems appropriate in each particular case.

F2.2 Without prejudice to its right under clause C2 (Recovery of Sums Due), the Authority may charge the Supplier for any costs reasonably incurred and any reasonable administration costs in respect of the supply of any part of the Services by the Authority or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Supplier for such part of the Services.

F3 Transfer and Sub-Contracting

F3.1 Except where both clauses F3.10 and F3.11 apply, the Supplier shall not transfer, charge, assign, sub-contract or in any other way dispose of the Contract or any part of it without Approval. All such actions shall be evidenced in writing and shown to the Authority on request. Sub-contracting any part of the Contract does not relieve the Supplier of any of its obligations or duties under the Contract.

F3.2 By entering into this Contract, the Authority Approves the Sub-Contractors appointed by the Supplier and listed in Schedule 24 (Approved Sub-Contractors) as at the date of this Contract and in the event that the Authority subsequently Approves additional Sub-Contractors pursuant to clause F3.1, such schedule shall be amended to include the name of such Approved Sub-Contractor.

F3.3 The Supplier is responsible for the acts and/or omissions of its Sub-Contractors as though they are its own. If it is appropriate, the Supplier shall provide each Sub-Contractor with a copy of the Contract and obtain written confirmation from them that they will provide the Services fully in accordance with the Contract.

F3.4 The Supplier shall ensure that Sub-Contractors retain all records relating to the Services for at least 6 years from the date of their creation and make them available to the Authority on request in accordance with clause F5 (Audit). If any Sub-Contractor does not allow the Authority access to the records then the Authority shall have no obligation to pay any claim

or invoice made by the Supplier on the basis of such documents or work carried out by the Sub-Contractor.

F3.5 If the Authority has consented to the award of a Sub-Contract, the Supplier shall ensure that:

- (a) the Sub-Contract contains:
 - i) a right for the Supplier to terminate the Sub-Contract if the Sub-Contractor does not comply with its legal obligations in connection with Data Protection Legislation, environmental, social or labour law; and
 - ii) obligations no less onerous on the Sub-Contractor than those on the Supplier under the Contract in respect of data protection in clause D1 and D2
- (b) the Sub-Contractor includes a provision having the same effect as set out in clause F3.5 (a) in any Sub-Contract which it awards; and
- (c) copies of each Sub-Contract are sent to the Authority immediately after their execution.

F3.6 Unless Approved otherwise, the Supplier shall, in respect of Sub-Contract opportunities arising during the Term from or in connection with the provision of the Goods and/or Services:

- (a) advertise on Contracts Finder those that have a value in excess of £25,000;
- (b) within 90 days of awarding a Sub-Contract, update the notice on Contracts Finder with details of the Sub-Contractor;
- (c) monitor the number, type and value of the Sub-Contract opportunities placed on Contracts Finder and awarded during the Term;
- (d) provide reports on the information in clause F3.6 (c) to the Authority in the format and frequency reasonably specified by the Authority;
- (e) promote Contracts Finder to its suppliers and encourage them to register on Contracts Finder; and
- (f) ensure that each advertisement placed pursuant to F3.6 (a) includes a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder.

F3.7 The Supplier shall, at its own cost, supply to the Authority by the end of each Financial Year during the Term, for the previous Financial Year:

- (a) the total revenue received from the Authority pursuant to the Contract;
- (b) the total value of all its Sub-Contracts;
- (c) the total value of its Sub-Contracts with SMEs; and
- (d) the total value of its Sub-Contracts with VCSEs.

F3.8 The Authority may from time to time change the format and the content of the information required pursuant to clause F3.7.

- F3.9 If the Authority believes there are:
- (a) compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the Supplier shall replace or not appoint the Sub-Contractor; or
 - (b) non-compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the Authority may require the Supplier to replace or not appoint the Sub-Contractor and the Supplier shall comply with such requirement.
- F3.10 Notwithstanding clause F3.1, the Supplier may assign to a third party (the “**Assignee**”) the right to receive payment of the Price or any part thereof due to the Supplier (including any interest which the Authority incurs under clause C1 (Payment and VAT)). Any assignment under this clause F3.10 is subject to:
- (a) reduction of any sums in respect of which the Authority exercises its right of recovery under clause C2 (Recovery of Sums Due);
 - (b) all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and
 - (c) the Authority receiving notification under both clauses F3.11 and F3.12.
- F3.11 If the Supplier assigns the right to receive the Price under clause F3.10, the Supplier or the Assignee shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.
- F3.12 The Supplier shall ensure that the Assignee notifies the Authority of the Assignee’s contact information and bank account details to which the Authority can make payment.
- F3.13 Clause C1 continues to apply in all other respects after the assignment and shall not be amended without Approval.
- F3.14 Subject to clause F3.15, the Authority may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:
- (a) any Contracting Authority;
 - (b) any other body established or authorised by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or
 - (c) any private sector body which substantially performs the functions of the Authority
- provided that any such assignment, novation or other disposal shall not increase the burden of the Supplier’s obligations under the Contract.
- F3.15 Any change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not, subject to clause F3.16, affect the validity of the Contract and the Contract shall bind and inure to the benefit of any successor body to the Authority.
- F3.16 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to clause F3.14 to a body which is not a Contracting Authority or if there is a

change in the legal status of the Authority such that it ceases to be a Contracting Authority (in the remainder of this clause both such bodies being referred to as the "**Transferee**"):

- (a) the rights of termination of the Authority in clauses H1 and H2 are available to the Supplier in respect of the Transferee; and
- (b) the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the prior consent in writing of the Supplier.

F3.17 The Authority may disclose to any Transferee any Confidential Information of the Supplier which relates to the performance of the Supplier's obligations under the Contract. In such circumstances the Authority shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Supplier's obligations under the Contract and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.

F3.18 Each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure the carrying out of, whatever further actions (including the execution of further documents) the other Party reasonably requires from time to time for the purpose of giving that other Party the full benefit of the Contract.

F4 Change

F4.1 The Parties acknowledge and agree that Changes shall only be made in accordance with this clause F4.

F4.2 Either Party may request a Change subject to the terms of this clause F4.

F4.3 Either Party may request a Change by notifying the other Party in writing of the Change by completing the Change Request Form set out in Schedule 3 (Change Control). The Party requesting the Change shall give the other Party sufficient information and time to assess the extent and effect of the requested Change.

F4.4 Where:

- (a) the Authority requests a Change, the Supplier shall carry out an Impact Assessment in respect of the same and provide the Authority with such Impact Assessment within 20 Working Days following receipt of the request for a Change; and
- (b) the Supplier requests a Change, it shall provide an Impact Assessment to the Authority at the same time as requesting the Change.

F4.5 If the Party receiving the request for a Change is:

- (a) the Authority and the Authority accepts the Change, it shall confirm it in writing to the Supplier;
- (b) the Supplier, the Supplier shall:
 - i) notify the Authority that it can accept the Change as requested, and in which case the Authority shall confirm in writing that the Change is binding; or
 - ii) notify the Authority that it can only accept the Change under certain circumstances, in which case, the Supplier shall provide an amended request for Change to the Authority and the Authority shall either suggest amendments

in which case such amended request for Change shall follow the process in this clause F4 or the Authority shall refuse the amended request for in which case clause F4.6 shall apply.

- F4.6 If the Supplier is unable to accept a Change requested by the Authority or if the Parties are unable to agree a change to the Price, the Authority may:
- (a) allow the Supplier to fulfil its obligations under the Contract without the Change; or
 - (b) terminate the Contract immediately except where the Supplier has already delivered all or part of the Services or where the Supplier can show evidence of substantial work being carried out to fulfil the requirements of the Specification; and in such case the Parties shall attempt to agree upon a resolution to the matter. If a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution procedure detailed in clause I1 (Dispute Resolution).
- F4.7 A Change takes effect only when it is recorded in a CCN validly executed by both Parties.
- F4.8 The Supplier is deemed to warrant and represent that the CCN has been executed by a duly authorised representative of the Supplier in addition to the warranties and representations set out in clause G2.
- F4.9 Clauses F4.7 and F4.8 may be varied in an emergency if it is not practicable to obtain the Authorised Representative's approval within the time necessary to make the Change in order to address the emergency. In an emergency, Changes may be approved by a different representative of the Authority. However, the Authorised Representative may review such a Change and require a CCN to be entered into on a retrospective basis which may itself vary the emergency Change.

F5 Audit

- F5.1 The Supplier shall:
- (a) keep and maintain until 6 years after the end of the Term, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Services supplied under it, all expenditure reimbursed by the Authority, and all payments made by the Authority;
 - (b) on request afford the Authority or the Authority's representatives such access to those records and processes as may be requested by the Authority in connection with the Contract;
 - (c) make available to the Authority, free of charge, whenever requested, copies of audit reports obtained by the Supplier in relation to the Services;
 - (d) allow authorised representatives of the Authority and/or the National Audit Office to examine the Supplier's records and documents relating to the Contract and provide such copies and oral or written explanations as may reasonably be required; and
 - (e) allow the Comptroller and Auditor General (and his appointed representatives) access free of charge during normal business hours on reasonable notice to all such documents (including computerised documents and data) and other information as the Comptroller and Auditor General may reasonably require for the purposes of his financial audit of the Authority and for carrying out examinations into the economy, efficiency and effectiveness with which the Authority has used its resources. The

Supplier shall provide such explanations as are reasonably required for these purposes.

F6 Annual Service Delivery Plan

F6.1 Delivery of Annual Delivery Plan

- (a) The Supplier shall, on or before the date which is two (2) Months before each anniversary of the Services Commencement Date, provide to the Authority's Representative a plan (the "**Annual Delivery Plan**") to show how it will provide the Services in the next twelve months.
- (b) The Supplier shall ensure that each Annual Delivery Plan shall contain:
 - i) the Supplier's staff handbook;
 - ii) utilisation rates of the Supplier's Staff used by the Supplier to provide the Services;
 - iii) the delivery plan requirements set out in Schedule 19 (Contract Management); and
 - iv) such other information as the Authority may reasonably request from time to time.

F6.2 Approval of Annual Delivery Plan (first twelve months following Service Commencement Date)

- (a) The initial draft Annual Delivery Plan is set out in Schedule 25 (Draft Annual Delivery Plan).
- (b) Within twenty (20) Working Days after the Commencement Date, in respect of the draft Annual Delivery Plan in Schedule 23 (Draft Annual Delivery Plan) in respect of the first Contract Year, the Authority's Representative shall either:
 - i) issue a certificate (the "**ADP Approval Certificate**") confirming that the Annual Delivery Plan has been produced in accordance with the requirements of the Contract; or
 - ii) issue a notice (an "**ADP Notice of Non-Compliance**") stating that the ADP Approval Certificate has not been issued, specifying the grounds on which the ADP Notice of Non-Compliance is based (provided that such grounds shall be one or more of the grounds set out in clause F6.2(c) (Approval of Annual Delivery Plan (first twelve months **following Service Commencement Date**)) and specifying any matters that must be attended to before the ADP Approval Certificate can be issued.
- (c) The Authority may object to any Annual Delivery Plan on any of the following grounds (the "**ADP Grounds of Objection**"):
 - i) the Annual Delivery Plan has not been prepared in accordance with Good Industry Practice;

- ii) the performance of the Services in accordance with the proposed Annual Delivery Plan would:
 - A) be unlikely to comply with the requirements of this Contract;
 - B) be likely to have an adverse effect on the safety and/or security of any Young People, Personnel or the Staff; or
 - C) be likely to cause the Authority to incur additional expense; or
- iii) the Annual Delivery Plan would, if implemented, result in an inferior standard of performance of the relevant Services to the standard of performance required by the provisions of this Contract and the Authority's Requirements.
- (d) Following receipt of an ADP Notice of Non-Compliance, the Supplier shall attend to such outstanding matters referred to in the ADP Notice of Non-Compliance and shall deliver the revised Annual Delivery Plan to the Authority's Representative within ten (10) Working Days after receipt of the ADP Notice of Non-Compliance so that the procedure in clause F6.2 (a) i) (Approval of Annual Delivery Plan (first twelve months **following Service Commencement Date**)) is repeated as often as necessary to ensure that all outstanding matters in relation to the Annual Delivery Plan are attended to and the ADP Approval Certificate can be issued in accordance with clause F6.2 (a) i) (Approval of Annual Delivery Plan (first twelve months **following Service Commencement Date**)).

F6.3 Annual Delivery Plan (subsequent years)

- (a) Within twenty (20) Working Days after receipt of the Annual Delivery Plan (other than in respect of the first twelve months of service), the Authority's Representative may object to the Annual Delivery Plan, specifying the grounds of objection (provided that such grounds shall be one or more of the ADP Grounds of Objection) and specifying any outstanding matters that must be attended to.
- (b) Where the Authority objects to the Annual Delivery Plan pursuant to clause F6.3 (a) (Annual Delivery Plan (subsequent years)), the Supplier shall attend to such outstanding matters and shall deliver a revised Annual Delivery Plan to the Authority's Representative within ten (10) Working Days so that the procedure in clause F6.3 (a) (Annual Delivery Plan (subsequent years)) is repeated as often as necessary to ensure that all outstanding matters in relation to the Annual Delivery Plan are attended to.
- (c) In each twelve month period following the Services Commencement Date, for as long as there remain any outstanding matters pursuant to clauses F6.3 (a) (Annual Delivery Plan (subsequent years)) and F6.3 (b) (Annual Delivery Plan (subsequent years)), the Annual Delivery Plan from the preceding twelve month period shall continue to apply.

F6.4 Management and Monitoring of the Annual Delivery Plan

- (a) The Annual Delivery Plan shall be managed and monitored in accordance with Schedule 19 (Contract Management).

G. LIABILITIES

G1 Liability, Indemnity and Insurance

G1.1 Neither Party limits its liability for:

- (a) death or personal injury caused by its negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) any breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;
- (d) any breach of clauses D1, D2 or D4 or Schedules 6 (Information Assurance & Security) or 8 (Statutory Obligations and Corporate Social Responsibility)]; or
- (e) the indemnities set out at clauses C1.11 or E1.8(d);
- (f) any liability to the extent it cannot be limited or excluded by Law.

G1.2 Subject to clauses G1.3 and G1.5, the Supplier indemnifies the Authority fully against all claims, proceedings, demands, charges, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which may arise out of the supply, or the late or purported supply, of the Services or the performance or non-performance by the Supplier of its obligations under the Contract or the presence of the Supplier or any Staff on the Sites, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Supplier, or any other loss which is caused directly by any act or omission of the Supplier.

G1.3 Subject to clause G1.1 the Supplier's liability in respect of Losses incurred in each Contract Year shall be limited to an amount which is the equivalent of the higher of:

- (a) the equivalent of 150% of the Price paid and payable in that Contract Year as though the Contract has been performed; and
- (b) [REDACTED]

G1.4 Subject to clause G1.1 the Authority's aggregate liability in respect of the Contract does not exceed the Price payable in the previous calendar year of the Contract.

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

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

- (a) any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
- (b) any wasted expenditure or charges;
- (c) the additional costs of procuring a Replacement Supplier for the remainder of the Term and or replacement deliverables which shall include any incremental costs

associated with the Replacement Supplier and/or replacement deliverables above those which would have been payable under the Contract;

- (d) any compensation or interest paid to a third party by the Authority; and
- (e) any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty.

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

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

G1.8 The Supplier shall take out and maintain, or procure the taking out and maintenance of the insurances as set out in Schedule 20 (Insurance Requirements) and any other insurances as may be required by applicable Law (together the “**Insurances**”). The Supplier shall ensure that each of the Insurances is effective no later than the date on which the relevant risk commences.

G1.9 The Insurances shall be maintained in accordance with Good Industry Practice and (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent supplier in respect of risks insured in the United Kingdom insurance market from time to time.

G1.10 The Insurances shall be taken out and maintained with insurers who are of good financial standing, regulated by the applicable regulatory body and is in good standing with that regulator and of good repute in the United Kingdom insurance market.

G1.11 The Supplier shall ensure that the public and products liability policy contains an indemnity to principals clause under which the Authority shall be indemnified in respect of claims made against the Authority in respect of death or bodily injury or third party property damage arising out of or in connection with the Services and for which the Supplier is legally liable.

G1.12 Without limiting the other provisions of this Contract, the Supplier shall:

- (a) take or procure the taking of all reasonable risk management and risk control measures in relation to the Services as it would be reasonable to expect of a prudent supplier acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
- (b) promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
- (c) hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

G1.13 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.

G1.14 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Authority may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

- G1.15 The Supplier shall upon the date of the Contract and within fifteen (15) Working Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to the Authority, that the Insurances are in force and effect and meet in full the requirements of this Contract.
- G1.16 The Supplier shall notify the Authority in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances. Without prejudice to the Supplier's obligations such notification shall not apply where the termination of any Insurances occurs purely as a result of a change of insurer in respect of any of the Insurances required to be taken out and maintained in accordance with this Contract.
- G1.17 The Supplier shall promptly notify its insurers of any matter arising from, or in relation to, the Services, the Inherited Assets, Authority Equipment or this Contract for which it may be entitled to claim under any of the Insurances. In the event that the Authority receives a claim relating to or arising out of this Contract or the Services, the Supplier shall co-operate with the Authority and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.
- G1.18 Except where the Authority is the claimant party, the Supplier shall give the Authority notice within twenty (20) Working Days after any insurance claim in excess of fifty thousand pounds (£50,000) relating to or arising out of the provision of the Services or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Authority) full details of the incident giving rise to the claim.
- G1.19 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- G1.20 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

G2 Warranties and Representations

- G2.1 The Supplier warrants and represents on the Commencement Date and for the Term that:
- (a) it has full capacity and authority and all necessary consents to enter into and perform the Contract and that the Contract is executed by a duly authorised representative of the Supplier;
 - (b) in entering the Contract it has not committed any fraud;
 - (c) as at the Commencement Date, all information contained in the Tender or other offer made by the Supplier to the Authority remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract and in addition, that it will advise the Authority of any fact, matter or circumstance of which it may become aware which would render such information to be false or misleading;
 - (d) no claim is being asserted and no litigation, arbitration or administrative proceeding is in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have an adverse effect on its ability to perform its obligations under the Contract;

- (e) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Contract;
- (f) no proceedings or other steps have been taken and not discharged (or, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue;
- (g) it owns, or has obtained or is able to obtain valid licences for, all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract;
- (h) any person engaged by the Supplier shall be engaged on terms which do not entitle them to any Intellectual Property Right in any New IPR;
- (i) in the 3 years (or period of existence if the Supplier has not been in existence for 3 years) prior to the date of the Contract:
 - i) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
 - ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
 - iii) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract;
- (j) it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform its obligations under the Contract; and
- (k) it has notified the Authority in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance.

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

G3 Tax Compliance

G3.1 If, during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:

- (a) notify the Authority in writing of such fact within five (5) Working Days of its occurrence; and
- (b) promptly give the Authority:
 - i) details of the steps it is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors it considers relevant; and
 - ii) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.

G3.2 If the Supplier or any Staff are liable to be taxed in the UK or to pay NICs in respect of consideration received under the Contract, the Supplier shall:

- (a) at all times comply with ITEPA and all other statutes and regulations relating to income tax, and SSCBA and all other statutes and regulations relating to NICs, in respect of that consideration; and
- (b) indemnify the Authority against any income tax, NICs and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Services by the Supplier or any Staff.

H. DEFAULT, DISRUPTION AND TERMINATION

H1 Insolvency and Change of Control

H1.1 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Supplier if an Insolvency Event occurs in respect of the Supplier [or the Guarantor]. In the event of a Financial Distress Event, the Parties shall comply with the provisions of Schedule 21 (Financial Difficulties).

H2 Default

H2.1 The Authority may terminate the Contract with immediate effect without any liability and without prejudice to its other rights by notice if the Supplier commits a Material Breach which:

- (a) the Supplier has not remedied to the satisfaction of the Authority within 20 Working Days (or such other period as may be specified by the Authority), after issue of a notice specifying the Material Breach and requesting it to be remedied;
- (b) in the opinion of the Authority, is not capable of remedy;
- (c) includes without limit:
 - i) where the Supplier accrues Service Points in six consecutive months; or
 - ii) where the Supplier accrues Service Points in seven months in any rolling nine month period.

H2.2 If, through any Default of the Supplier, data transmitted or processed in connection with the Contract is either lost or sufficiently degraded as to be unusable, the Supplier is liable for the cost of reconstitution of that data and shall reimburse the Authority in respect of any charge levied for its transmission and any other costs charged in connection with such Default.

H2.3 If the Authority fails to pay the Supplier undisputed sums of money when due, the Supplier shall give notice to the Authority of its failure to pay. If the Authority fails to pay such undisputed sums within ninety (90) Working Days of the date of such notice, the Supplier may terminate the Contract with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the Authority exercising its rights under clause C2.1 or to a Force Majeure Event.

H3 Other Grounds

The Authority may terminate the Contract if:

H3.1 the Contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;

- H3.2 the Supplier was, at the time the Contract was awarded, in one of the situations specified in regulation 57(1) of the Regulations, including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure which resulted in its award of the Contract;
- H3.3 the Contract should not have been awarded to the Supplier in view of a serious infringement of the obligations under the Treaties and the Regulations that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU; or
- H3.4 the Supplier has not, in performing the Services, complied with its legal obligations in respect of environmental, social or labour law.

H4 Termination on an Authority Break Point Date

The Authority may terminate the Contract on any of the Authority Break Point Dates by completing the following steps:

- H4.1 The Authority must give notice to the Supplier stating:
- (a) that the Authority is terminating the Contract under this clause H4 (Termination on an Authority Break Point Date); and
 - (b) that the Contract will terminate on the specified Authority Break Point Date; which must be a minimum of 90 days after the date of receipt by the Supplier of the notice.
- H4.2 Provided the notice has been provided in accordance with clause H4.1 above, the Contract will terminate on the specified Authority Break Point Date.

H5 Consequences of Expiry or Termination

- H5.1 If the Authority terminates the Contract under clause H2 and makes other arrangements for the supply of the Services, the Authority may recover from the Supplier the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Term.
- H5.2 If the Contract is terminated under clause H2 the Authority shall make no further payments to the Supplier (for Services supplied by the Supplier prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority), until the Authority has established the final cost of making the other arrangements envisaged under this clause H5H4.
- H5.3 If the Authority terminates the Contract under clause H4 the Authority shall make no further payments to the Supplier except for Services supplied by the Supplier prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority.
- H5.4 Save as otherwise expressly provided in the Contract:
- (a) termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract prejudices the right of either Party to recover any amount outstanding at such termination or expiry; and
 - (b) termination of the Contract does not affect the continuing rights, remedies or obligations of the Authority or the Supplier under clauses [C1 (Payment and VAT), C2 (Recovery of Sums Due), D2 (Data Protection and Privacy), D3 (Official Secrets Acts

and Finance Act), D4 (Confidential Information), D5 (Freedom of Information), E1 (Intellectual Property Rights), F5 (Audit), G1 (Liability, Indemnity and Insurance), H5 (Consequences of Expiry or Termination), H7 (Recovery), H8 (Retendering and Handover), H9 (Exit Management), , I5 (Remedies Cumulative), I11 (Governing Law and Jurisdiction) and paragraph 9 of Schedule 8 (Statutory Obligations & Corporate Social Responsibility)].

H6 Disruption

- H6.1 If the Supplier is unable to deliver the Services owing to disruption of the Authority's normal business (not including a planned full or partial Lockdown), the Supplier may request from the Authority a reasonable allowance of time to deliver the Services which would have otherwise been performed but not for the disruption.
- H6.2 The Supplier shall take reasonable care to ensure that in the performance of its obligations under the Contract it does not disrupt the operations of the Authority, its employees or any other contractor employed by the Authority.
- H6.3 The Supplier shall immediately inform the Authority of any actual or potential industrial action, whether such action be by its own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- H6.4 If there is industrial action by Staff, the Supplier shall seek Approval for its proposals to continue to perform its obligations under the Contract.
- H6.5 If the Supplier's proposals referred to in clause H6.3 are considered insufficient or unacceptable by the Authority acting reasonably, the Contract may be terminated with immediate effect by the Authority.

H7 Recovery

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

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

H8 Retendering and Handover

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

H9 Exit Management

- H9.1 The Parties shall carry out their obligations set out in Schedule 15 (Exit Management).
- H9.2 On termination of the Contract the Supplier shall render reasonable assistance to the Authority to the extent necessary to effect an orderly assumption by a Replacement Supplier in accordance with the procedure set out in clauses H9.3 to H9.6.
- H9.3 If the Authority requires a continuation of all or any of the Services on expiry or termination of the Contract, either by performing them itself or by engaging a third party to perform them, the Supplier shall co-operate fully with the Authority and any such third party and shall take

all reasonable steps to ensure the timely and effective transfer of the Services without disruption to routine operational requirements.

- H9.4 The following commercial approach shall apply to the transfer of the Services if the Supplier:
- (a) does not have to use resources in addition to those normally used to deliver the Services prior to termination or expiry, there shall be no change to the Price; or
 - (b) reasonably incurs additional costs, the Parties shall agree a Change to the Price based on the Supplier's rates either set out in Schedule 2 (Prices and Invoicing) or forming the basis for the Price.
- H9.5 When requested to do so by the Authority, the Supplier shall deliver to the Authority details of all licences for software used in the provision of the Services including the software licence agreements.
- H9.6 Within one Month of receiving the software licence information described in clause H9.5, the Authority shall notify the Supplier of the licences it wishes to be transferred and the Supplier shall provide for the approval of the Authority a plan for licence transfer.
- H9.7 The Supplier shall co-operate fully with the Authority in order to enable an efficient and detailed knowledge transfer from the Supplier to the Authority on the completion or earlier termination of the Contract.

I. GENERAL

I1 Dispute Resolution

- I1.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within twenty (20) Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the finance director of the Supplier and the commercial director of the Authority.
- I1.2 Nothing in this dispute resolution procedure prevents the Parties seeking, from any court of competent jurisdiction, an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- I1.3 If the dispute cannot be resolved by the Parties pursuant to clause I1.1 either Party may refer it to mediation pursuant to the procedure set out in clause I1.5.
- I1.4 The obligations of the Parties under the Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation (or arbitration) and the Supplier and the Staff shall comply fully with the requirements of the Contract at all times.
- I1.5 The procedure for mediation and consequential provisions relating to mediation are as follows:
- (a) a neutral adviser or mediator (the "**Mediator**") shall be chosen by agreement of the Parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution to appoint a Mediator;

- (b) the Parties shall within 10 Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations. If appropriate, the Parties may at any stage seek assistance from the Centre for Effective Dispute Resolution to provide guidance on a suitable procedure;
- (c) unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
- (d) if the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives;
- (e) failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative written opinion. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties; and
- (f) if the Parties fail to reach agreement within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts unless the dispute is referred to arbitration pursuant to the procedures set out in clause 11.6.

11.6 Subject to clause 11.2, the Parties shall not institute court proceedings until the procedures set out in clauses 11.1 and 11.3 have been completed save that:

- (a) the Authority may at any time before court proceedings are commenced, serve a notice on the Supplier requiring the dispute to be referred to and resolved by arbitration in accordance with clause 11.7;
- (b) if the Supplier intends to commence court proceedings, it shall serve notice on the Authority of its intentions and the Authority has 21 days following receipt of such notice to serve a reply on the Supplier requiring the dispute to be referred to and resolved by arbitration in accordance with clause 11.7; and
- (c) the Supplier may request by notice to the Authority that any dispute be referred and resolved by arbitration in accordance with clause 11.7, to which the Authority may consent as it sees fit.

11.7 If any arbitration proceedings are commenced pursuant to clause 11.6:

- (a) the arbitration is governed by the Arbitration Act 1996 and the Authority shall give a notice of arbitration to the Supplier (the "**Arbitration Notice**") stating:
 - i) that the dispute is referred to arbitration; and
 - ii) providing details of the issues to be resolved;
- (b) the London Court of International Arbitration ("**LCIA**") procedural rules in force at the date that the dispute was referred to arbitration in accordance with 11.7 (b) shall be applied and are deemed to be incorporated by reference to the Contract and the decision of the arbitrator is binding on the Parties in the absence of any material failure to comply with such rules;
- (c) the tribunal shall consist of a sole arbitrator to be agreed by the Parties;

- (d) if the Parties fail to agree the appointment of the arbitrator within 10 days of the Arbitration Notice being issued by the Authority under clause 11.7 (a) or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
- (e) the arbitration proceedings shall take place in London and in the English language; and
- (f) the arbitration proceedings shall be governed by, and interpreted in accordance with, English Law.

12 Force Majeure

- 12.1 Subject to this clause 12, a Party may claim relief under this clause 12 from liability for failure to meet its obligations under the Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Supplier in performing its obligations under the Contract which results from a failure or delay by an agent, Sub-Contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-Contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Supplier.
- 12.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Event notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- 12.3 If the Supplier is the Affected Party, it is not entitled to claim relief under this clause 12 to the extent that consequences of the relevant Force Majeure Event:
 - (a) are capable of being mitigated by any of the Services, but the Supplier has failed to do so; and/or
 - (b) should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services, operating to the standards required by the Contract.
- 12.4 Subject to clause 12.3, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.
- 12.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Supplier is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.
- 12.6 If, as a result of a Force Majeure Event:
 - (a) an Affected Party fails to perform its obligations in accordance with the Contract, then during the continuance of the Force Majeure Event:
 - i) the other Party shall not be entitled to exercise its rights to terminate the Contract in whole or in part as a result of such failure pursuant to clause H2.1 or H2.3; and
 - ii) neither Party shall be liable for any Default arising as a result of such failure;

- (b) the Supplier fails to perform its obligations in accordance with the Contract it shall be entitled to receive payment of the Price (or a proportional payment of it) only to the extent that the Services (or part of the Services) continue to be performed in accordance with the terms of the Contract during the occurrence of the Force Majeure Event.

12.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under the Contract.

12.8 Relief from liability for the Affected Party under this clause 12 ends as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under the Contract and is not dependent on the serving of a notice under clause 12.5.

13 Notices and Communications

13.1 Subject to clause 13.3, where the Contract states that a notice or communication between the Parties must be “written” or “in writing” it is not valid unless it is made by letter (sent by hand, first class post, recorded delivery or special delivery) or by email.

13.2 If it is not returned as undelivered a notice served in:

- (a) a letter is deemed to have been received two (2) Working Days after the day it was sent; and
- (b) an email is deemed to have been received four (4) hours after the time it was sent provided it was sent on a Working Day

or when the other Party acknowledges receipt, whichever is the earlier.

13.3 Notices pursuant to clauses 12 (Force Majeure), 11 (Dispute Resolution) or 16 (Waiver) or to terminate the Contract or any part of the Services are valid only if served in a letter by hand, recorded delivery or special delivery.

13.4 Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under the Contract:

- (a) For the Authority:

Contact Name: [REDACTED]

Address: Ministry of Justice, Post Point 8.22, 102 Petty France, London, SW1H 9AJ;

Email: [REDACTED]

(b) For the Supplier:

Contact Name: [REDACTED] Commercial Director

Address: Shaw Trust, Black Country House, Rounds Green Road, Oldbury, England,
B69 2DG.

Email: contracts@shaw-trust.org.uk

Conflicts of Interest

- 13.5 The Supplier shall take appropriate steps to ensure that neither the Supplier nor any Staff is placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the Contract. The Supplier will notify the Authority immediately giving full particulars of any such conflict of interest which may arise.
- 13.6 The Authority may terminate the Contract immediately by notice and/or take or require the Supplier to take such other steps it deems necessary if, in the Authority's reasonable opinion, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the Contract. The actions of the Authority pursuant to this clause 0 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

14 Rights of Third Parties

- 14.1 Clauses B15.5 and E1.4 and paragraph 2.2 of Schedule 18 (Staff Transfer)] confer benefits on persons named in them (together "**Third Party Provisions**" and each person a "**Third Party Beneficiary**") other than the Parties and are intended to be enforceable by Third Party Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act 1999 ("**CRTPA**").
- 14.2 Subject to clause 14.1, a person who is not a Party has no right under the CRTPA to enforce the Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to the CRTPA and does not apply to the Crown.
- 14.3 No Third Party Beneficiary may enforce or take steps to enforce any Third Party Provision without Approval.
- 14.4 Any amendments to the Contract may be made by the Parties without the consent of any Third Party Beneficiary.

15 Remedies Cumulative

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

16 Waiver

- 16.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy do

not constitute a waiver of that right or remedy and do not cause a diminution of the obligations established by the Contract.

16.2 No waiver is effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause I3 (Notices and Communications).

16.3 A waiver of any right or remedy arising from a breach of the Contract does not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

I7 Severability

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

I8 Entire Agreement

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

I9 Change in Law

19.1 The Supplier is neither relieved of its obligations to supply the Services in accordance with the terms and conditions of the Contract nor entitled to an increase in the Price as the result of:

- (a) a General Change in Law; or
- (b) a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Commencement Date.

19.2 If a Specific Change in Law occurs or will occur during the Term (other than as referred to in clause I9.1 (b)), the Supplier shall:

- (a) notify the Authority as soon as reasonably practicable of the likely effects of that change, including whether any:
 - i) Change is required to the Services, the Price or the Contract; and
 - ii) relief from compliance with the Supplier's obligations is required; and
- (b) provide the Authority with evidence:
 - i) that the Supplier has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-Contractors; and
 - ii) as to how the Specific Change in Law has affected the cost of providing the Services.

19.3 Any variation in the Price or relief from the Supplier's obligations resulting from a Specific Change in Law (other than as referred to in clause I9.1 (b)) shall be implemented in accordance with clause F4.

I10 Counterparts

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

I11 Governing Law and Jurisdiction

Subject to clause I1 (Dispute Resolution) the Contract, including any matters arising out of or in connection with it, are governed by and interpreted in accordance with English Law and are subject to the jurisdiction of the Courts of England and Wales. The submission to such jurisdiction does not limit the right of the Authority to take proceedings against the Supplier in any other court of competent jurisdiction, and the taking of proceedings in any other court of competent jurisdiction does not preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

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

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SCHEDULE 1 – SPECIFICATION AND TENDER

PART A: (SPECIFICATION)

1. DEFINITIONS

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement clause A1:

"Authorised Absences"	has the meaning given in Schedule 14 (Performance Management Schedule);
"Building Bridges"	means the document set out in Annex 2 of this Schedule;
"Continuing Professional Development" or "CPD"	means the intentional maintenance and development of the knowledge and skills needed to perform in a professional context;
"EHCP"	means an Education, Health and Care Plan;
"Enhanced Support Team"	means a specifically structured team to meet the needs of a Learner with an increased level and intensity of co-ordinated specialist services;
"ESOL"	means English for Speakers of Other Languages;
"Framework for Integrated Care (SECURE STAIRS)"	means the document set out in Annex 1 of this Schedule;
"Guided Reflective Practice"	means a process that is co-ordinated by the Occupational Psychologist within the Authority's Psychology Services team to ensure that staff at the Secure Setting have the right skills and support to care for Learners;
"HMIP"	means Her Majesty's Inspectorate of Prisons;
"ICT"	means information and communication technology;
"Key Training"	means the mandatory security training for the Security Setting that allows Staff to be assigned to carry keys and move unescorted about the Secure Setting;
"LDD"	an umbrella term to include all those with Learning Difficulties and/or Learning Disabilities;
"Learning Difficulties"	refers to mild and moderate learning difficulties and specific learning difficulties (which is an umbrella term covering a number of conditions in which specific areas of functioning are affected and there is no correlation with overall intelligence). These conditions affect the way skills are acquired and how information is processed. They are also characterised by poor short-term memory and weak organisational skills. The most

common examples of these specific learning difficulties include dyslexia, dyspraxia, attention deficit hyperactivity disorder ("**ADHD**"), and dyscalculia. They often co-occur. ADHD is also associated with the development of conduct disorders, illicit drug use and peer delinquency, which in turn may increase the risk of offending. They also include autistic spectrum conditions which are classed as lifelong developmental disabilities affecting how a person communicates with and relates to other people and experience the world around them. All people on the autistic spectrum learn and develop, but have certain difficulties associated with their condition;

"Learning Disabilities"

refers to people with the following characteristics:

- a significantly reduced ability to understand complex information or learn new skills ('impaired intelligence');
- a reduced ability to cope independently ('impaired social functioning'); and/or
- a condition which started before adulthood and has a lasting effect.

Most people with learning disabilities experience difficulties in communicating, requiring longer to process information and to respond to questions. They may fail to understand social cues and struggle to recall information. They can also be suggestible to the influence of others.

In addition to those Learners who meet the criteria for learning disabilities, there is a much larger number with 'borderline' learning disabilities, classed as 'learning disabled'. This group is also likely to require support with communication and some daily living tasks;

"Learning Plan"

means a formulation based, personalised learning plan for a Learner;

"Needs Assessment"

means a structured method of identifying the gap in terms of Learners' existing knowledge, skills and competencies versus the knowledge, skills and competencies they should have relative to their age in accordance with Department of Education guidelines and the steps Learners need to complete to get to where they should be;

"QTS"

means Qualified Teacher Status;

"Resettlement Pathway"

means one of seven (7) Authority resettlement pathways for Learners, including case management, accommodation, education, training and employment,

	health; substance misuse, families, finance, benefits and debt;
"ROTL"	means release on temporary licence;
"Resettlement Team"	means a team within the Secure Setting which focuses on the resettlement of Learners;
"SEND"	means special educational needs and disabilities;
"Senior Management Team"	means the YOI leadership team which includes the Head of Education;
"Support Team"	means a multi-disciplinary and multi-agency team responsible for managing a Learner's sentence plan and the sequencing of mainstream services via a case formulation approach;
"Teacher Quality Management Plan"	has the meaning given in paragraph 8.6.9; and
"YOI"	means young offender institution.

2. VISION

- 2.1 The Authority is committed to transforming education for children in our custody. It is the Authority's expectation that this Contract will enable new ways of working for everyone involved in the care and education of the Learners - promoting their wellbeing.
- 2.2 The Supplier will dedicate itself to supporting Learners to learn and grow as individuals, bringing passion and commitment to providing every opportunity possible to reflect and build on their potential for the future. Working with the Authority, the Supplier will ensure that every Learner leaves the care of the Authority with the tools they need to lead successful and crime-free lives.
- 2.3 The Authority wants to transform education in its YOIs, including Secure Setting. This Contract will enable a new way of working for everyone involved in promoting the wellbeing of Learners in the Secure Setting. Together with the Authority, the Supplier will be ambitious for each and every Learner. All Staff will be passionate about supporting Learners to learn and grow as individuals and committed to providing every opportunity possible for Learners to reflect and build on their potential for the future. The Authority and the Supplier will ensure that every Learner leaves our care with the tools they need to lead successful and crime-free lives.
- 2.4 The Supplier will deliver the Services flexibly and in a way that is agile enough to continue to meet the needs of Learners as those needs change over time. The Services will form part of a holistic and well-rounded experience for Learners in the Secure Setting and will form an important part of health promotion, increasing positive health and wellbeing outcomes, underpinned by a collaborative and integrated whole system approach to trauma and psychologically informed care. The Supplier will forge new and innovative partnerships with other providers to meet the wide ranging needs of the Learners in the Authority's care.
- 2.5 This Contract also aims to:
 - 2.5.1 improve our understanding of the education outcomes for Learners by systematically collecting outcome data;

2.5.2 build an understanding of what works in terms of education and learning for Learners; and

2.5.3 ensure the service provided supports the integration of custodial operations, education and health and wellbeing services.

2.6 The ‘Vision for Learning’ is set out below:

<p>High Quality provision</p> 	<p>Invest in education provision The supplier base for education services will be broadened. There will be opportunities for SME and new entrants with a proven track record to provide education services for our children.</p>	<p>Tailored to need and responsive to the voice of children. A child's needs will be assessed and regularly reviewed. Services will be flexible in meeting assessed needs (including SEN and disabilities) and will align with trauma informed care and formulation-driven, evidence based, whole systems approaches to creating change. Children and their carers will be enabled to influence and shape services.</p>	<p>Improved outcomes There will be a strong focus on a curriculum intent to deliver outstanding progress and outcomes for children. Suppliers will be held to account for the quality of teaching, education & assessment.</p>	<p>Offer a range of inclusive, engaging services Education will be flexible in its use of space, time and resources to provide the best possible opportunities. There will be recognition of the value of a balance of classroom-based education, vocational pathways and enrichment activity.</p>
<p>Skills for life</p> 	<p>Gaining Experience Children will be given the opportunity to access a rich and diverse set of experiences. Education will allow children to use their time in custody to explore their interests and build skills they can draw on upon their release.</p>	<p>Planning for the Future Children will feel included in the development of their education journey and be supported to make realistic and hopeful plans to move into education, training or employment. There will be a focus on destination planning at the point of entry and effective partnerships with community and next stage agencies will ensure the best possible outcomes for each child upon leaving our care.</p>	<p>Technology provision Safe access to technology will support education, normalising education in and out of the classroom environment and contribute to building the skills needed for the future.</p>	<p>Wellbeing and Exercise Physical and emotional wellbeing and exercise will form part of a holistic and well-rounded experience for children in custody, making quality use of outside space.</p>
<p>Foundations for education</p> 	<p>A Whole Centre Approach All services and centre providers will work together to support children to engage with education. Children's health and wellbeing needs will be met and they will be offered psychologically-informed provision and functional and vocational education opportunities.</p>	<p>Environment The education environment will maximise the learner experience, providing the tools, equipment and location that support our children.</p>	<p>Partnerships Education, library and careers advice will contribute to innovative partnerships with a range of community agencies, charities and social enterprises to allow children to access a wide range of education opportunities.</p>	<p>An education community All staff working within youth custody will form part of a wider education community. Staff will work with children and be given the support, time and freedom to develop their professional skills.</p>

Legislative context

2.7 The Education Act 1996 requires that every child of compulsory school age shall "receive efficient full-time education" suitable to their age, ability and aptitude, and to any special educational needs they may have either by regular attendance at school or otherwise.

2.8 In addition, the Young Offender Institution Rules 2000 also stipulate that those of compulsory school age should participate in education or training for at least fifteen (15) hours a week within the normal working week. Further details of legislation are set out elsewhere in this Contract.

3. PURPOSE OF SCHEDULE (SPECIFICATION)

3.1 This Specification should be read in conjunction with the rest of the Contract.

3.2 The purpose of this Schedule is to:

3.2.1 set out the scope of the Services that the Supplier shall make available;

3.2.2 provide a description of the Services; and

3.2.3 set out specific Standards and requirements applicable to the provision of Services by the Supplier.

3.3 This Schedule sets out the characteristics of the Services that the Supplier will be required to make available to all Authority under the Contract.

3.4 Local and central contract management arrangements are detailed in Schedule 14 (Performance Management).

- 3.5 Services delivered by the Supplier will be tailored to the specific needs of the Learner cohort in the Secure Setting and taking account of the following variations:
- 3.5.1 demographics of the Learner cohort (including in terms of age, ethnicity, learning difficulties and disabilities, previous educational background and attainment, and risk profiles);
 - 3.5.2 sentence length, type of stay (remand, custodial sentence) and proportion of the population transitioning to the adult estate or resettling into the community; and
 - 3.5.3 built environment – i.e. physical infrastructure of the Secure Setting including the number and size of classrooms.
- 3.6 The Supplier shall at all times in relation to the provision of the Services ensure that it is mindful as to the gender identity of Learners and shall communicate with Learners accordingly.
- 3.7 The data room for each lot provides relevant information about each of the Lots which the Supplier will need to take into account when developing and delivering their services.

4. SCOPE OF THE REQUIREMENT

In scope:

- 4.1 The Supplier shall:
- 4.1.1 design and deliver a "core education service" - a broad and balanced curriculum using various and innovative delivery methods to meet the needs of all Learners including traditional face-to-face classroom-based teaching and digitally enabled in-room learning. The broad and balanced curriculum at the Secure Setting will include literacy and numeracy (specifically Maths and English), English for Speakers of Other Languages (ESOL), Personal, Health, Social and Economic Education (PHSEE) and Information and Communications Technology (ICT) as well as life skills, personal development activity. The Supplier will be responsible for designing the content of this "core education service" and agreeing it with the Authority in accordance with paragraphs 2 to 4 (inclusive) of Schedule 19 (Contract Management); and
 - 4.1.2 provide a careers advice service which is independent of the rest of the service and which aligns with the Gatsby Benchmarks of Good Career Guidance,

(together, the "**Core Common Curriculum Requirements**").
- 4.2 The Supplier will, if the Authority requires the Supplier to provide an Optional Service or an Additional Service as described in Schedule 24 (Optional Services and Additional Services) (eg youth work services or library services) provide such service and such service shall become part of the Core Common Curriculum Requirements.
- 4.3 The Supplier's primary remit will be to deliver the Core Common Curriculum Requirements to all Learners in the Secure Setting in accordance with the Framework for Integrated Care (SECURE STAIRS). Such requirements include working with other providing delivering services for Learners released back into the community and those transitioning to the adult estate. Specifically:
- 4.3.1 the Authority requires the Supplier to have the requisite expertise and resources to provide the Services;

- 4.3.2 services covered by this Specification include assessments, completing Learning Plans, timetabling, curriculum development, curriculum delivery, HR and staffing, partnerships with the Secure Setting and other partners providing services within the Secure Setting including the health provider, and partnerships with community and resettlement processes and suppliers, which together, are the Services to be made available to the Authority by the Supplier;
- 4.3.3 for all Services, the Supplier must comply with any specific applicable standards of the Authority.
- 4.3.4 the Supplier shall support the Authority by providing resource and expertise to assess and address the Secure Setting education requirements set out herein. A flexible, responsive approach from the Supplier is therefore essential to delivery of the Services.

Out of scope:

- 4.4 The scope of Services covered by this Contract excludes:
 - 4.4.1 arrangement of, and logistics around, health appointments, court appearances, legal visits, adjudications, routine family visits;
 - 4.4.2 activities provided by the Authority (e.g. physical education);
 - 4.4.3 cleaning courses and qualifications;
 - 4.4.4 those activities which the healthcare provider delivers;
 - 4.4.5 assessments of physical health and other assessments where the Services are not designed to meet those needs;
 - 4.4.6 the management of Learners on the licence period of detention;
 - 4.4.7 provision of resettlement services including housing which are provided by the Secure Setting and/or other suppliers;
 - 4.4.8 systems to monitor the performance of services delivered by other providers of services in the Secure Setting (where these aren't subcontracted, such as the custodial, advocacy services and healthcare services);
 - 4.4.9 the complaints system at the Secure Setting;
 - 4.4.10 whistle-blowing procedures for service partner staff (including HMPPS and healthcare agencies). The exception to this shall be where such individuals are sub-contracted by the Supplier to provide the Services; and
 - 4.4.11 provision of IT infrastructure including cabling, to the site, for which the Authority is responsible, however for the avoidance doubt, the Supplier shall be expected to provide infrastructure covering switches and connections into servers.
 - 4.4.12 Ofsted nominee role will be the responsibility of a member of staff at the Secure Setting.

5. DELIVERING SERVICES WITHIN THE FRAMEWORK FOR INTEGRATED CARE (SECURE STAIRS) AND OUTCOMES FOR LEARNERS

- 5.1 The Supplier will deliver the Services in accordance with the Framework for Integrated Care (SECURE STAIRS) and as such will deliver the outcomes (where applicable to the Services) specified in such framework.
- 5.2 The outcomes that this Service aims to deliver dovetail with, and build on, the outcomes specified in the Framework for Integrated Care (SECURE STAIRS) including that:
- 5.2.1 needs are understood and met in an integrated and coordinated way;
 - 5.2.2 Learners receive trauma informed and formulation based care;
 - 5.2.3 Learners with the most complex needs receive enhanced support;
 - 5.2.4 improvements are made in the mental health, wellbeing and resilience of Learners;
and
 - 5.2.5 Learners' progress against their Learning Plans is maximised taking into account their needs and abilities.

6. QUALITY ASSURANCE

Outcomes

- 6.1 The Supplier will ensure that the Services are of the highest quality and meet the Standards including any standards set by the Authority, Ofsted's standards for 'good' or 'outstanding' provision in the 'evaluation schedule' of Ofsted's 'Education Inspection handbook' and by HMIP.
- 6.2 The Supplier shall make sure that it has a system in place for monitoring and reporting on the quality and effectiveness of its provision of the Services (as described in Schedule 14 (Performance Management)).

In scope

- 6.3 Quality assurance services delivered by the Supplier shall include:
- 6.3.1 monitoring and recording the delivery of the Core Common Curriculum Requirements;
 - 6.3.2 monitoring Learners' views of the provision of the Core Common Curriculum Requirements and using these to inform and evaluate service delivery;
 - 6.3.3 monitoring the educational attainment and progress of Learners and feeding that into its own quality assessments and reporting to the Authority as required;
 - 6.3.4 using systems as specified by the Authority to record and report within the Secure Setting and to the Authority:
 - 6.3.4.1 the information referred to in paragraphs 6.3.1 to 6.3.3; and
 - 6.3.4.2 the Supplier's performance in the delivery of the Services;

- 6.3.5 implementing systems to identify and rectify shortfalls in education performance at pace, using data and qualitative information from a range of sources, including Learners' views;
- 6.3.6 implementing a whistle-blowing policy for the Staff;
- 6.3.7 designing and delivering a system, which is aligned with the Secure Setting's procedures, to capture and respond to complaints by Learners, their families and visitors in relation to the Services; and
- 6.3.8 sharing information to contribute to quality management systems managed by staff at the Secure Setting relating to safeguarding, security, case management and resettlement of Learners.

Out of scope

- 6.4 Systems to monitor and report on the performance of non-educational services such as custodial services, advocacy services and healthcare services;
- 6.5 Operation of the complaints system at the Secure Setting; and
- 6.6 Whistle-blowing procedures for service partner staff (including HMPPS and healthcare agencies). The exception to this shall be where such individuals are sub-contracted by the Supplier to provide Services.

Service requirements

- 6.7 The Supplier shall in addition to the activities listed in Schedule 14 (Performance Management) of the Contract:
 - 6.7.1 undertake an annual self-assessment of the quality of the Services they deliver in the Secure Setting, including reporting of the experiences of Learners themselves (in their own words) on the education services supplied, producing a self-assessment report and quality development plan and complying with the requirements set out by Ofsted;
 - 6.7.2 provide live data (on systems required by the Authority) on Learners' educational progress and attainment including 'starts' and 'completions';
 - 6.7.3 submit a self-assessment report and quality development plan to the Authority on a date to be agreed;
 - 6.7.4 in partnership with the Secure Setting, report on progress against actions identified in the quality development plan at least four (4) times a year, with the outcomes of the review documented. This documentation, together with supporting evidence of actions taken, must be made available to the Authority and HMIP/ Ofsted on request;
 - 6.7.5 engage actively with, and make themselves available at any time for, inspection of the Services by Ofsted, whether as part of inspections by HMIP or otherwise;
 - 6.7.6 document any shortcomings identified through either inspection by Ofsted, or the Authority's performance monitoring, in a detailed action plan with specific objectives and targets to address them. The action plan shall be jointly agreed with the Authority and monitored by the Authority or the Authority's Representatives.

6.7.7 put in place a system, working with Authority procedures and/or procedures at the Secure Setting, for capturing Learners' views and complaints about the Services – as well as the views and complaints of their families and visitors about the Services. The Supplier shall ensure that there is a fair process for responding to complaints about the Services that aims to satisfy the complainant. The Supplier shall record and report to the Authority on all complaints made about the Services, the actions taken by the Supplier in relation to these, and on the satisfaction of complainants with the response and action taken by the Supplier.

6.8 The Supplier shall engage with relevant governance processes and provide timely and accurate Management Information and data reporting to the Authority in accordance with Schedule 14 (Performance Management).

7. TIMETABLING

The Supplier shall co-operate with, and provide relevant information for, timetabling processes as required by the Authority from time to time.

8. STAFFING AND HR

Outcomes

8.1 The Supplier will provide Staff who enable Learners to:

8.1.1 engage with the Core Common Curriculum Requirements;

8.1.2 make progress against their Learning Plan; and

8.1.3 achieve their learning goals.

8.2 The Supplier will ensure that Staff prioritise the safety and wellbeing of Learners in their care.

In scope

8.3 The Supplier shall:

8.3.1 implement systems for Staff selection, recruitment, training (including familiarisation with the custodial environment), qualifications, supervision, progression and performance management;

8.3.2 share information with staff at the Secure Setting relevant to:

8.3.2.1 formulation development and review;

8.3.2.2 remand and sentence planning processes in line with relevant policies at the Secure Setting;

8.3.2.3 procedures and staff responsibilities for managing self-harm (ACCT), safety risks (SIR), and the wider behaviour management (adjudications, incentives and earned privileges (IEP), managing and minimising physical restraint (MMPR) and Restorative Justice frameworks); and

8.3.2.4 case management of Learners in a custodial environment; and

8.3.3 procure that Staff engage with opportunities for ongoing joint-training with partners.

Out of scope

- 8.4 Staff resources required to deliver the Authority's requirements other than the Core Common Curriculum Requirements.

Detailed service requirements

- 8.5 The Supplier shall implement and operate a range of human resource and Staff development arrangements that focus on putting in place and maintaining a cadre of high-quality Staff capable of delivering outstanding Services. The Authority believes that Learners deserve the best high-quality education. The Authority would expect most teachers to have QTS but there is some flexibility around this to reflect the importance of being able to engage and inspire young people.

- 8.6 In particular, the Supplier shall:

Staffing qualifications and teacher status

- 8.6.1 ensure that the majority of Staff delivering the Services (including for the avoidance of doubt any relevant Optional Service or Additional Service in addition to the Core Common Curriculum Requirements as applicable) as determined by the Authority from time to time have QTS (for avoidance of doubt, Qualified Teacher Learning and Skills status will be accepted as an alternative for QTS);
- 8.6.2 ensure that the majority of Staff are on permanent employment contracts. The Supplier shall put in place appropriate cover arrangements to ensure continuity of the Services, in the event of sickness, leave or vacancies;
- 8.6.3 ensure that all of the Staff involved in the delivery of the Services hold the required qualifications for the role they are undertaking and have suitable experience and aptitude to work with Learners at the Secure Setting. The Supplier shall maintain the knowledge and experience of the Staff to ensure that delivery of the Services responds to changes during the Term;
- 8.6.4 ensure that the Head of Education holds or is working towards an appropriate education leadership qualification (such as National Professional Qualification for Headship, Master of Arts or Master of Science in Education), and has the leadership capacity and capability to secure 'Good' or 'Outstanding' outcomes (as defined in the 2020 Ofsted Education Inspection Framework);
- 8.6.5 ensure that relevant Staff who deliver the Services are appropriately trained and qualified (including in terms of safeguarding) to develop Learners and meet the additional support needs of Learners with LDD;

Quality (training, Continuing Professional Development)

- 8.6.6 provide all new Staff with an induction process which familiarises them with their role and the working environment of the Secure Setting;
- 8.6.7 ensure that Staff attend all Secure Setting and/or Authority required training for working in a custodial environment as required by the Authority from time to time.. In particular, the Supplier shall liaise with the Secure Setting to ensure that mandatory security training and Key Training is delivered (which lasts approximately three (3) hours) as part of such training. The Supplier acknowledges and agrees that Staff will not be able to move unaccompanied within the Secure Setting or work unsupervised with Learners until they have completed this mandatory training;

- 8.6.8 implement Staff appraisal and performance management arrangements that:
 - 8.6.8.1 identify poor performance of Staff;
 - 8.6.8.2 address such performance in a timely (in the reasonable opinion of the Authority) manner; and
 - 8.6.8.3 acknowledge and share good practice and excellence;
- 8.6.9 ensure the continuing professional development of Staff, supplying an annual plan to the Authority detailing the arrangements to maintain and improve teacher quality in line with the requirements of this Schedule (a "**Teacher Quality Management Plan**");
- 8.6.10 ensure that Staff are released in order to attend any induction courses provided by the Secure Setting, as well as any mandatory learning and development requirements associated with working in a custodial environment as required by the Authority thereafter (including processes within the Framework for Integrated Care (SECURE STAIRS) such as formulation and CuSP training for relevant Staff);
- 8.6.11 implement arrangements to ensure that supply Staff with equivalent qualifications, competence and skills provide the Services in the event of unavailability or absence;
- 8.6.12 ensure that all Staff contracts allow for sufficient non-contact time including providing Continuing Professional Development opportunities. The Supplier shall ensure appropriate arrangements are in place to ensure continuity of the Services during such times;

Involvement of Learners

- 8.6.13 work with the Authority to develop Learners and enable them to take on roles that support the delivery of learning, including as 'peer mentors', assessors and trainers, and potentially as teachers;

Continuity and succession

- 8.6.14 establish succession arrangements so that there is no disruption to the continuity of the Services in the event that Staff are unavailable or leave their employer (particularly Key Personnel);

Recruitment

- 8.6.15 consider other routes for recruiting high quality teaching Staff including those with lived experiences (and therefore better able to engage Learners) from other sectors and through in-service training routeways;

Staffing levels and structure

- 8.6.16 ensure that levels of Staff are sufficient to deliver the Services and specifically including to:
 - 8.6.16.1 attend formulation meetings and formulation reviews for every Learner;
 - 8.6.16.2 be embedded within Support Teams/Enhanced Support Teams on residential units at the Secure Setting;

- 8.6.16.3 attend unit based Guided Reflective Practice; and
- 8.6.16.4 attend training (including that set out in para 8.6.10);
- 8.6.17 ensure that Staff have the right skills and support to deliver the learning services within a whole centre approach and collaboratively care for Learners appropriately;
- 8.6.18 ensure that appropriate teaching Staff to Learner ratios are employed to deliver high quality learning as appropriate for the setting and circumstances (eg small groups, one-to-one support / tuition where necessary for those with SEND or high achievers);
- 8.6.19 ensure that its staffing structure incorporates a balance of roles, experience and expertise sufficient to provide the Services, including a senior leadership team, middle managers, subject leaders, teachers and non-teachers to deliver the Core Common Curriculum Requirements;

SEND & SENCO

- 8.6.20 designate a member of Staff to monitor compliance with and have oversight of the SEN Code of Practice (2015) by a Special Educational Needs Co-ordinator (SENCo) and in particular adhere to section 10.77 of the SEN Code of Practice (2015);
- 8.6.21 ensure that the Special Educational Needs Co-ordinator role is carried out by Staff qualified in line with The Education (Special Educational Needs Co-ordinators) (England) Regulations 2008 and ensure that the Supplier, with the Authority, implement and annually review EHCPs in conjunction with the relevant local authority;

Learners with a care experience / Looked After Learners

- 8.6.22 ensure that there is a designated member of teaching Staff for looked-after and previously looked-after Learners;
- 8.6.23 ensure that such designated teacher is assigned this role and responsibilities associated with the role are clearly defined and operationalised as part of their day to day working practices. This teacher should adhere to the necessary government guidance on 'Looked After Children' (as defined in the Children Act 1989) and is given time to develop their skills, knowledge and experience in their role;

Head of Education succession

- 8.6.24 where the Head of Education is to be recruited or replaced, the Supplier shall write to the Authority to gain the Authority's approval to appoint their preferred candidate, demonstrating that the preferred candidate's skills and competencies meet the Authority's requirements;

Safer Recruitment

- 8.6.25 the Supplier will ensure that all of the Staff complete an enhanced Disclosure and Barring Service check and that we work towards keeping Learners safe in education including (as set out in PSI 07/2014) prior to taking up their role. The Supplier shall be responsible for any costs associated with these checks;

Information sharing, guidance and legislation

8.6.26 implement appropriate communications processes to allow the Staff to be provided with information relevant to the delivery of the Services and ensure that the Supplier is able to share information about the Services with the Secure Setting and other suppliers at the Secure Setting to further raise staff awareness on specific aspects of the Services;

8.6.27 ensure that its solution for providing Staff enables the Services to be provided in accordance with relevant guidance including that set out in the Framework for Integrated Care (SECURE STAIRS), Building Bridges and other guidance set out in Schedule 8 (Statutory Obligations and Corporate Social Responsibility and Schedule 17 (Policies); and

9. FORMULATION, ASSESSMENT AND LEARNING PLANS

Outcomes

- 9.1 Learners will know and understand the range of learning opportunities available via the Core Common Curriculum Requirements and how to access them.
- 9.2 Assessments will reflect education and social needs including any special education needs and risk factors in addition to their personal interests, aspirations and strengths.
- 9.3 Learners will be, and feel, involved in the development and review of their Learning Plans.
- 9.4 Arrangements will be in place to facilitate the transfer of education and health information from the community.
- 9.5 Learning Plans will be formulation based and reviewed in-line with the regularity of formulation processes within a Framework for Integrated Care (SECURE STAIRS).

In scope

- 9.6 Design and delivery of education elements of induction programme.
- 9.7 Regular assessment of learning needs and interests (including from Learners, legal and market perspectives) by a dedicated education adviser for each Learner including consideration of EHCPs where applicable resulting in a personalised Learning Plan for each Learner. The Learning Plan and progress against it will be reviewed regularly by the Supplier as part of the Framework for Integrated Care (SECURE STAIRS).
- 9.8 Assessment, and reviews, undertaken by dedicated education advisor for each Learner.
- 9.9 Setting learning objectives in a personalised Learning Plan for Learners based upon assessments made and the collaboratively developed formulation.
- 9.10 Allocate Learners to learning (classes, distance learning, 1-1, digital) within relevant governance structures involving appropriate staff members from the Secure Setting.

Out of scope

- 9.11 Supplier shall not be responsible for managing, designing the whole (wider) or delivering non-education elements of the induction programme;
- 9.12 Assessments of physical health and other assessments where the Services are not designed to meet those needs;

Service requirements

Needs Assessment

- 9.13 In order to conduct effective Needs Assessments, the Supplier shall obtain direct from previous schools and colleges prior learning records and education plans (where these exist).
- 9.14 The Supplier shall ensure that the Needs Assessment results can be compared against the knowledge, skills and understanding required in the National Curriculum and national standards for literacy and numeracy.
- 9.15 The Needs Assessment process shall identify any Learners that require further assessments for any SEND.
- 9.16 Assessments will include consideration of Learners' abilities in oral language, literacy, numeracy and their social and emotional development. These assessments will be expected to form part of a broader identification and assessment of any Learner with possible special education needs.
- 9.17 The Supplier shall bring the Learner to the attention of the relevant local authority if an Education, Health and Care (EHC) needs assessment is required.
- 9.18 Where a Learner has an EHCP (or statement of SEND), the Supplier shall liaise and cooperate with the health provider at the Secure Setting and the home local authority to ensure that special educational provision set out in the EHCP (or statement of SEND) is maintained, as far as practicable.
- 9.19 SEND targets and EHCP short-term and long-term outcomes should be considered with the Learner and other professionals in formulation and assessment processes and reflected in plans and demonstrated in Learner's choices of which aspects of the Core Common Curriculum Requirements they will access.

Learning Plans

- 9.20 Supplier shall ensure that Learning Plans include:
- 9.20.1 an outline education programme tailored towards progressing the Learner from starting points to career goals;
 - 9.20.2 any applicable targeted educational interventions;
 - 9.20.3 curricular and personal development targets (both short and long term and including resettlement), based on the length of a Learner's stay;
 - 9.20.4 identified next steps after leaving the Secure Setting (for example, further education or employment opportunities); and
 - 9.20.5 identification of next steps after discharge including any community provision or support included in the EHCP.
- 9.21 The Supplier shall ensure that education targets set out in Learning Plans enable Learners to make 'good progress' in accordance with KPI at 2C identified as 'On reviewing Education and Learning plans, children and Learners must have made 'Good' progress whilst in custody. Including those with LDD and SEND needs' set out in Appendix B (Key Performance Indicators and Remedies) of Schedule 14 (Performance Management).

- 9.22 The Supplier shall ensure that Learners are involved in setting, reviewing and monitoring progress against learning goals.
- 9.23 The Supplier shall ensure that all Learners leaving the Secure Setting are involved in the development of educational/employment plans being put in place for them.
- 9.24 Learning Plans shall be reviewed prior to planned resettlement including when a Learner's stay in the Secure Setting is shorter than six (6) weeks.

10. DELIVERY AND DESIGN OF THE CORE COMMON CURRICULUM REQUIREMENTS

Outcomes

- 10.1 Design and delivery (in and for all settings) of the Core Common Curriculum Requirements by the Supplier will ensure that:
- 10.1.1 that the Supplier and leadership at the Secure Setting are signed up shared aims and agree the content of the Core Common Curriculum Requirements;
 - 10.1.2 needs (including LDD) are met (and therefore any barriers to learning are overcome) and Learners are engaged and aspirations are met;
 - 10.1.3 Learners make good progress and that their potential is recognised and realised;
 - 10.1.4 delivery of the Core Common Curriculum Requirements contributes to Learners' successful transition to the adult estate and resettlement into the community and desistance from offending;
 - 10.1.5 contributions are made to the development of Learners' social and communication skills including personal resilience;
 - 10.1.6 Learners are able to progress along an educational/learning pathway that reflects their ability and potential, to future learning/work (recognising constraints of time available in custody to progress);
 - 10.1.7 Learners achieve learning aims, targets and outcomes (and receive accredited courses/qualifications where appropriate) which are reflected in their learning portfolios; and
 - 10.1.8 families and carers will be engaged in the education of Learners (eg through initiatives such as 'parents evenings', 'family days' and 'celebration events').

In scope

- 10.2 Induction periods during which Learners receive 'tasters' of different subjects
- 10.3 Delivery of the Core Common Curriculum Requirements through appropriate teaching models to meet Learner cohort's assessed needs.
- 10.4 Delivery of interventions to address identified educational issues/barriers to learning (through additional support/specific learning).
- 10.5 Design and delivery of educational support services to meet any additional needs of Learners (e.g those with Learning Disabilities or Learning Difficulties).
- 10.6 Development and review in partnership with the Secure Setting of safeguarding policies.

- 10.7 Design and planning of the Core Common Curriculum Requirements (to reflect that which should be delivered by Supplier and not the Authority).
- 10.8 Review of the Core Common Curriculum Requirements to ensure they continue to meet the needs of Learners and the workforce market (using appropriate data provided by DWP and others).

Out of scope

- 10.9 Routine health appointments, court appearances, legal visits, adjudications, routine family visits.
- 10.10 Practical cleaning sessions.
- 10.11 Offending behaviour interventions.
- 10.12 Development of content external to the Supplier (eg OU) (although the Supplier may have a role in making such content available to Learners)
- 10.13 Provision of non-educational support services
- 10.14 Provision and maintenance of physical learning environments

Service requirements

- 10.15 Delivery of the Core Common Curriculum Requirements will promote wider regime and have regard to security and movements and any relevant Prison Service Instructions and/or Prison Service Orders.
- 10.16 The Core Common Curriculum Requirements will be:
 - 10.16.1 delivered for 52 weeks per year except statutory bank holidays (with flexibility provided for other activities (eg family days, celebration events) and to reflect, religious and other holidays).
 - 10.16.2 take place throughout the week (including weekends and evenings) and delivered within the specified education sessions in accordance with the Core Day (and agreed with the Secure Setting).
 - 10.16.3 delivered and available to each Learner for at least fifteen (15) hours each week.
- 10.17 The Supplier will deliver the Services in a range of settings appropriate to the risk assessment and needs of Learners and take into account the wider regime including: classroom, workshop, support groups and 1-1.
- 10.18 The Core Common Curriculum Requirements shall take into account the needs of young adults in that Secure Setting including:
 - 10.18.1 taking into account custodial sentence length;
 - 10.18.2 allowing Learners to commence/conclude learning at any point during year
 - 10.18.3 allowing Learners to build on/conclude previous studies/continue studies commenced prior to arrival at the Secure Setting;

- 10.18.4 working with Learners to pursue learning aims and targets (including qualifications) that support transition to learning in communities (on custodial licence); or to further custodial learning provision (such as to another Secure Setting or into adult prison) as applicable to the Learner’s journey.
- 10.18.5 any specific needs including on the basis of their religion, disability and other protected characteristics.
- 10.19 The Supplier will:
- 10.19.1 provide additional support to Learners who require it due to risk/ vulnerability factors, ESOL or SEN.
- 10.19.2 ensure Learners can access additional support (in groups and one-to-one).
- 10.20 The Supplier will ensure that Learners with EHCPs have access to the necessary provision as set out in their Learning Plan, working alongside the Authority, Local Authority and community/health based services to ensure a joined up and coordinated approach in the delivery of special educational needs provision.
- 10.21 The Supplier will highlight to the relevant local authority, in a timely and efficient fashion, when there are gaps or difficulties with the practical implementation of provision set out in a EHCP.
- 10.22 The Supplier will deliver the Core Common Curriculum Requirements in accordance with relevant legislative frameworks including those around safeguarding and for operating in custodial environments. More detail on these is provided in Schedule 8 (Statutory Obligations and Corporate Social Responsibility).
- 10.23 The Supplier will accommodate the full spectrum of education abilities in the development and delivery of the Core Common Curriculum Requirements.
- 10.24 The Supplier shall provide opportunities for accreditation at levels meeting each Learner’s needs and abilities and ensure that all qualifications are accredited
- 10.25 The Supplier will review and agree updates to the Core Common Curriculum Requirements each year with the Secure Setting and Authority:
- 10.25.1 in line with Ofsted expectations (eg as set out in the Ofsted School Inspection handbook) relevant guidance etc (eg Ofsted School Inspection Handbook);
- 10.25.2 to ensure it continues to offer a range of qualifications that are meaningful to Learner’s education, training and employment opportunities within and following their period in the Secure Setting;
- 10.25.3 which takes into account results of Secure Setting resettlement analysis and market analysis (to ensure skills offer supports employability).
- 10.26 The Core Common Curriculum Requirements will allow Learners to enhance their skills through work-based learning and work experience both in the Secure Setting and externally (working with YOIs to reduce risk factors).
- 10.27 The Supplier will develop partnerships with external parties (eg voluntary, employers, schools, colleges) for a programme of off-site learning experiences (taking into account risk factors and security considerations).

- 10.28 The Supplier will ensure that materials are fit for purpose and fit within constraints of operating environment (the Authority will be responsible for maintaining the fabric of education facilities).
- 10.29 The Supplier will need to meet the language needs of Learners including where English is not their first language. The Authority may require the Supplier to deliver provision through the medium of languages other than English (eg Welsh) where appropriate. The Supplier will need to be able to meet any such requirement.
- 10.30 The Supplier's delivery of the Core Common Curriculum Requirements will allow for the provision of three (3) hours of Physical Education per week by the Authority or other suppliers.

Peer mentors

- 10.31 The Supplier will encourage and seek Learners who have either successfully completed a pathway or are demonstrating high performance in a pathway to support their peers who need extra assistance by becoming a peer mentor.
- 10.32 The Supplier will encourage and seek Learners to advocate for any concerns that their peers may have regarding education by becoming a peer mentor and where needed, represent their voices through the established youth council/forum present in the Secure Setting.
- 10.33 The Supplier will devise a method to ensure that all Learners are aware of the role of the peer mentors and peer mentors and are able to identify who the peer mentors and peer mentors are in their cohort.
- 10.34 The Supplier may refer Learners who they feel would benefit from a peer mentor to the service. This could include but is not restricted to Learners who need extra assistance in how to produce and complete work or need to develop their understanding of English at a listening, reading or writing level to complete classroom work due to English not being their first language.

Behaviour management

- 10.35 The Supplier will engage with the Secure Setting and Learners to contribute to a Secure Setting-wide consistent approach to behaviour management which takes into account the behaviour management framework outlined in Building Bridges.
- 10.36 The Supplier will develop a behaviour management approach which takes into account the individual needs (including neurodiverse needs) of all Learners in their care.
- 10.37 The Supplier will communicate with a Learner immediately when breaches or successes are identified and will communicate these to relevant staff within the Secure Setting as necessary.

Pathways

- 10.38 The Supplier will engage with Learners regarding the selection of their pathway choices, ensuring they are aware of the criteria for being enrolled on to the course in regard to their qualifications and risk assessment status before they apply.
- 10.39 In the event where a Learner does not receive a pathway choice, the Supplier will engage with them to explain the reason why. This includes but is not extensive to reasons relating to pathway capacity, behavioural issues, 'keep-aparts' and any other risk assessment factors.

- 10.40 Where possible, the Supplier will work with the Learner to devise a behavioural action plan that sets out what the Learner can do to access a wider range of pathway options in circumstances where the concern is the behaviour of the Learner.
- 10.41 In the event that the Supplier makes any alterations to the pathway choices as a result of a cohort needs analysis or pathway demand, the Supplier will consult with the Learners about the change before making final implementations, taking into account their views.
- 10.42 The Supplier will take a proactive role in marketing the full education offer at the Secure Setting to Learners, e.g. through considering innovative ways to increase the interest or awareness amongst Learners for new pathway choices. This could include but is not restrictive to taster classes so Learners are aware of what to expect from the course.

11. PARTNERSHIPS

Outcomes

- 11.1 The Supplier shall adhere and sign up to a set of partnership principles.
- 11.2 The Supplier shall work together with the Secure Setting including the Governor and other suppliers on-site to deliver a holistic, integrated education service that improves outcomes for Learners.
- 11.3 The Supplier is committed to the concept of multi-disciplinary working with education staff embedded within multi-disciplinary Support Teams / Enhanced Support Teams including staff from safeguarding, healthcare, psychology services, care and resettlement.

In scope

- 11.4 Agreeing and signing up to partnership principles (contained within a partnership agreement) with the Secure Setting.
- 11.5 Working with the healthcare provider and others to help deliver services within the principles of the Framework for Integrated Care (SECURE STAIRS).
- 11.6 Working with the Secure Setting on joint initiatives such as behaviour management

Out of scope

- 11.7 Resettlement activities delivered by the Secure Setting.

Service requirements

- 11.8 The Supplier will agree a set of partnership principles with the Secure Setting (setting out joint working arrangements and a commitment to a shared vision and culture).
- 11.9 The Supplier will work with the Secure Setting on any joint training or other activities (including for the purposes of consistent approaches to behaviour management)
- 11.10 The Head of Education for the Supplier will sit on the Senior Management Team for the Secure Setting.

12. PARTNERSHIPS WITH COMMUNITY AND OTHER SERVICES

Outcomes

- 12.1 The Supplier shall provide services which ensure education, training and employment needs are met throughout their sentence and facilitate an effective transition to future Education Training and Employment (ETE) providers (and thus ensuring where possible that those needs continue to be met).

In scope

- 12.2 The Services provided by the Supplier shall include:
- 12.2.1 developing partnerships, for example with community organisations, community education and work suppliers;
 - 12.2.2 working with relevant partners of the Secure Setting and education and training providers and employers to create learning opportunities (including on Release on Temporary Licence (ROTL)) relevant to Learners' development and resettlement;
 - 12.2.3 establishing information sharing arrangements with local authorities (including Youth Offending Teams (YOTs)) and education or training providers within communities;
 - 12.2.4 establishing information sharing arrangements with staff at the Secure Setting relevant to formulation development, review and transition, remand and sentence planning processes in line with policies, procedures and staff responsibilities at the Secure Setting and through the resettlement of Learners (in particular, ROTL procedures);
 - 12.2.5 enabling Learners to progress to further learning and employment or self-employment relevant to their skills (and interests);
 - 12.2.6 enabling Learners to obtain relevant qualifications such that they can progress to the next stage of their education into courses that lead to higher-level qualifications and into jobs that meet local and national needs; and
 - 12.2.7 developing tailored plans for Learners in the youth justice system enabling a smooth transition to the community with active engagement in plan formulation from the Learner and their family/carers and all those engaged in the collaborative formulation process.

Out of scope

- 12.3 The delivery of community education, training and work opportunities.
- 12.4 The management of Learners on the licence period of detention.
- 12.5 Provision of resettlement services including housing which are provided by the Secure Setting and/or other suppliers.

Service requirements

- 12.6 The Supplier shall develop effective partnerships with education and training providers in the community to help them understand how best to support Learners (in the community) in order to facilitate their resettlement.
- 12.7 Wherever possible, the Supplier shall arrange and participate in a transitional review with a Learner at the receiving education institution.

- 12.8 The Supplier shall work with the Secure Setting to ensure that any careers advice is fed into any resettlement planning and can be linked to opportunities in the Learner's home community.
- 12.9 The Supplier shall record on Authority specified systems, the education, training or employment pursued by Learners following their departure from the Secure Setting and make reasonable efforts to confirm with the respective YOT their sustained education, training or employment at three months and six months following departure.
- 12.10 Within five (5) Working Days following the end of a Learner's remand and five (5) Working Days prior to the end of a Learner's custodial sentence, the Supplier shall:
- 12.10.1 transfer all information electronically relating to a Learner's education needs and attainment using relevant forms to the receiving local authority and education or training provider; and
 - 12.10.2 complete all forms required by the Secure Setting (including those required by the Authority) and provide all other required education information pertaining to the Learner's progress during their time at the Secure Setting to the receiving YOT electronically.
 - 12.10.2.1 Records of all information sent to YOTs should be maintained by the Supplier for two years from the date sent, after which time they must be destroyed securely in line Data Protection Legislation regarding Personal Data (as detailed in Schedules 6 (Information Assurance and Security) and 9 (Data Processing)). All records must be made available electronically at the Authority's request if required in the period they are retained.
 - 12.10.2.2 Where a Learner transfers to another YOI or into the adult prison estate, the Supplier shall ensure that relevant teams within the YOI are provided with the required forms electronically and all education information pertaining to the Learner's progress during their stay in the Secure Setting within a maximum of five (5) Working Days prior to the end of a planned transfer and five (5) Working Days following an unplanned transfer.
- 12.11 All information transferred by the Supplier to external bodies will be done so securely. The Supplier shall at all times have due regard to its responsibilities and obligations under Data Protection Legislation regarding the transfer of Personal Data (further details are contained in Schedules 6 (Information Assurance and Security) and 9 (Data Processing)).
- 12.12 The Supplier shall ensure that any requests for further information relating to a Learner's education in custody received from the YOT, local authority, community education provider or employer are responded to within five (5) Working Days from receipt of request. The Supplier shall at all times have due regard to its responsibilities and obligations under Data Protection Legislation regarding the transfer of Personal Data.
- 13. DELIVERY OF SERVICES – CONTEXT (INCLUDING LEGISLATION, PLANNING AND DIGITAL DELIVERY)**
- 13.1 The Supplier shall have in place, and shall maintain throughout the Term, Standards which accord with Good Industry Practice, the relevant Prison Service Orders (PSOs) and Prison Service Instructions (PSIs) or any such successor standards as are in place from time to time (set out on the GOV.UK website) and shall, in consultation with the Authority, develop a

security system in accordance with PSOs, PSIs, National Security Framework, Data Protection Legislation, Safe Systems of Work (SSOW) or any similar standards as in force from time to time.

13.2 The Supplier shall ensure that:

13.2.1 the Services provided engage and support the progression of Learners with different protected characteristics in accordance with the requirements of the Equality Act 2010;

13.2.2 where the provision of the Services produces new information that requires modification of a Learner's assessed needs, or results in updates to a Learner's information (such as completed learning aims), that information is accurately uploaded within five (5) Working Days to a live digital platform or such system as the Authority will specify to the Supplier from time to time; and

13.2.3 it works with the Authority to put in place a physical environment at the Secure Setting that is conducive to learning, for example, using study areas, workshops, and classrooms as appropriate.

13.3 The Supplier shall work with the Authority to carry out a risk assessment of the Secure Setting where it is to provide the Services.

13.4 The Supplier shall work with the Authority and Governor to plan the delivery of Services through compliance with Schedule 25 (Draft Annual Delivery Plan). The Supplier shall document:

13.4.1 the general management of the Services;

13.4.2 details of Key Personnel (and Sub-Contractors where applicable) delivering the Services; and

13.4.3 which of the Authority's staff can provide instructions, authorise and approve Services commencement and completion.

13.5 The Supplier shall utilise digital education systems and/or tools as appropriate in the delivery of the Services. The Supplier shall provide such digital education systems and/or tools and content as part of its operations and delivery of the Services as well as interacting with and utilising any ICT systems made available at either a local or national level as requested by the Authority and/or the Authority.

14. ICT SERVICES

14.1 The Supplier shall provide the ICT services which ensure that information created and held by the Supplier is managed effectively and to enable the delivery and improvement of education and the Services, supporting performance management and governance procedures and allowing for information and data to be stored securely and shared in a timely manner. This includes the reporting requirements as set out in Schedule 14 (Performance Management).

14.2 The ICT services provided shall take into account the sensitivities of dealing with Personal Data, and the Supplier shall structure the content of ICT provision and information sharing procedures in accordance with applicable laws and regulations, Cabinet Office Government Security Classifications Policy and adhere to ISO 27001 and ISO 27002. Further details are set out in Schedule 6 (Information Assurance and Security).

- 14.3 The Authority is responsible for the approval of security infrastructure of the final ICT Services solution and it must therefore meet Cabinet Office Government Security Classifications Policy accreditation.

Outcomes

- 14.4 The ICT services shall provide relevant and up-to-date information about Learners' achievements, needs and risk factors, and enable them to be fully engaged with the Core Common Curriculum Requirements (including through the use of digital hardware such as 'smart boards'). The ICT services shall support a Learner's successful transition or settlement onward from the Secure Setting.
- 14.5 ICT services will be compatible with Authority hardware and ICT services as notified to the Supplier from time to time (which as at the Effective Date includes VC2 (Moodle) platform) and systems as required to ensure timetables and Learning Plan information is accessible on in-room devices provided by the Authority.
- 14.6 Learners will access learning content developed by the Supplier on in-room hardware provided by the Authority.

In scope

- 14.7 The design (or purchase) and maintenance of an ICT solution (including any necessary infrastructure) to support the implementation and delivery of the Services;
- 14.8 If installed in the Secure Setting - utilising and contributing to the on-going development of 'Virtual Campus' or 'Content Hub' or other system as so required by the Authority as an educational and learning tool;
- 14.9 Reporting on teaching quality in accordance with Schedule 14 (Performance Management);
- 14.10 Providing systems and protocols for the recording, storage, analysis and communication of information relating to the management of Learners and the Services delivered by the Supplier;
- 14.11 Installing the Supplier's ICT solution into the custodial operating environment, to ensure it is operational (and in accordance with relevant security requirements outlined in Schedule 6 (Information Assurance and Security) and the Cabinet Office Government Security Classifications Policy) of this Contract.

Out of scope

- 14.12 Management and security of information held in the Authority or other suppliers' systems.

Service requirements

- 14.13 The Supplier shall develop and maintain an ICT service which enables collaborative partnership working arrangements, both strategic and operational, with providers of other services within the Secure Setting and supports access to resettlement services in the community.
- 14.14 The Supplier shall implement such ICT systems, education delivery, and learning equipment and tools necessary for the delivery of the Core Common Curriculum Requirements and facilitation of examinations.

- 14.15 The Supplier shall be responsible for the installation of all relevant infrastructures to support the ICT services, including equipment, related infrastructure, servers, licences and accreditations and, subject to 14.16 below, internet access.
- 14.16 The Authority shall be responsible for the internet connection into the Secure Setting (both unrestricted and restricted access to the internet), including where the Supplier wishes to have access to 'Virtual Campus'.
- 14.17 The Supplier shall provide, maintain and refresh all and any ICT equipment used for the delivery of the Services where these are not already provided (or separately agreed to be provided in future) by the Authority. The Supplier shall implement a programme of refreshing ICT equipment, including updating of any security restrictions, to ensure that all ICT hardware is able to use a recent operating system version and a recent version of all core applications. The Supplier acknowledges that software application and/or operating versions will cease to be considered recent if they are no longer fully supported by their manufacturer.
- 14.18 ICT services provided by the Supplier will ensure the necessary technical components to enable access to 'Virtual Campus', 'The Hub' or other system so required by the Authority.
- 14.19 The Supplier shall provide printers for use with the Services. Printers used in a classroom setting shall be operated from a secure network.
- 14.20 Whilst the Authority shall provide minimum access and infrastructure to enable access to 'Virtual Campus', the 'Hub' or other system so required by the Authority, the Supplier shall be required to work with the Authority to support the ongoing content development of the 'Virtual Campus' to ensure that the content remains Learner specific and includes agreed elements which are consistent across the Secure Setting and other secure settings.
- 14.21 The Supplier shall ensure that the ICT services solution has the ability to be adapted to interface with all other appropriate ICT systems (as agreed with the Authority) during the Term. The nature of any future interfaces shall be agreed between the Supplier and the Authority.
- 14.22 The ICT services provided by the Supplier shall, as far as possible, replicate typical ICT resources available in strong state-funded schools and alternative provision settings, subject to the restrictions imposed by the operating environment.
- 14.23 The ICT services provided by the Supplier in a classroom setting can be networked, however the Supplier shall ensure it does not allow Learners to have unrestricted access to the internet nor shall the Supplier facilitate the use of any other ICT equipment that allows such access.
- 14.24 The Supplier shall allow Learners to access internet-based examinations through the 'Virtual Campus' system, 'Hub' or other system required by the Authority. The Supplier shall ensure that the Learner is registered to undertake the examination within any timescales required by the relevant Awarding Body and/or Ofqual. The Supplier shall allow Learners to undertake such examinations within a secure examination pod at the scheduled assessment time. The secure pod shall meet any standards set by the relevant awarding body, including supervision levels. Access to internet-based examinations shall only be available once a Learner is registered to take a particular examination.
- 14.25 The Supplier shall provide a timetabling ICT solution which is able to reflect Learners' daily participation in education, including PE, and any scheduled Authorised Absences.
- 14.26 The Supplier shall develop and maintain ICT services which are able to electronically hold, import and export information relating to the Learner's learning needs, education progress

and achievement which shall be shared with other departments and agencies in the Secure Setting and the wider community including, other education providers, the resettlement team, healthcare provider, YOTs and resettlement agencies.

- 14.27 The ICT services provided by the Supplier shall enable the Supplier to monitor, evaluate and track information regarding Learners' learning needs, progress, achievement, behaviour and attendance. The Supplier shall ensure that all performance monitoring information relating to the Learner is recorded and held centrally.
- 14.28 The Supplier shall provide a system which is able to centrally record and update information relating to Learners including individual needs assessments, Learning Plans, education interventions, education achievements and Resettlement Pathway plans. Such a system must be accessible by the Resettlement Team and other staff members at the Secure Setting.
- 14.29 The Supplier shall implement an ICT system for the business functions of the Services, including administration, finance, staffing and HR. Access to such ICT systems shall be strictly limited to use by the Staff only and shall be accessed from a dedicated secure location which is separate from the education learning environment. This environment can have unrestricted access to the internet.
- 14.30 The Supplier shall ensure that the ICT services allow for the deletion of sensitive or Personal Data or other information on Learners, where instructed by the Authority. The Supplier shall, if requested by the Secure Setting, provide evidence of such deletion.
- 14.31 The Supplier system shall enable the secure electronic transfer of a Learner's education record while in custody to the home YOT, Probation Service and/or education, training and employment and resettlement services. If a Learner transfers to another secure setting either within the young person's estate or to the adult estate, the Supplier shall securely and electronically transfer their education record as appropriate and in an appropriate file format.
- 14.32 The Supplier shall capture the relevant information and electronically submit to the Authority the required reports (in accordance with Schedule 6 (Information Assurance and Security) and Schedule 14 (Performance Management)). The Supplier shall ensure that all information and data recording systems are able to export data in XML format or other format required by the Authority.
- 14.33 The Supplier shall be responsible for submitting to the Department for Education all required data on each individual Learner, in accordance with the data collections framework published by the Department for Education.
- 14.34 The Supplier shall, wherever possible, ensure that Learners can access educational work (both completed or in progress) which has been stored electronically in the community prior to their arrival in custody.
- 14.35 The Supplier shall ensure that the ICT services achieve a minimum service availability of ninety-nine percent (99%) during the Core Day.
- 14.36 On the Expiry Date, all ICT equipment and installed software shall transfer into the ownership of the Authority in accordance with Schedule 11 (Authority Assets). The Supplier shall ensure all equipment is in full working order and suitably refreshed prior to this transfer so as to ensure the equipment be in fully working order for a period of two (2) years after the date of the transfer .
- 14.37 All ICT services provided by the Supplier shall:

- 14.37.1 (comply with the guidelines set out in "ICT restrictions in HMP Young Offenders Institutions Estate");
 - 14.37.2 have a Business Impact Level 3 accreditation/Protective Marking: Official; and;
 - 14.37.3 adhere to ISO 27001 and ISO 27002.
- 14.38 The Supplier shall ensure that the ICT services are delivered within the relevant legislative, ICT and security frameworks (including as set out in Schedule 6 (Information Assurance and Security) and 8 (Statutory Obligations and Corporate Social Responsibility)).

Annex 1: Framework for Integrated Care (SECURE STAIRS):

The Parties acknowledge and agree that this Annex 1 is made up of the following file(s) which were sent by [REDACTED] to [REDACTED] on 24 August 2022 at 16:20

Framework for Integrated Care - Principles and Outcomes - V1.pdf

Annex 2: Building Bridges: A Positive Behaviour Framework for the Children and Young People Secure Estate

The Parties acknowledge and agree that this Annex 2 is made up of the following file(s) which were sent by [REDACTED] to [REDACTED] on 24 August 2022 at 16:20

building-bridges-positive-behaviour-pf.pdf

PART B: TENDER

The Tender is set out as follows but for the avoidance of doubt and without prejudice to clause A1.3, in the event of any conflict between the Tender and Part A of this Schedule 1, Part A of Schedule 1 shall prevail unless the Authority notifies the Supplier otherwise.

Question 1 - Resettlement

The Parties acknowledge and agree that this Question 1 is made up of the following file(s) which were sent by [REDACTED] to [REDACTED] on 24 August 2022 at 16:20 :

The_Shaw_Trust_Limi-780934Resettlement_and_Transition001-Shaw_Trust_-
_Q2.5.2_Resettlement_and_Transition.docx

Question 2 – Safeguarding

The Parties acknowledge and agree that this Question 2 is made up of the following file(s) which were sent by [REDACTED] to [REDACTED] on 24 August 2022 at 16:20 :

The_Shaw_Trust_Limi-780934Safeguarding002-Shaw_Trust_-_Q2.5.3_Safeguarding.docx

Question 3 – Staffing

The Parties acknowledge and agree that this Question 3 is made up of the following file(s) which were sent by [REDACTED] to [REDACTED] on 24 August 2022 at 16:20 :

The_Shaw_Trust_Limi-780934Staffing003-Shaw_Trust_-_Q2.5.4_Staffing.docx

Question 4 – Partnerships

The Parties acknowledge and agree that this Question 4 is made up of the following file(s) which were sent by [REDACTED] to [REDACTED] on 24 August 2022 at 16:20 :

The_Shaw_Trust_Limi-780934Partnerships004-Shaw_Trust_-_Q2.5.5_Partnerships.docx

Question 5 – Social Values

The Parties acknowledge and agree that this Question 5 is made up of the following file(s) which were sent by [REDACTED] to [REDACTED] on 24 August 2022 at 16:20 :

The_Shaw_Trust_Limi-780934Social_Value014-Shaw_Trust_-_Q2.6.2_-
_Social_Value.docx

The_Shaw_Trust_Limi-780934Social_Value015-Shaw_Trust_-_Q2.6.3_Social_Value.docx

Question 6 – Service Delivery

The Parties acknowledge and agree that this Question 6 is made up of the following file(s) which were sent by [REDACTED] to [REDACTED] on 24 August 2022 at 16:20 :

The_Shaw_Trust_Limi-780934Service_Delivery005-Shaw_Trust_-_Q2.5.6_Service_Delivery.docx

The_Shaw_Trust_Limi-780934Service_Delivery006-Shaw_Trust_-_Q2.5.7_Service_Delivery_-_Engagement.docx

The_Shaw_Trust_Limi-780934Service_Delivery007-Shaw_Trust_-_Q2.5.8_Service_Delivery_-_Monitoring_Engagement.docx

The_Shaw_Trust_Limi-780934Service_Delivery008-Shaw_Trust_-_Q2.5.9_Service_Delivery_-_Careers_Advice.docx

The_Shaw_Trust_Limi-780934Service_Delivery009-Shaw_Trust_-_Q2.5.10_Service_Delivery_-_Learning_Plans.docx

The_Shaw_Trust_Limi-780934Service_Delivery010-Shaw_Trust_-_Q2.5.11_Service_Delivery_-_Digital.docx

The_Shaw_Trust_Limi-780934Service_Delivery011-Shaw_Trust_-_Q2.5.12_Service_Delivery_-_Voice_of_the_Child.docx

Question 7 – Change and Continuous Improvement

The Parties acknowledge and agree that this Question 7 is made up of the following file(s) which were sent by [REDACTED] to [REDACTED] on 24 August 2022 at 16:20 :

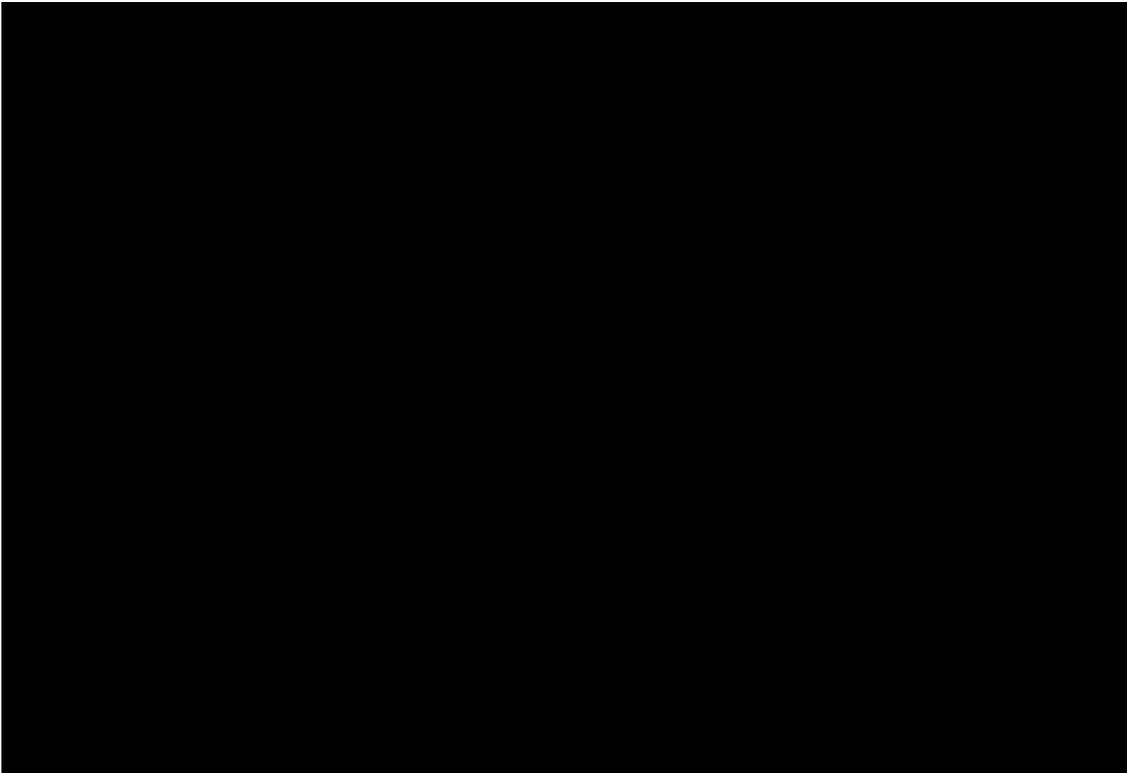
The_Shaw_Trust_Limi-780934Change_and_Continuous_Improvement_012-Shaw_Trust_-_Q2.5.13_Change_and_Continuous_Improvement.docx

Question 8 - Mobilisation

The Parties acknowledge and agree that this Question 8 is made up of the following file(s) which were sent by [REDACTED] to [REDACTED] on 24 August 2022 at 16:20 :

Shaw Trust - Q2.5.14 Mobilisation and Implementation Plan.doc

and the following project schedule :



SCHEDULE 2 – PRICES AND INVOICING

1. Definitions

1.1. In construing this Schedule 2 (Prices and Invoicing), unless otherwise expressly specified in this Schedule terms defined and used in clause A1 will have the same meaning in this Schedule.

“Allowable Assumptions” means the assumptions (if any) set out in Annex D;

“Annual Budget” means the amount set out in Annex A;

“Commissioned Volume Band” means each volume band of Learners as set out in Part A of Annex B of this Schedule commissioned by the Authority in accordance with paragraph 4.2;

“Commissioned Volume Payment” means the payment described in paragraph 4.1.2.1;

“First Quarter Forecast Date” has the meaning set out in paragraph 4.2.3.2

“Indexation Review Date” means 1st September;

“Investment Costs” means the payment described in paragraph 4.6;

“Maximum Investment Costs” means the amount identified as such set out in Part C to Annex B;

“Maximum Mobilisation Costs” means the amount identified as such set out in Part C to Annex B;

“Milestone Date(s)” shall have the meaning in paragraph 4.10.1 of this Schedule;

“Next Quarter Forecast Learner Numbers” means the number of Learners that the Authority anticipates there are likely to be in the next Quarter;

“Quarter” means a three month period first commencing on the First Quarter Forecast Date;

“Reconciliation Notification Date” means the last day of each Quarter;

“Reconciliation Payment” means the payment described in paragraph 4.2.10;

“Retention Period” means:

- i. for the first Retention Period, the period commencing on the earlier of
 - a. the first anniversary of the Commencement Date and ending on the completion of the next Ofsted review of the Secure Site; and

- b. the completion of the first Ofsted review of the Secure Site following the Commencement Date and ending on the completion of the next Ofsted review of the Secure Site
- ii. for each subsequent Retention Period, commencing on the date immediately following completion of an Ofsted review of the Secure Site and ending on the completion of the next Ofsted review of the Secure Site

“Service Fund” has the meaning set out in paragraph 4.3

“Service Payment” means the payment described in paragraph 4.1;

“Supplier Margin” means the amount set out in Part C to Annex B;

“Verification Period” means the date in relation to each Allowable Assumptions as set out in Annex D;

2. Introduction

2.1. This Schedule sets out the details for pricing individual elements of the Services, calculating periodic Prices and adjusting Prices. The Supplier agrees and acknowledges that while the resource allocation towards the Services may vary in each twelve month period, the aggregate Service Payment in such twelve month period shall never exceed the Annual Budget other than:

- 2.1.1. in respect of Investment Costs;
- 2.1.2. in respect of the costs associated with mobilisation as set out in paragraph 4.9;
- 2.1.3. in accordance with paragraph 5.1.2;
- 2.1.4. where the Authority purchases Optional Services and/or Additional Services;
or
- 2.1.5. where there is a Change.

3. Applicable Pricing

3.1. In consideration of the:

- 3.1.1. Supplier’s performance of the mobilisation activities more particularly described in Schedule 13 under and in accordance with the Contract the Authority shall pay to the Supplier the mobilisation costs in accordance with paragraph 4.9;
- 3.1.2. delivery of the benefit of the Investments the Authority shall pay to the Supplier the Investment Costs;
- 3.1.3. Supplier’s performance of its obligations under and in accordance with the Contract the Authority shall pay to the Supplier the Service Payment which shall be calculated in accordance with paragraph 4.1.

4. Prices for the Services

4.1. Service Payment

4.1.1. The Service Payment shall be calculated as more particularly described in paragraph 4.1.2. Subject to any deductions in accordance with the Contract (including without limit those described in paragraph 5 of this Schedule), the Supplier may invoice the Authority on the first day of the month following the month of Services for the Service Payment in accordance with clause C.

4.1.2. The Service Payment is comprised of the following:

4.1.2.1. the Commissioned Volume Payment which shall be calculated in accordance with paragraph 4.2;

4.1.2.2. the Investment Costs; and

4.1.2.3. where applicable, Prices for Optional Services and Additional Services as more particularly described in paragraph 7.

4.2. Commissioned Volume Payment

4.2.1. The Commissioned Volume Payment forms part of Service Payment.

4.2.2. Subject to paragraph 4.2.4, the Commissioned Volume Payment is calculated as follows:

4.2.2.1. $CVP = PCVB/12$

Where:

CVP = Commissioned Volume Payment; and

PCVB = the annual payment associated with the relevant Commissioned Volume Band.

4.2.3. Each Commissioned Volume Band has an associated annual price. The appropriate Commissioned Volume Band for each upcoming quarter shall be:

4.2.3.1. as at the Effective Date, as is set out in Part B of Annex B of this Schedule;

4.2.3.2. as at Commencement Date, shall be the relevant Commissioned Volume Band as notified by the Authority to the Supplier on the later of a date which is:

4.2.3.2.1. not less than twelve weeks prior to the Commencement Date (where different to as is set out in Part B of Annex B of this Schedule); and

4.2.3.2.2. [the date of this Agreement]

being the “**First Quarter Forecast Date**”; and

4.2.3.3. for each subsequent Quarter shall be determined by the Next Quarter Forecast Learner Numbers.

- 4.2.4. At the end of each Quarter, the Commissioned Volume Payment shall be adjusted, where necessary, by the Reconciliation Payment.

Next Quarter Forecast Learner Number

- 4.2.5. No less than 10 Working Days prior to each Reconciliation Notification Date where the Authority (acting in good faith) considers that the Commissioned Volume Band may change for the upcoming three month period, the Authority shall notify the Supplier of the Next Quarter Forecast Learner Numbers.

Reconciliation Mechanism

- 4.2.6. No less than 10 Working Days prior to each Reconciliation Notification Date, the Supplier shall notify the Authority whether at any point during the previous Quarter the number of Learners:

4.2.6.1. exceeded the maximum number for that Commissioned Volume Band; or

4.2.6.2. was less than the minimum number for that Commissioned Volume Band.

- 4.2.7. Where the Supplier fails to notify the Authority in accordance with clause 4.2.6, the Authority reserves the right to notify the Supplier of whether at any point during the previous Quarter the number of Learners:

4.2.7.1. exceeded the maximum number for that Commissioned Volume Band; or

4.2.7.2. was less than the minimum number for that Commissioned Volume Band.

- 4.2.8. Where the Authority agrees with the notification provided by the Supplier in accordance with paragraph 4.2.6 (or where clause 4.2.7 applies) then the Authority shall notify the Supplier and the Reconciliation Payment shall be payable or be added to the Service Fund (as applicable in accordance with paragraph 4.2.10).

- 4.2.9. Where the Authority disputes the notification provided by the accordance with paragraph 4.2.6 (or where clause 4.2.7 applies and the Supplier disputes the notice provided by the Authority) then the parties shall settle such dispute using the Dispute Resolution procedure detailed in clause I1 (Dispute Resolution).

- 4.2.10. The “**Reconciliation Payment**” shall be calculated as follows:

4.2.10.1. for each day during the previous Quarter where the number of Learners exceeded the maximum number for that Commissioned Volume Band an amount equivalent to the following shall be added by the Supplier to the next invoice:

ACVB/365 – PCVB/365

4.2.10.2. for each day during the previous Quarter where the number of Learners was below the minimum number for that Commissioned

Volume Band an amount equivalent to the following shall be added to the Service Fund:

PCVB/365 - ACVB/365

In each case where:

ACVB = the annual payment associated with the correct Commissioned Volume Band based on the actual number of Learners (as decided in accordance with paragraphs 4.2.8 or 4.2.9 (as appropriate) on such days; and

PCVB = the annual payment associated with the Commission Volume Band which had been applied in the previous Quarter (as decided in accordance with paragraph 4.2.3);

Service Fund

- 4.3. The Supplier shall maintain and report quarterly to the Authority on the Reconciliation Payments which have been overpaid by the Authority based on the calculation in paragraph 4.2.10.2. The aggregate value of such payments shall be held by the Supplier to the account of the Authority and the aggregate of such amounts shall be the “**Service Fund**”.
- 4.4. The Authority may use the Service Fund to fund Additional Services, Optional Services and/or a Change (in whole or in part) as the Authority may elect from time to time.
- 4.5. Where the Authority has credit remaining in the Service Fund prior to termination or expiry of this Agreement, the Supplier shall raise a credit note (no later than ten Working Days following expiry or termination of the Agreement) in respect of the credit amount and shall pay to the Authority the value of credit of the Service Fund within thirty days of the date of such credit note.

Investment Costs

- 4.6. Subject to clause 4.7, where the Supplier incurs costs associated with Investments, the Supplier may charge the Authority the actual costs incurred by the Supplier in respect of such Investments (“**Investment Costs**”).
- 4.7. The investment costs shall not exceed the Maximum Investment Costs.
- 4.8. The Supplier shall be entitled to invoice for Investment Costs within the next due invoice.
- 4.9. **Mobilisation costs**

4.9.1. Mobilisation costs shall be calculated on a pass through basis in accordance with this paragraph 4.9 and payable on each Mobilisation Milestone Date in accordance with paragraph 4.10.

4.9.2. The Supplier shall not be entitled to invoice for more than the Maximum Mobilisation Cost. Within 5 Working Days of the Effective Date, the Supplier shall provide a breakdown of the Maximum Mobilisation Cost.

4.9.3. Within 5 Working Days following the end of each month, the Supplier shall provide to the Authority a report ("**Monthly Mobilisation Report**") against the detail provided in the break down of the Maximum Mobilisation Cost setting out the actual Allowable Costs properly and reasonably incurred by the Supplier in its delivery of the Services associated with Mobilisation during the relevant month (excluding Unallowable Costs) (the "**Incurred Allowable Costs**"). The Contractor shall then calculate the charges due in respect of Mobilisation as follows:

Incurred Allowable Costs * Supplier Margin

4.9.4. The Authority shall review the Monthly Report provided by the Contractor in accordance with paragraph 4.9.3 and either:

4.9.4.1. verify the accuracy of the Incurred Allowable Costs and the charges relating to Mobilisation in which case the Supplier shall issue its monthly invoice incorporating such charges and the Authority shall pay the relevant part of the invoice in accordance with this Contract; or

4.9.4.2. provide feedback to the Supplier in relation to the Incurred Allowable Costs and the charges relating to Mobilisation, in which case the Supplier shall amend such Monthly Report taking into account the Authority's feedback and re-submit it within 5 Working Days of receiving the feedback for approval in accordance with this paragraph 4.9.4.2;

4.9.5. If the Contractor considers in any month it is likely to incur Allowable Costs that exceed the breakdown provided in accordance with paragraph 4.9.2 it shall notify the Authority as soon as reasonably practicable and seek the Authority's consent (not to be unreasonably withheld or delayed) prior to incurring such costs. If any costs result in mobilisation charges being in excess of the Maximum Mobilisation Costs they shall not be recoverable by the Supplier.

4.9.6. At any time the Authority shall be entitled to exercise its audit rights under the Contract in order to verify that there has been no double recovery between the charges relating to Mobilisation and any other payments due to the Supplier under this Contract and seek independent assurance of the Incurred Allowable Costs that the Supplier has sought to recover in accordance with this paragraph 4.9 ("Independent Assurance").

4.9.7. If any Independent Assurance carried out by the Authority identifies any material (which shall be defined as being greater than £1,000 per invoice) difference in the overall level of actual Allowable Costs incurred by the Supplier as against the level of Incurred Allowable Costs invoiced by the Supplier, the parties will, in good faith, seek to promptly resolve and settle such differences by agreement. If the parties are unable to resolve such differences between them, the dispute shall be resolved in accordance with the Dispute Resolution Procedure.

4.9.8. For the purposes of this paragraph 4.9, Allowable Costs and Unallowable Costs shall be considered as follows:

Allowable Costs

- (a) Allowable Costs means those costs considered allowable in accordance with the principles of allowance set out below in paragraph (b) below and which shall be limited to the following costs in providing Mobilisation:
- (i) the cost to the Supplier of engaging all employees, agents and consultants of the Supplier and its Affiliates engaged in the performance of Mobilisation ("**Supplier Staff**"), including:
 - (A) base salary paid to the Supplier Staff;
 - (B) employer's national insurance contributions;
 - (C) employer pension contributions;
 - (D) car allowances;
 - (E) any other contractual employment benefits;
 - (F) staff training;
 - (G) work place accommodation;
 - (H) work place IT equipment and tools reasonably necessary to perform Mobilisation (but not including items included within limb (b) below); and
 - (I) reasonable recruitment costs;
 - (ii) pass-through costs incurred in respect of a Subcontractor, including where such costs relate to an Affiliate providing back-office services (including but not limited to payroll, IT and estates) provided that where such Subcontractor costs include costs of directors, officers, employees, workers, agents, consultants and Suppliers of the Subcontractor these must fall within (a) above;
 - (iii) costs incurred in respect of Equipment and 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 Equipment by the Supplier to the Authority or (to the extent that risk and title in any Equipment is not held by the Supplier) any cost actually incurred by the Supplier in respect of such Equipment;
 - (iv) rent, costs associated with dilapidations and restoring a building back to its original state relating to temporary accommodation;
 - (v) building and renovation costs to renovate blocks and modernise accommodation;

but excluding the Unallowable Costs.

Principles applicable Allowable Costs

- (b) Costs that are appropriate, attributable to Mobilisation and reasonable in the circumstances, as defined further below, shall be Allowable Costs. References to costs which 'would withstand public scrutiny' include those which meet high standards of regularity, propriety and prudence, such that the relevant standards expected by Parliament of government outsourcing can be met. Further:
- (i) **Appropriate:** a cost is appropriate if it is of a type and arising from an activity that:
 - (A) a reasonable person informed of the facts would consider enables the performance of the contract; and
 - (B) would withstand public scrutiny.
 - (ii) **Attributable to Mobilisation:** a cost is attributable to the contract if it:
 - (A) is incurred by the Supplier;
 - (B) enables the performance of Mobilisation;
 - (C) is applied directly or indirectly to Mobilisation on a basis that is consistent with the Supplier's overarching cost accounting practices or using a methodology agreed with the Secretary of State; and
 - (D) has not been and is not anticipated to be recovered, directly or indirectly, from another source, as Incurred Allowable Costs must only be recovered once.
 - (iii) **Reasonable in the circumstances:** a cost is reasonable in the circumstances if it is of an amount that:
 - (A) a reasonable person informed of the facts would consider consistent with enabling the performance of Mobilisation;
 - (B) would withstand public scrutiny;
 - (C) is consistent with costs incurred by the Supplier in similar circumstances; and
 - (D) demonstrates due regard for economy and efficiency in the use of resources.

Unallowable costs

- (c) Costs are to be considered Unallowable Costs where they are not appropriate, attributable to Mobilisation and reasonable in the circumstances in accordance with the Allowable Costs principles set out above. The following is an indicative non-exhaustive list of Unallowable Costs:
- (i) taxation;

- (ii) clothing, moving Staff, utilities for the building;
- (iii) depreciation and amortisation should not be allowable in respect of Equipment if the costs of the asset have already been recovered from the Authority (for example, if the Authority pays for a tangible asset it should not pay additional costs in the form of depreciation in relation to that asset while the Contract is being delivered);
- (iv) maintenance and support costs to the extent that these relate to maintenance and/or support services provided beyond the Contract period, whether in relation to Equipment or otherwise;
- (v) those costs identified as employee pension contributions and which are payable by or in respect of Staff;
- (vi) any costs of Staff who are not actually providing Mobilisation;
- (vii) any costs in relation to corporate overheads, which includes any contribution to the group costs that relate to the functions including chief executive, legal, group communications and advertising;
- (viii) profit of Affiliates which would result in the aggregate amount of the charges due in respect of Mobilisation being greater than if a non-Affiliate was used to provide similar functionality as such Affiliate.

4.10. Mobilisation Milestones

4.10.1. The Supplier shall be entitled to invoice on the following “**Milestone Dates**” for Mobilisation Costs incurred prior to each Milestone Date:

- 4.10.1.1. two weeks following the Effective Date
- 4.10.1.2. two weeks following the date in paragraph 4.10.1.1;
- 4.10.1.3. two weeks following the date in paragraph 4.10.1.2; and
- 4.10.1.4. 1 September 2022.

5. Price adjustments

5.1. The Service Payment will be adjusted to account for;

5.1.1. Service Credits

- 5.1.1.1. notwithstanding paragraph 5.1.1.6, Service Credits shall be calculated by reference to the number of Service Points accrued in any one Service Month pursuant to the provisions of Schedule 14 (Performance Mechanism). The parties acknowledge and agree that the accrual of Service Credits are without prejudice to any other right or remedy of the Authority.
- 5.1.1.2. Subject to paragraph 5.1.1.5, for each Service Month the Service Points accrued shall be used to calculate a deduction

from the Service Payment for the relevant Service Month in accordance with the following formula:

$$SC = (TSP / MTSP) * SPa$$

where:

SC is the total Service Credits for the relevant Service Month;

TSP is the total Service Points that have accrued for the relevant Service month;

MTSP is the maximum number of Service Points that could be accrued in the relevant month; and

SPa is the value of the Service Payment in the relevant month prior to any Service Credit deductions.

5.1.1.3. Service Credits are a reduction of the Service Payment payable in respect of the relevant Services to reflect the reduced value of the Services actually received and are stated exclusive of VAT.

5.1.1.4. Service Credits shall be shown as a deduction from the amount due from the Authority to the Supplier in the invoice for the Service Month immediately succeeding the Service Month to which they relate.

5.1.1.5. Notwithstanding paragraph 5.1.1.6, the value of Service Credits in each Service Month shall not exceed an amount calculated as follows (“**Service Credit Cap**”):

5.1.1.5.1. in a month during which Service Points are accrued (where no Service Points are accrued in the previous month), the Service Credit Cap shall be a sum equal to five per cent (5%) of the Service Payment applicable in the month during which such Service Points accrue; and

5.1.1.5.2. subject to paragraph 5.1.1.5.3, for each consecutive month where Service Points continue to accrue, the Service Credit Cap shall be increased by an additional five per cent (5%);

5.1.1.5.3. the Service Credit Cap shall never exceed twenty five per cent (25%) of the Service Payment in any particular month,

by way of example:

5.1.1.5.4. where Service Points accrue in January, the Service Credit Cap shall be 5% of the Service Payment;

5.1.1.5.5. where Service Points then accrue in February, the Service Credit Cap shall be 10% of the Service Payment;

5.1.1.5.6. where no Service Points accrue in March, the Service Credit Cap is zero;

5.1.1.5.7. where Service Points accrue in April, the Service Credit Cap shall be 5% of the Service Payment;

5.1.1.5.8. where Service Points accrue in May through to October, the Service Credit Cap in each month shall be:

5.1.1.5.8.1. May – 10% of the Service Payment;

5.1.1.5.8.2. June – 15% of the Service Payment;

5.1.1.5.8.3. August – 20% of the Service Payment;

5.1.1.5.8.4. September – 25% of the Service Payment;

5.1.1.5.8.5. October – 25% of the Service Payment.

5.1.1.6. The Parties acknowledge and agree that the Deduction Amount set out in Appendix C to Schedule 14 (Performance Mechanism) shall:

5.1.1.6.1. apply in addition to Service Credits;

5.1.1.6.2. amounts deducted as a result of the application of Appendix C to Schedule 14 shall be ignored for the purpose of the calculation of Service Credits; and

5.1.1.6.3. not be subject to the Service Credit Cap.

5.1.2. Indexation

5.1.2.1. The pricing elements set out in this Schedule 2 (Prices and Invoicing) may, where indicated, be subject to indexation on the Indexation Review Date in accordance with this paragraph 5.1.2.

5.1.2.2. The first Indexation Review Date will be on the first anniversary of the Commencement Date and annually thereafter.

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

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

5.1.2.4.1. Staff Costs - AWE-K5DL – Average Weekly Earnings Index

5.1.2.4.2. Non-staff costs – CPI – D7BT – Consumer Price Index

5.1.2.5. Where indexation applies, the relevant adjustment shall be:

5.1.2.5.1. applied on the Indexation Review Date following the Effective Date and on each anniversary of the Indexation Review Date in each subsequent year (each such date an "adjustment date"); and

5.1.2.5.2. determined by multiplying the relevant amount or sum by the percentage increase or changes in the relevant index set out in paragraph 5.1.2.4 published for the 12 months ended immediately preceding the relevant adjustment date.

5.1.2.6. Except as set out in this paragraph 5.1.2, neither the Price nor any other costs, expenses, fees or charges shall be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Supplier or Sub-contractors of the performance of their obligations.

5.1.3. Allowable Assumptions

5.1.3.1. Before the end of its associated Verification Period, the Supplier will determine whether each Allowable Assumption is accurate.

5.1.3.2. The Buyer will provide the Supplier with reasonable assistance when it is determining if an Allowable Assumption is accurate.

5.1.3.3. Within 10 Working Days following the end of a Verification Period, the Supplier will send a written report to the Buyer setting out its verification results for the relevant Allowable Assumption, including whether the Charges or Implementation Plan (if applicable) require adjustment.

5.1.3.4. Each Allowable Assumption will be deemed to be accurate if the Supplier cannot show has an impact on the Charges or the Implementation Plan to the reasonable satisfaction of the Buyer.

5.1.3.5. If the Supplier can show that an Allowable Assumption has an impact on either the Charges or the Implementation Plan (if applicable) then:

5.1.3.5.1. the Supplier will take all reasonable steps to mitigate the impact of the Allowable Assumption;

5.1.3.5.2. the Supplier may propose a reasonable Variation arising as a direct result of such impact and such Variation shall be limited by any constraints set out in the table in Annex 2.

5.1.4. Commissioned volume bands.

5.1.4.1. Where the actual number of Learners exceeds the maximum volume for the highest band, the Parties shall agree a reviewed rate taking into account the cost of the additional resources necessary for the Supplier to deliver the Services

6. Continuous Improvement

6.1. The Parties acknowledge and agree that the rates set out in Annex B are based on the provision of the Services using the methodology provided by the Supplier as part of their bid.

6.2. In the event that the Supplier proposes through the Continuous Improvement Plan (which has been approved by the Authority) to adjust the method of delivery which introduced efficiencies in the delivery of the Services then any corresponding savings (net of any reasonable and proven costs of implementing the adjusted method) shall be credited to the Service Fund.

6.3. In the event that the Parties are unable to agree any corresponding savings then the matter shall be referred to the Dispute Resolution Procedure.

7. Prices for Optional Services and Additional Services

7.1. Where the Authority purchases Optional Services and/or Additional Services in accordance with Schedule 24, the Authority shall pay the fees associated with such Optional Services calculated in accordance with Annex C or Additional Services as agreed in accordance with Schedule 24 (Optional Services and Additional Services).

7.2. The prices calculated in accordance with paragraph 7.1 above shall be considered part of the Service Payment.

ANNEX: RATES AND PRICES

Annex A: Annual Budget



Annex B: Rates

COMMISSIONED VOLUME BANDS

PART A

Year 1

Volume Banding	Min Volume	Max Volume	Annual payment for relevant Commissioned Volume Band
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████

Year 2

Volume Banding	Min Volume	Max Volume	Annual payment for relevant Commissioned Volume Band
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████

Year 3

Volume Banding	Min Volume	Max Volume	Annual payment for relevant Commissioned Volume Band
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████
██████	██	██	██████████

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Year 7

Volume Banding	Min Volume	Max Volume	Annual payment for relevant Commissioned Volume Band
█	█	█	█
█	█	█	█
█	█	█	█
█	█	█	█
█	█	█	█
█	█	█	█
█	█	█	█
█	█	█	█
█	█	█	█
█	█	█	█

Year 8

Volume Banding	Min Volume	Max Volume	Annual payment for relevant Commissioned Volume Band
█	█	█	█
█	█	█	█
█	█	█	█
█	█	█	█
█	█	█	█
█	█	█	█
█	█	█	█
█	█	█	█
█	█	█	█
█	█	█	█

PART B

Current capacity is [REDACTED] and therefore [REDACTED] would apply

PART C

Maximum Mobilisation Costs: [REDACTED]

Supplier Margin: [taken from Bid but shall be no greater than the margin applied to other elements of core services]

Annex C: Optional Services

The Parties acknowledge and agree that this Annex C is made up of the following file(s) which were sent by [REDACTED] to [REDACTED] on 24 August 2022 at 16:20 :

Shaw Trust - Q3.1.2 Financial Response Feltham(117589922.2) Optional Services.xlsx

Annex D: Allowable Assumptions

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>	<i>Column 6</i>	<i>Column 7</i>
<i>Ref</i>	<i>Description</i>	<i>Potential time impact if not accurate</i>	<i>Potential cost impact if not accurate</i>	<i>How it will be tested</i>	<i>Maximum impact period</i>	<i>Verification period</i>
[Not used]	[Not used]	[Not used]	[Not used]	[Not used]	[Not used]	[Not used]

SCHEDULE 3 - CHANGE CONTROL

Change Request Form

(For completion by the Party requesting the Change)

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

Contract Change Notice (“CCN”)

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

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

SCHEDULE 4 - COMMERCIALY SENSITIVE INFORMATION

1. The table below set out the Commercially Sensitive Information.
2. Where possible the Parties have sought to identify when any relevant Commercially Sensitive Information will cease to fall into the category of Information to which this Schedule 4 applies.

Supplier's Commercially Sensitive Information	Date	Duration of Confidentiality
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]

SCHEDULE 5 - SUPPLIER AND THIRD PARTY SOFTWARE

Supplier Software comprises the following:

Software	Supplier (if Affiliate of the Supplier)	Purpose	No. of Licences	Restrictions	No. of copies	Other	To be deposited in escrow?
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]	1	[REDACTED] [REDACTED] [REDACTED]	1		■
[REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]	1	[REDACTED] [REDACTED]	1		■
[REDACTED]	[REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]	1	[REDACTED] [REDACTED]	1		■
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]	1	[REDACTED] [REDACTED]	1		■
[REDACTED] [REDACTED]	[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]	1	[REDACTED] [REDACTED]	1		■
[REDACTED] [REDACTED]	[REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]	1	[REDACTED] [REDACTED]	1		■

SCHEDULE 6 – INFORMATION ASSURANCE & SECURITY

1. GENERAL

- 1.1 This Schedule 6 sets out the obligations of the Parties in relation to information assurance and security, including those which the Supplier must comply with in delivering the Services under the Contract.
- 1.2 The Parties acknowledge that the purpose of the ISMS and Security Plan is to ensure a robust organisational approach to information assurance and security under which the specific requirements of the Contract will be met.
- 1.3 The Parties shall each appoint and/or identify a board level individual or equivalent who has overall responsibility for information assurance and security, including personnel security and information risk. The individual appointed by the Supplier, who is the Chief Security Officer, Chief Information Officer, Chief Technical Officer or equivalent and is responsible for compliance with the ISMS, is identified as Key Personnel) and the provisions of clause B7 (Key Personnel) apply in relation to that person.
- 1.4 The Supplier shall act in accordance with Good Industry Practice in the day to day operation of any system which is used for the storage of Information Assets and/or the storage, processing or management of Authority Data and/or that could directly or indirectly affect Information Assets and/or Authority Data.
- 1.5 The Supplier shall ensure that an information security policy is in place in respect of the operation of its organisation and systems, which shall reflect relevant control objectives for the Supplier System, including those specified in the ISO27002 control set or equivalent, unless otherwise agreed by the Authority. The Supplier shall, upon request, provide a copy of this policy to the Authority as soon as reasonably practicable. The Supplier shall maintain and keep such policy updated and provide clear evidence of this as part of its Security Plan.
- 1.6 The Supplier acknowledges that a compromise of Information Assets and/or Authority Data represents an unacceptable risk to the Authority requiring immediate communication and co-operation between the Parties. The Supplier shall provide clear evidence of regular communication with the Authority in relation to information risk as part of its Security Plan.

2. INFORMATION SECURITY MANAGEMENT SYSTEM

- 2.1 The Supplier shall, within thirty (30) Working Days of the Commencement Date, submit to the Authority a proposed ISMS which:
 - 2.1.1 has been tested; and
 - 2.1.2 complies with the requirements of paragraphs 2.2 and 2.3.
- 2.2 The Supplier shall at all times ensure that the level of security, include cyber security, provided by the ISMS is sufficient to protect the confidentiality, integrity and availability of Information Assets and Authority Data used in the provision of the Services and to provide robust risk management.
- 2.3 The Supplier shall implement, operate and maintain an ISMS which shall:
 - 2.3.1 protect all aspects of and processes of Information Assets and Authority Data, including where these are held on the ICT Environment (to the extent that this is under the control of the Supplier);

- 2.3.2 be aligned to and compliant with the relevant standards in ISO/IEC 27001: 2013 or equivalent and the Certification Requirements in accordance with paragraph 5 unless otherwise Approved;
- 2.3.3 provide a level of security which ensures that the ISMS and the Supplier System:
 - 2.3.3.1 meet the requirements in the Contract;
 - 2.3.3.2 are in accordance with applicable Law;
 - 2.3.3.3 demonstrate Good Industry Practice, including the Government's 10 Steps to Cyber Security, currently available at:
<https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>;
 - 2.3.3.4 comply with the Security Policy Framework and any other relevant Government security standards;
 - 2.3.3.5 comply with the Baseline Security Requirements; and
 - 2.3.3.6 comply with the Authority's policies, including, where applicable, the Information Security Policy Framework available at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/996355/information-security-pf.pdf
- 2.3.4 address any issues of incompatibility with the Supplier's organisational security policies;
- 2.3.5 address any specific security threats of immediate relevance to Information Assets and/or Authority Data;
- 2.3.6 document:
 - 2.3.6.1 the security incident management processes, including reporting, recording and management of information risk incidents, including those relating to the ICT Environment (to the extent that this is within the control of the Supplier) and the loss of protected Personal Data, and the procedures for reducing and raising awareness of information risk;
 - 2.3.6.2 incident response plans, including security incident response companies; and
 - 2.3.6.3 the vulnerability management policy, including processes for identification of system vulnerabilities and assessment of the potential effect on the Services of any new threat, vulnerability or exploitation technique of which the Supplier becomes aware, prioritisation of security patches, testing and application of application of security patches and the reporting and audit mechanism detailing the efficacy of the patching policy;
- 2.3.7 include procedures for the secure destruction of Information Assets and Authority Data and any hardware or devices on which such information or data is stored; and
- 2.3.8 be certified by (or by a person with the direct delegated authority of) the Supplier's representative appointed and/or identified in accordance with paragraph 1.3.

- 2.4 If the Supplier becomes aware of any inconsistency in the provisions of the standards, guidance and policies notified to the Supplier from time to time, the Supplier shall immediately notify the Authority of such inconsistency and the Authority shall, as soon as practicable, notify the Supplier of the provision that takes precedence.
- 2.5 The Supplier shall, upon request from the Authority or any accreditor appointed by the Authority, provide sufficient design documentation detailing the security architecture of its ISMS to support the Authority's and/or accreditor's assurance that it is appropriate, secure and complies with the Authority's requirements.
- 2.6 The Authority shall review the proposed ISMS submitted pursuant to paragraph 2.1 and shall, within ten (10) Working Days of its receipt notify the Supplier as to whether it has been approved.
- 2.7 If the ISMS is Approved, it shall be adopted by the Supplier immediately and thereafter operated and maintained throughout the Term in accordance with this Schedule 6.
- 2.8 If the ISMS is not Approved, the Supplier shall amend it within 10 Working Days of a notice of non-approval from the Authority and re-submit it to the Authority for approval. The Authority shall, within a further ten (10) Working Days notify the Supplier whether the amended ISMS has been approved. The Parties shall use reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than thirty (30) Working Days from the date of its first submission to the Authority. If the Authority does not approve the ISMS following its resubmission, the matter shall be resolved in accordance with clause 11 (Dispute Resolution).
- 2.9 Approval of the ISMS or any change to it shall not relieve the Supplier of its obligations under this Schedule 6.
- 2.10 The Supplier shall provide to the Authority, upon request, any or all ISMS documents.

3. SECURITY PLAN

- 3.1 The Supplier shall, within thirty (30) Working Days of the Commencement Date, submit to the Authority for approval a Security Plan which complies with paragraph 3.2.
- 3.2 The Supplier shall effectively implement the Security Plan which shall:
 - 3.2.1 comply with the Baseline Security Requirements;
 - 3.2.2 identify the organisational roles for those responsible for ensuring the Supplier's compliance with this Schedule 6;
 - 3.2.3 detail the process for managing security risks from those with access to Information Assets and/or Authority Data, including where these are held in the ICT Environment;
 - 3.2.4 set out the security measures and procedures to be implemented by the Supplier, which are sufficient to ensure compliance with the provisions of this Schedule 6;
 - 3.2.5 set out plans for transition from the information security arrangements in place at the Commencement Date to those incorporated in the ISMS;
 - 3.2.6 set out the scope of the Authority System that is under the control of the Supplier;
 - 3.2.7 be structured in accordance with ISO/IEC 27001: 2013 or equivalent unless otherwise Approved;

- 3.2.8 be written in plain language which is readily comprehensible to all Staff and to Authority personnel engaged in the Services and reference only those documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule 6; and
- 3.2.9 comply with the Security Policy Framework and any other relevant Government security standards.
- 3.3 The Authority shall review the Security Plan submitted pursuant to paragraph 3.1 and notify the Supplier, within ten (10) Working Days of receipt, whether it has been approved.
- 3.4 If the Security Plan is Approved, it shall be adopted by the Supplier immediately and thereafter operated and maintained throughout the Term in accordance with this Schedule 6.
- 3.5 If the Security Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Authority and re-submit it to the Authority for approval. The Authority shall notify the Supplier within a further ten (10) Working Days whether it has been approved.
- 3.6 The Parties shall use reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than thirty (30) Working Days from the date of its first submission to the Authority. If the Authority does not approve the Security Plan following its resubmission, the matter shall be resolved in accordance with clause I1 (Dispute Resolution).
- 3.7 Approval by the Authority of the Security Plan pursuant to paragraph 3.3 or of any change to the Security Plan shall not relieve the Supplier of its obligations under this Schedule 6.

4. REVISION OF THE ISMS AND SECURITY PLAN

- 4.1 The ISMS and Security Plan shall be reviewed in full and tested by the Supplier at least annually throughout the Term (or more often where there is a significant change to the Supplier System or associated processes or where an actual or potential Breach of Security or weakness is identified) to consider and take account of:
 - 4.1.1 any issues in implementing the Security Policy Framework and/or managing information risk;
 - 4.1.2 emerging changes in Good Industry Practice;
 - 4.1.3 any proposed or actual change to the ICT Environment and/or associated processes;
 - 4.1.4 any new perceived, potential or actual security risks or vulnerabilities;
 - 4.1.5 any ISO27001: 2013 audit report or equivalent produced regarding the Certification Requirements which indicates concerns; and
 - 4.1.6 any reasonable change in security requirements requested by the Authority.
- 4.2 The Supplier shall give the Authority the results of such reviews as soon as reasonably practicable after their completion, which shall include without limitation:
 - 4.2.1 suggested improvements to the effectiveness of the ISMS, including controls;
 - 4.2.2 updates to risk assessments; and

4.2.3 proposed modifications to respond to events that may affect the ISMS, including the security incident management processes, incident response plans and general procedures and controls that affect information security.

4.3 Following the review in accordance with paragraphs 4.1 and 4.2 or at the Authority's request, the Supplier shall give the Authority at no additional cost a draft updated ISMS and/or Security Plan which includes any changes the Supplier proposes to make to the ISMS or Security Plan. The updated ISMS and/or Security Plan shall, unless otherwise agreed by the Authority, be subject to clause F4 (Change) and shall not be implemented until Approved.

4.4 If the Authority requires any updated ISMS and/or Security Plan to be implemented within shorter timescales than those set out in clause F4 (Change), the Parties shall thereafter follow clause F4 (Change) for the purposes of formalising and documenting the relevant change for the purposes of the Contract.

5. CERTIFICATION REQUIREMENTS

5.1 The Supplier shall ensure that any systems, including the ICT Environment, on which Information Assets and Authority Data are stored and/or processed are certified as compliant with:

5.1.1 ISO/IEC 27001:2013 or equivalent by a UKAS approved certification body or are included within the scope of an existing certification of compliance with ISO/IEC 27001:2013 or equivalent unless otherwise Approved; and

5.1.2 the Government's Cyber Essentials Scheme at the BASIC level unless otherwise agreed with the Authority,

and shall provide the Authority with evidence:

5.1.3 of certification before the Supplier accessed the ICT Environment and receives, stores, processes or manages any Authority Data; and

5.1.4 that such certification remains valid and is kept up to date while the Supplier (as applicable) continues to access the ICT Environment and receives, stores, processes or manages any Authority Data during the Term.

5.2 The Supplier shall ensure that it:

5.2.1 carries out any secure destruction of Information Assets and/or Authority Data at Supplier sites which are included within the scope of an existing certificate of compliance with ISO/IEC 27001:2013 or equivalent unless otherwise Approved;

5.2.2 is certified as compliant with the NCSC Assured Service (CAS) Service Requirement Sanitisation Standard or equivalent unless otherwise Approved; and

5.2.3 complies with:

5.2.3.1 the NCSC 'Principles and how they can help us with assurance' available at <https://www.ncsc.gov.uk/blog-post/principles-and-how-they-can-help-us-with-assurance>; and

5.2.3.2 the NCSC 'Commodity Information Assurance Services' available at <https://www.ncsc.gov.uk/information/commodity-information-assurance-services>.

and the Supplier shall provide the Authority with evidence of its compliance with the requirements set out in this paragraph 5.2 before the Supplier may carry out the secure destruction of any Information Assets and/or Authority Data.

5.3 The Supplier shall notify the Authority as soon as reasonably practicable and, in any event within two (2) Working Days, if the Supplier ceases to be compliant with the certification requirements in paragraph 5.1 and, on request from the Authority, shall:

5.3.1 immediately cease access to and use of Information Assets and/or Authority Data; and

5.3.2 promptly return, destroy and/or erase any Authority Data in accordance with the Baseline Security Requirements,

and failure to comply with this obligation is a material Default.

6. SECURITY TESTING

6.1 The Supplier shall, at its own cost, carry out relevant Security Tests from the Commencement Date and throughout the Term, which shall include:

6.1.1 a monthly vulnerability scan and assessment of the Supplier System and any other system under the control of the Supplier on which Information Assets and/or Authority Data are held;

6.1.2 an annual IT Health Check by an independent CHECK qualified company of the Supplier System and any other system under the control of the Supplier on which Information Assets and/or Authority Data are held and any additional IT Health Checks required by the Authority and/or any accreditor;

6.1.3 an assessment as soon as reasonably practicable following receipt by the Supplier of a critical vulnerability alert from a provider of any software or other component of the Supplier System and/or any other system under the control of the Supplier on which Information Assets and/or Authority Data are held; and

6.1.4 such other tests as are required:

6.1.4.1 by any Vulnerability Correction Plans;

6.1.4.2 by ISO/IEC 27001:2013 certification requirements or equivalent Approved;

6.1.4.3 after any significant architectural changes to the ICT Environment;

6.1.4.4 after a change to the ISMS (including security incident management processes and incident response plans) or the Security Plan; and

6.1.4.5 following a Breach of Security.

6.2 In relation to each IT Health Check, the Supplier shall:

6.2.1 agree with the Authority the aim and scope of the IT Health Check;

6.2.2 promptly, following receipt of each IT Health Check report, give the Authority a copy of the IT Health Check report;

6.2.3 if the IT Health Check report identifies any vulnerabilities:

- 6.2.3.1 prepare a Vulnerability Correction Plan for Approval which sets out in respect of each such vulnerability;
 - 6.2.3.1.1 how the vulnerability will be remedied;
 - 6.2.3.1.2 the date by which the vulnerability will be remedied; and
 - 6.2.3.1.3 the tests which the Supplier shall perform or procure to be performed (which may, at the Authority's discretion, include a further IT Health Check) to confirm that the vulnerability has been remedied;
 - 6.2.3.2 comply with the Vulnerability Correction Plan; and
 - 6.2.3.3 conduct such further Security Tests as are required by the Vulnerability Correction Plan.
- 6.3 Security Tests shall be designed and implemented by the Supplier to minimise any adverse effect on the Services and the date, timing, content and conduct of Security Tests shall be agreed in advance with the Authority.
- 6.4 The Authority may send a representative to witness the conduct of the Security Tests. The Supplier shall provide the Authority with the results of Security Tests (in a form to be Approved) as soon as practicable and in any event within five (5) Working Days after completion of each Security Test.
- 6.5 Without prejudice to any other right of audit or access granted to the Authority pursuant to the Contract, the Authority and/or its authorised representatives, including any accreditor, may at any time to carry out Security Tests (including penetration tests) as it may deem necessary as part of any accreditation process and/or to verify the Supplier's compliance with the ISMS and the Security Plan:
- 6.5.1 upon giving reasonable notice to the Supplier where reasonably practicable to do so; and
 - 6.5.2 without giving notice to the Supplier where, in the Authority's view, the provision of such notice may undermine the Security Tests to be carried out,
- and, where applicable, the Authority shall be granted access to the Supplier's premises for the purpose of undertaking the relevant Security Tests.
- 6.6 If the Authority carries out Security Tests in accordance with paragraphs 6.5.1 or 6.5.2, the Authority shall (unless there is any reason to withhold such information) notify the Supplier of the results of the Security Tests as soon as possible and in any event within five (5) Working Days after completion of each Security Test.
- 6.7 If any Security Test carried out pursuant to paragraphs 6.1 or 6.4 reveals any:
- 6.7.1 vulnerabilities during any accreditation process, the Supplier shall track and resolve them effectively; and
 - 6.7.2 actual or potential Breach of Security or weaknesses (including un-patched vulnerabilities, poor configuration and/or incorrect system management), the Supplier shall promptly notify the Authority of any proposed changes to the ICT Environment (to the extent that this is under the control of the Supplier) and/or to the ISMS and/or to the Security Plan (and the implementation thereof) which the Supplier intends to make in order to correct such failure or weakness. Subject to Approval and

paragraphs 4.3 and 4.4, the Supplier shall implement such changes to the ICT Environment (to the extent that this is under the control of the Supplier) and/or the ISMS and/or the Security Plan and repeat the relevant Security Tests in accordance with an Approved timetable or, otherwise, as soon as reasonably practicable.

6.8 If the Authority unreasonably withholds its approval to the implementation of any changes to the ICT Environment and/or to the ISMS and/or to the Security Plan proposed by the Supplier in accordance with paragraph 6.7, the Supplier is not in breach of the Contract to the extent that it can be shown that such breach:

6.8.1 has arisen as a direct result of the Authority unreasonably withholding Approval to the implementation of such proposed changes; and

6.8.2 would have been avoided had the Authority Approved the implementation of such proposed changes.

6.9 If a change to the ISMS or Security Plan is to address any non-compliance with ISO/IEC 27001:2013 requirements or equivalent, the Baseline Security Requirements or any obligations in the Contract, the Supplier shall implement such change at its own cost and expense.

6.10 If any repeat Security Test carried out pursuant to paragraph 6.7 reveals an actual or potential breach of security or weakness exploiting the same root cause failure, such circumstance shall constitute a material Default.

6.11 On each anniversary of the Commencement Date, the Supplier shall provide to the Authority a letter from the individual appointed or identified in accordance with paragraph 1.3 confirming that having made due and careful enquiry:

6.11.1 the Supplier has in the previous year carried out all Security Tests in accordance with this Schedule 6 and has complied with all procedures in relation to security matters required under the Contract; and

6.11.2 the Supplier is confident that its security and risk mitigation procedures in relation to Information Assets and Authority Data remain effective.

7. SECURITY AUDITS AND COMPLIANCE

7.1 The Authority and its authorised representatives may carry out security audits as it reasonably considers necessary in order to ensure that the ISMS is compliant with the principles and practices of ISO 27001: 2013 or equivalent (unless otherwise Approved), the requirements of this Schedule 6 and the Baseline Security Requirements.

7.2 If ISO/IEC 27001: 2013 certification or equivalent is provided, the ISMS shall be audited independently in accordance with ISO/IEC 27001: 2013 or equivalent. The Authority and its authorised representatives shall, where applicable, be granted access to the Supplier Sites and Sub-contractor premises for this purpose.

7.3 If, on the basis of evidence resulting from such audits, it is the Authority's reasonable opinion that ISMS is not compliant with any applicable principles and practices of ISO/IEC 27001: 2013 or equivalent, the requirements of this Schedule 6 and/or the Baseline Security Requirements is not being achieved by the Supplier, the Authority shall notify the Supplier of this and provide a reasonable period of time (having regard to the extent and criticality of any non-compliance and any other relevant circumstances) for the Supplier to implement any necessary remedy. If the Supplier does not ensure that the ISMS is compliant within this

period of time, the Authority may obtain an independent audit of the ISMS to assess compliance (in whole or in part).

- 7.4 If, as a result of any such independent audit as described in paragraph 7.3 the Supplier is found to be non-compliant with any applicable principles and practices of ISO/IEC 27001:2013 or equivalent, the requirements of this Schedule 6 and/or the Baseline Security Requirements the Supplier shall, at its own cost, undertake those actions that are required in order to ensure that the ISMS is complaint and shall reimburse the Authority in full in respect of the costs obtaining such an audit.

8. SECURITY RISKS AND BREACHES

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

- 8.2 If either Party becomes aware of a Breach of Security or an attempted Breach of Security it shall act in accordance with the agreed security incident management processes and incident response plans as set out in the ISMS.

- 8.3 Without prejudice to the security incident management processes and incident response plans set out in the ISMS and any requirements to report incidents in accordance with the Information Security Policy Framework, upon becoming aware of any Breach of Security or attempted Breach of Security, the Supplier shall:

- 8.3.1 immediately notify the Authority and take all reasonable steps (which shall include any action or changes reasonably required by the Authority) that are necessary to:

8.3.1.1 minimise the extent of actual or potential harm caused by any Breach of Security;

8.3.1.2 remedy any Breach of Security to the extent that is possible and protect the integrity of the ICT Environment (to the extent that this is within its control) and ISMS against any such Breach of Security or attempted Breach of Security;

8.3.1.3 mitigate against a Breach of Security or attempted Breach of Security; and

8.3.1.4 prevent a further Breach of Security or attempted Breach of Security in the future resulting from the same root cause failure;

- 8.3.2 provide to the Authority and/or the Computer Emergency Response Team for UK Government (“**GovCertUK**”) or equivalent any data that is requested relating to the Breach of Security or attempted Breach of Security within 2 Working Days of such request; and

- 8.3.3 as soon as reasonably practicable and, in any event, within 2 Working Days following the Breach of Security or attempted Breach of Security, provide to the Authority full details (using the reporting mechanism defined by the ISMS) of the Breach of Security or attempted Breach of Security, including a root cause analysis if required by the Authority,

and the Supplier recognises that the Authority may report significant actual or potential losses of Personal Data to the Information Commissioner or equivalent and to the Cabinet Office.

- 8.4 If any action is taken by the Supplier in response to a Breach of Security or attempted Breach of Security which occurred as a result of non-compliance of the ISMS with any ISO/IEC 27001: 2013 requirements or equivalent (as applicable), the Baseline Security Requirements and/or the requirements of this Schedule 6, any such action and change to the ISMS and/or Security Plan as a result shall be implemented at the Supplier's cost.

IT ENVIRONMENT

- 8.5 The Supplier shall ensure that the Supplier System:
- 8.5.1 functions in accordance with Good Industry Practice for protecting external connections to the internet;
 - 8.5.2 functions in accordance with Good Industry Practice for protection from malicious code;
 - 8.5.3 provides controls to securely manage (store and propagate) all cryptographic keys to prevent malicious entities and services gaining access to them, in line with the Authority's Cryptographic Policy as made available to the Supplier from time to time;
 - 8.5.4 is patched (and all its components are patched) in line with Good Industry Practice, any Authority patching policy currently in effect and notified to the Supplier and any Supplier patch policy that is agreed with the Authority; and
 - 8.5.5 uses the latest versions of anti-virus definitions, firmware and software available from industry accepted anti-virus software vendors.
- 8.6 Notwithstanding paragraph 8.5, if a Breach of Security is detected in the ICT Environment, the Parties shall co-operate to reduce the effect of the Breach of Security and, if the Breach of Security causes loss of operational efficiency or loss or corruption of Information Assets and/or Authority Data, assist each other to mitigate any losses and to recover and restore such Information Assets and Authority Data.
- 8.7 All costs arising out of the actions taken by the Parties in compliance with paragraphs 8.2, 8.3 and 8.6 shall be borne by:
- 8.7.1 the Supplier if the Breach of Security originates from the defeat of the Supplier's security controls or Information Assets and/or Authority Data is lost or corrupted whilst under the control of the Supplier or its Sub-contractor; or
 - 8.7.2 the Authority if the Breach of Security originates from the defeat of the Authority's security controls or Information Assets and/or Authority Data is lost or corrupted whilst under the control of the Authority,

and each Party shall bear its own costs in all other cases.

9. VULNERABILITIES AND CORRECTIVE ACTION

- 9.1 The Parties acknowledge that from time to time vulnerabilities in the ICT Environment and ISMS will be discovered which, unless mitigated, will present an unacceptable risk to Information Assets and/or Authority Data.
- 9.2 The severity of any vulnerabilities shall be categorised by the Supplier as '*Critical*', '*Important*' and '*Other*' according to the agreed method in the ISMS and using any appropriate vulnerability scoring systems.

- 9.3 The Supplier shall procure the application of security patches to vulnerabilities categorised as '*Critical*' within seven (7) days of public release, vulnerabilities categorised as '*Important*' within thirty (30) days of public release and vulnerabilities categorised as '*Other*' within 60 days of public release, except where:
- 9.3.1 the Supplier can demonstrate that a vulnerability is not exploitable within the context of the Services being provided, including where it resides in a software component which is not being used, provided that, where those vulnerabilities become exploitable, they are remedied by the Supplier within the timescales in paragraph 9.3;
 - 9.3.2 the application of a security patch in respect of a vulnerability categorised as '*Critical*' or '*Important*' adversely affects the Supplier's ability to deliver the Services, in which case the Supplier shall be granted an extension to the timescales in paragraph 9.3 of 5 days, provided that the Supplier continues to follow any security patch test plan agreed with the Authority; or
 - 9.3.3 the Authority agrees a different timescale after consultation with the Supplier in accordance with the processes defined in the ISMS.
- 9.4 The ISMS and the Security Plan shall include provision for the Supplier to upgrade software throughout the Term within six (6) months of the release of the latest version unless:
- 9.4.1 upgrading such software reduces the level of mitigation for known threats, vulnerabilities or exploitation techniques, provided always that such software is upgraded by the Supplier within twelve (12) months of release of the latest version; or
 - 9.4.2 otherwise Approved.
- 9.5 The Supplier shall:
- 9.5.1 implement a mechanism for receiving, analysing and acting upon threat information provided by GovCertUK, or any other competent Central Government Body;
 - 9.5.2 ensure that the ICT Environment (to the extent that this is within the control of the Supplier) is monitored to facilitate the detection of anomalous behaviour that would be indicative of system compromise;
 - 9.5.3 ensure that it is knowledgeable about the latest trends in threat, vulnerability and exploitation that are relevant to the ICT Environment (to the extent that this is within the control of the Supplier) by actively monitoring the threat landscape during the Term;
 - 9.5.4 pro-actively scan the ICT Environment (to the extent that this is within the control of the Supplier) for vulnerable components and address discovered vulnerabilities through the processes described in the ISMS;
 - 9.5.5 from the Commencement Date and within 5 Working Days of the end of each subsequent month during the Term provide a report to the Authority detailing both patched and outstanding vulnerabilities in the ICT Environment (to the extent that this is within the control of the Supplier) and any elapsed time between the public release date of patches and either the time of application or, for outstanding vulnerabilities, the time of issue of such report;

- 9.5.6 propose interim mitigation measures in respect of any vulnerabilities in the ICT Environment (to the extent this is within the control of the Supplier) known to be exploitable where a security patch is not immediately available;
- 9.5.7 remove or disable any extraneous interfaces, services or capabilities that are no longer needed for the provision of the Services (in order to reduce the attack surface of the ICT Environment to the extent this is within the control of the Supplier); and
- 9.5.8 inform the Authority when it becomes aware of any new threat, vulnerability or exploitation technique that has the potential to affect the security of the IT Environment (to the extent this is within the control of the Supplier) and provide initial indications of possible mitigations.

9.6 If the Supplier is unlikely to be able to mitigate any vulnerability within the timescales in paragraph 9.3, the Supplier shall notify the Authority immediately.

9.7 Any failure by the Supplier to comply with paragraph 9.3 shall constitute a material Default.

10. Approach to Green ICT

10.1 The Supplier shall use reasonable endeavours to reduce the environmental impact of the Supplier System in accordance with the Government Digital Service – Technology Code of Practice which is available at <https://www.gov.uk/service-manual/technology/code-of-practice.html>, as updated from time to time.

10.2 The Supplier shall comply with all relevant Greening Government Commitments as stated in Sustainable Development in Government – Greening Government Commitments (<https://www.gov.uk/government/collections/greening-government-commitments>). The Supplier shall provide all relevant data to the Authority as soon as practicable after a request to do so from the Buyer to enable the Authority to comply with its obligations to report on certain aspects of the Authority System including that used by the Supplier.

10.3 The Supplier shall nominate a representative from the Staff to discuss sustainable ICT issues with the Authority from time to time.

10.4 The Supplier shall work actively with its Sub-Contractors to make environmental improvements to the Supplier System.

10.5 The Supplier shall ensure that the hardware in the Supplier System shall meet Sustainable Development in Government – Buying Standards at mandatory level or an equivalent internal standard, such as EU Energy Star qualification or Electronic Product Environmental Assessment Tool (EPEAT) verification.

10.6 The Supplier shall develop and implement a policy for disposing of the Supplier System devices (with emphasis placed on re-use and recycling) in accordance with the Sustainable Development in Government – Greening Government Commitments and will provide a copy of that policy to the Authority.

11. ASSISTIVE TECHNOLOGY

11.1 The Supplier shall, to comply with the Equality Act 2010, provide assistive technology equipment for all persons using the Supplier System.

11.2 The Supplier shall demonstrate its understanding of assistive technology issues to the Authority upon request and provide examples of its responsiveness to the needs of each person who require assistive technology.

- 11.3 The Supplier shall comply with the Authority Assistive Technology Policy (<https://www.gov.uk/government/publications/assistive-technology-definition-and-safe-use/assistive-technology-definition-and-safe-use>).

12. SUB-CONTRACTS

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

ANNEX 1 – BASELINE SECURITY REQUIREMENTS

1. Security Classifications and Controls

- 1.1 The Supplier shall, unless otherwise Approved in accordance with paragraph 7 of this Annex 1, only have access to and handle Information Assets and Authority Data that are classified under the Government Security Classifications Scheme as OFFICIAL.
- 1.2 There may be a specific requirement for the Supplier in some instances on a limited 'need to know basis' to have access to and handle Information Assets and Authority Data that are classified as 'OFFICIAL-SENSITIVE.'
- 1.3 The Supplier shall apply the security controls required for OFFICIAL information and OFFICIAL-SENSITIVE information as described in Cabinet Office guidance, currently at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/715778/May-2018_Government-Security-Classifications-2.pdf.
- 1.4 The Supplier shall be able to demonstrate to the Authority and any accreditor that it has taken into account the "Technical Controls Summary" for OFFICIAL (in the above guidance) in designing and implementing the security controls in the Supplier System, which shall be subject to assurance and accreditation to Government standards.
- 1.5 Additional controls may be required by the Authority and any accreditor where there are aspects of data aggregation.

2. End User Devices

- 2.1 Authority Data shall, wherever possible, be held and accessed on paper or in the ICT Environment on secure premises and not on removable media (including laptops, removable discs, CD-ROMs, USB memory sticks, PDAs and media card formats) without Approval. If Approval is sought to hold and access data by other means, the Supplier shall consider the second-best option and third best option below and record the reasons why a particular approach should be adopted when seeking Approval:
 - 2.1.1 second best option means: secure remote access so that data can be viewed or amended over the internet without being permanently stored on the remote device, using products meeting the FIPS 140-2 standard or equivalent, unless Approved;
 - 2.1.2 third best option means: secure transfer of Authority Data to a remote device at a secure site on which it will be permanently stored, in which case the Authority Data and any links to it shall be protected at least to the FIPS 140-2 standard or equivalent, unless otherwise Approved, and noting that protectively marked Authority Data must not be stored on privately owned devices unless they are protected in this way.
- 2.2 The right to transfer Authority Data to a remote device should be carefully considered and strictly limited to ensure that it is only provided where absolutely necessary and shall be subject to monitoring by the Supplier and Authority.
- 2.3 Unless otherwise Approved, when Authority Data resides on a mobile, removable or physically uncontrolled device, it shall be:
 - 2.3.1 the minimum amount that is necessary to achieve the intended purpose and should be anonymised if possible;

- 2.3.2 stored in an encrypted form meeting the FIPS 140-2 standard or equivalent and using a product or system component which has been formally assured through a recognised certification process of CESG to at least Foundation Grade, for example, under the CESG Commercial Product Assurance scheme (“CPA”) or equivalent, unless otherwise Approved;
 - 2.3.3 protected by an authentication mechanism, such as a password; and
 - 2.3.4 have up to date software patches, anti-virus software and other applicable security controls to meet the requirements of this Schedule 6.
- 2.4 Devices used to access or manage Authority Data shall be under the management authority of the Supplier and have a minimum set of security policy configurations enforced. Unless otherwise Approved, all Supplier devices shall satisfy the security requirements set out in the NCSC Device Security Requirement (<https://www.ncsc.gov.uk/collection/device-security-guidance>) or equivalent.
- 2.5 Where the NCSC Guidance highlights shortcomings in a particular platform the Supplier may wish to use, then these should be discussed with the Authority and a joint decision shall be taken on whether the residual risks are acceptable. If the Supplier wishes to deviate from the NCSC Guidance, this should be agreed in writing with the Authority on a case by case basis.

3. Data Storage, Processing, Management, Transfer and Destruction

- 3.1 The Parties recognise the need for Authority Data to be safeguarded and for compliance with the Data Protection Legislation. To that end, the Supplier shall inform the Authority the location within the United Kingdom where Authority Data is stored, processed and managed. The import and export of Authority Data from the Supplier System must be strictly controlled and recorded.
- 3.2 The Supplier shall inform the Authority of any changes to the location within the United Kingdom where Authority Data is stored, processed and managed and shall not transmit, store, process or manage Authority Data outside of the United Kingdom without Approval which shall not be unreasonably withheld or delayed provided that the transmission, storage, processing and management of Authority Data offshore is within:
- 3.2.1 the European Economic Area (“EEA”); or
 - 3.2.2 another country or territory outside the EEA if that country or territory ensures an adequate level of protection by reason of its domestic law or of the international commitments it has entered into which have been defined as adequate by the European Commission.
- 3.3 The Supplier System shall support the requirement of the Authority to comply with Government policy and Cabinet Office guidance on Offshoring, currently set out at:

<https://security-guidance.service.justice.gov.uk/offshoring-guide/>

by assessing, as required, any additional security risks associated with the storage, processing and/or transmission of any data and/or information offshore, including by an offshore Supplier (which may include the use of ‘landed resources’), taking account of European Union requirements to confirm the ‘adequacy’ of protection of Personal Data in the countries where storage, processing and/or transmission occurs. No element of the Supplier System may be off-shored without Approval.

- 3.4 The Supplier shall ensure that the Supplier System provides internal processing controls between security domains to prevent the unauthorised high domain exporting of Authority Data to the low domain if there is a requirement to pass data between different security domains.
- 3.5 The Supplier shall ensure that any electronic transfer of Authority Data:
 - 3.5.1 protects the confidentiality of the Authority during transfer through encryption suitable for the impact level of the data;
 - 3.5.2 maintains the integrity of the Authority Data during both transfer and loading into the receiving system through suitable technical controls for the impact level of the data; and
 - 3.5.3 prevents the repudiation of receipt through accounting and auditing.
- 3.6 The Supplier shall:
 - 3.6.1 protect Authority Data, including Personal Data, whose release or loss could cause harm or distress to individuals and ensure that this is handled as if it were confidential while it is stored and/or processed;
 - 3.6.2 ensure that OFFICIAL-SENSITIVE information, including Personal Data is encrypted in transit and when at rest when stored away from the Supplier's controlled environment;
 - 3.6.3 on demand, provide the Authority with all Authority Data in an agreed open format;
 - 3.6.4 have documented processes to guarantee availability of Authority Data if it stops trading;
 - 3.6.5 securely destroy all media that has held Authority Data at the end of life of that media in accordance with any requirements in the Contract and, in the absence of any such requirements, in accordance with Good Industry Practice;
 - 3.6.6 securely erase any or all Authority Data held by the Supplier when requested to do so by the Authority;
 - 3.6.7 ensure that all material used for storage of Confidential Information is subject to controlled disposal and the Supplier shall:
 - 3.6.7.1 destroy paper records containing Personal Data by incineration, pulping or shredding so that reconstruction is unlikely; and
 - 3.6.7.2 dispose of electronic media that was used for the processing or storage of Personal Data through secure destruction, overwriting, erasure or degaussing for re-use.

4. Networking

- 4.1 Any Authority Data transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device shall be encrypted using a product or system component which has been formally assured through a certification process recognised by NCSC, to at least Foundation Grade, for example, under CPA or through the use of Public Sector Network (“**PSN**”) compliant encrypted networking services or equivalent unless none are available in which case the Supplier shall agree the solution with the Authority.
- 4.2 The Authority requires that the configuration and use of all networking equipment in relation to the provision of the Services, including equipment that is located in secure physical locations, is at least compliant with Good Industry Practice.
- 4.3 The Supplier shall ensure that the ICT Environment (to the extent this is within the control of the Supplier) contains controls to maintain separation between the PSN and internet connections if used.

5. Security Architectures

- 5.1 When designing and configuring the ICT Environment (to the extent that this is within the control of the Supplier) the Supplier shall follow Good Industry Practice and seek guidance from recognised security professionals with the appropriate skills and/or those with a NCSC Certified Professional certification

(<https://www.ncsc.gov.uk/information/certified-cyber-professional-assured-service>)

or equivalent for all bespoke or complex components.

- 5.2 The Supplier shall provide to the Authority and any accreditor sufficient design documentation detailing the security architecture of the ICT Environment and data transfer mechanism to support the Authority’s and any accreditor’s assurance that this is appropriate, secure and compliant with the Authority’s requirements.
- 5.3 The Supplier shall apply the ‘*principle of least privilege*’ (the practice of limiting systems, processes and user access to the minimum possible level) to the design and configuration of the ICT Environment used for the storage, processing and management of Authority Data. Users should only be granted the minimum necessary permissions to access Information Assets and Authority Data and must be automatically logged out of the Supplier System if an account or session is inactive for more than 15 minutes.

6. Digital Continuity

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

7. Personnel Vetting and Security

- 7.1 All Staff shall be subject to pre-employment checks that include, as a minimum, their employment history for at least the last 3 years, identity, unspent criminal convictions and right to work (including nationality and immigration status) and shall be vetted in accordance with:

7.1.1 the BPSS or BS7858 or equivalent; and

7.1.2 PSI 07/2014 based on their level of access to Information Assets and/or Authority Data.

7.2 If the Authority agrees that it is necessary for any Staff to have logical or physical access to Information Assets and/or Authority Data classified at a higher level than OFFICIAL (such as that requiring 'SC' clearance), the Supplier shall obtain the specific government clearances that are required for access to such Information Assets and/or Authority Data.

7.3 The Supplier shall prevent Staff who are unable to obtain the required security clearances from accessing Information Assets and/or Authority Data and/or the ICT Environment used to store, process and/or manage such Information Assets or Authority Data.

7.4 The Supplier shall procure that all Staff comply with the Security Policy Framework and principles, obligations and policy priorities stated therein, including requirements to manage and report all security risks in relation to the provision of the Services.

7.5 The Supplier shall ensure that Staff who can access Information Assets and/or Authority Data and/or the ICT Environment are aware of their responsibilities when handling such information and data and undergo regular training on secure information management principles. Unless otherwise Approved, this training must be undertaken annually.

7.6 If the Supplier grants Staff access to Information Assets and/or Authority Data, those individuals shall be granted only such levels of access and permissions that are necessary for them to carry out their duties. Once Staff no longer require such levels of access or permissions or leave the organisation, their access rights shall be changed or revoked (as applicable) within one Working Day.

8. Identity, Authentication and Access Control

8.1 The Supplier shall operate a robust role-based access control regime, including network controls, to ensure all users and administrators of and those maintaining the ICT Environment are uniquely identified and authenticated when accessing or administering the ICT Environment to prevent unauthorised users from gaining access to Information Assets and/or Authority Data. Applying the '*principle of least privilege*', users and administrators and those responsible for maintenance shall be allowed access only to those parts of the ICT Environment they require. The Supplier shall retain an audit record of accesses and users and disclose this to the Authority upon request.

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

9. Physical Media

9.1 The Supplier shall ensure that all:

9.1.1 OFFICIAL information is afforded physical protection from internal, external and environmental threats commensurate with the value to the Authority of that information;

9.1.2 physical components of the Supplier System are kept in secure accommodation which conforms to the Security Policy Framework and NCSC standards and guidance or equivalent;

9.1.3 physical media holding OFFICIAL information is handled in accordance with the Security Policy Framework and NCSC standards and guidance or equivalent; and

9.1.4 Information Assets and Authority Data held on paper are:

9.1.4.1 kept secure at all times, locked away when not in use on the Sites on which they are held and secured and are segregated if the Supplier is co-locating with the Authority; and

9.1.4.2 only transferred by an approved secure form of transfer with confirmation of receipt obtained.

10. Audit and Monitoring

10.1 The Supplier shall implement effective monitoring of its information assurance and security obligations in accordance with Government standards and where appropriate, in accordance NCSC Protective Monitoring for HMG ICT Systems (GPG 13) or equivalent.

10.2 The Supplier shall collect audit records which relate to security events in the ICT Environment (where this is within the control of the Supplier), including those that would support the analysis of potential and actual compromises. In order to facilitate effective monitoring and forensic readiness, such Supplier audit records shall include:

10.2.1 logs to facilitate the identification of the specific asset which makes every outbound request external to the ICT Environment (to the extent it is within the control of the Supplier). To the extent, the design of the ICT Environment allows, such logs shall include those from DHCP servers, HTTP/HTTPS proxy servers, firewalls and routers;

10.2.2 regular reports and alerts giving details of access by users of the ICT Environment (to the extent that it is within the control of the Supplier) to enable the identification of changing access trends any unusual patterns of usage and/or accounts accessing higher than average amounts of Authority Data; and

10.2.3 security events generated in the ICT Environment (to the extent it is within the control of the Supplier) including account logon and logoff events, start and end of remote access sessions, security alerts from desktops and server operating systems and security alerts from third party security software.

10.3 The Parties shall work together to establish any additional audit and monitoring requirements for the ICT Environment.

10.4 The Supplier shall retain audit records collected in compliance with paragraph 10.1 for at least 6 months.

SCHEDULE 7 - PRISONS

1. ACCESS TO PRISONS

- 1.1 If Staff are required to have a pass for admission to a Secure Setting which is a prison (a "**Prison**"), the Authority shall, subject to satisfactory completion of approval and required vetting procedures, arrange for passes to be issued. Any member of Staff who cannot produce a proper pass when required to do so by any member of the Authority's personnel, or who contravenes any conditions on the basis of which a pass was issued, may be refused admission to a Prison or be required to leave a Prison if already there.
- 1.2 Staff shall promptly return any pass if at any time the Authority so requires or if the person to whom the pass was issued ceases to be involved in the performance of the Services. The Supplier shall promptly return all passes on expiry or termination of the Contract.
- 1.3 Staff attending a Prison may be subject to search at any time. Strip searches shall be carried out only on the specific authority of the Authority under the same rules and conditions applying to the Authority's personnel. The Supplier shall comply with Rule 71 of Part IV of the Prison Rules 1999 as amended by the Prison (Amendment) Rules 2005 and Rule 75 of Part IV of the Young Offender Institution Rules 2000 as amended by the Young Offender Institution (Amendment) Rules 2005.
- 1.4 Searches shall be conducted only on the specific authority of the Authority under the same rules and conditions applying to the Authority's personnel and/or visitors. The Supplier shall comply with Section 8 of the Prison Act 1952, Rule 64 of the Prison Rules 1999 and PSI 67/2011.

2. SECURITY

- 2.1 Whilst at Prisons, Staff shall comply with all security measures implemented by the Authority in respect of staff and other persons attending Prisons. The Authority shall provide copies of its written security procedures to Staff on request. The Supplier and all Staff are prohibited from taking any photographs at Prisons unless they have Approval and the Authority's representative is present so as to have full control over the subject matter of each photograph to be taken. No such photograph shall be published or otherwise circulated without Approval.
- 2.2 The Authority may search vehicles used by the Supplier or Staff at Prisons.
- 2.3 The Supplier and Staff shall co-operate with any investigation relating to security which is carried out by the Authority or by any person who is responsible for security matters on the Authority's behalf, and when required by the Authority shall:
 - 2.3.1 take all reasonable measures to make available for interview by the Authority any Staff identified by the Authority, or by a person responsible for security matters, for the purposes of the investigation. Staff may be accompanied by and be advised or represented by another person whose attendance at the interview is acceptable to the Authority; and
 - 2.3.2 subject to any legal restriction on their disclosure, provide all documents, records or other material of any kind and in whatever form which may be reasonably required by the Authority, or by a person who is responsible for security matters on the Authority's behalf, for the purposes of investigation as long as the provision of that material does not prevent the Supplier from performing the Services. The Authority may retain any such material for use in connection with the investigation and, as far as possible, may provide the Supplier with a copy of any material retained.

3. OFFENCES AND AUTHORISATION

- 3.1 In providing the Services, the Supplier shall comply with PSI 10/2012.
- 3.2 Nothing in the Contract is deemed to provide any “authorisation” to the Supplier in respect of any provision of the Prison Act 1952, Offender Management Act 2007, Crime and Security Act 2010, Serious Crime Act 2015 or other relevant legislation.

SCHEDULE 8 – STATUTORY OBLIGATIONS AND CORPORATE SOCIAL RESPONSIBILITY

1. WHAT THE AUTHORITY EXPECTS FROM THE SUPPLIER

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

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf

[Supplier Code of Conduct - v2 \(publishing.service.gov.uk\)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf)

- 1.2 The Supplier shall (and shall procure that its Sub-Contractors shall) comply with their legal obligations, in particular those in Part 1 of Part A of this Schedule 8, and to meet the standards set out in the Code as a minimum. The Supplier shall (and shall procure that its Sub-Contractors shall) use reasonable endeavours to comply with the standards in Part 2 or Part A of this Schedule 8.
- 1.3 The Supplier shall:
- 1.3.1 comply with Part B of this Schedule; and
 - 1.3.2 deliver the commitments made by the Supplier as set out in Part C of this Schedule.

PART A

PART 1 Statutory Obligations

2. EQUALITY AND ACCESSIBILITY

2.1 The Supplier shall:

2.1.1 perform its obligations under the Contract in accordance with:

2.1.1.1 all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy maternity or otherwise);

2.1.1.2 the Authority's equality, diversity and inclusion policy as given to the Supplier from time to time;

2.1.1.3 any other requirements and instructions which the Authority reasonably imposes regarding any equality obligations imposed on the Authority at any time under applicable equality law; and

2.1.2 take all necessary steps and inform the Authority of the steps taken to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation).

3. MODERN SLAVERY

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

3.1.1 the MSA; and

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

3.2 The Supplier shall:

3.2.1 implement due diligence procedures for its Sub-Contractors and other participants in its supply chains, to ensure that there is no slavery or trafficking in its supply chains;

3.2.2 respond promptly to all slavery and trafficking due diligence questionnaires issued to it by the Authority from time to time and shall ensure that its responses to all such questionnaires are complete and accurate;

3.2.3 prepare and deliver to the Authority each year, an annual slavery and trafficking report setting out the steps it has taken to ensure that slavery and trafficking is not taking place in any of its supply chains or in any part of its business;

3.2.4 maintain a complete set of records to trace the supply chain of all Services provided to the Authority regarding the Contract;

3.2.5 report the discovery or suspicion of any slavery or trafficking by it or its Sub-Contractors to the Authority and to the Modern Slavery Helpline; and

3.2.6 implement a system of training for its employees to ensure compliance with the MSA.

- 3.3 The Supplier represents, warrants and undertakes throughout the Term that:
- 3.3.1 it conducts its business in a manner consistent with all applicable laws, regulations and codes including the MSA and all analogous legislation in place in any part of the world;
 - 3.3.2 its responses to all slavery and trafficking due diligence questionnaires issued to it by the Authority from time to time are complete and accurate; and
 - 3.3.3 neither the Supplier nor any of its Sub-Contractors, nor any other persons associated with it:
 - 3.3.3.1 has been convicted of any offence involving slavery and trafficking; or
 - 3.3.3.2 has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence regarding slavery and trafficking.
- 3.4 The Supplier shall notify the Authority as soon as it becomes aware of:
- 3.4.1 any breach, or potential breach, of the Anti-Slavery Policy; or
 - 3.4.2 any actual or suspected slavery or trafficking in a supply chain which relates to the Contract.
- 3.5 If the Supplier notifies the Authority pursuant to paragraph 3.4 of this Schedule 8, it shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with the Contract.
- 3.6 If the Supplier is in Default under paragraphs 3.2 or 3.3 of this Schedule 8, the Authority may by notice:
- 3.6.1 require the Supplier to remove from performance of the Contract any Sub-Contractor, Staff or other persons associated with it whose acts or omissions have caused the Default; or
 - 3.6.2 immediately terminate the Contract.
4. **INCOME SECURITY**
- 4.1 The Supplier shall:
- 4.1.1 ensure that all pay and benefits paid for a standard working week meet, at least, national legal standards in the country of employment;
 - 4.1.2 provide all Staff with written and readily understandable information about their employment conditions in respect of pay before they enter employment and about their pay for the pay period concerned each time that they are paid;
 - 4.1.3 not make deductions from pay:
 - 4.1.3.1 as a disciplinary measure;
 - 4.1.3.2 except where permitted by Law and the terms of the employment contract; and

4.1.3.3 without express permission of the person concerned; and

4.1.4 record all disciplinary measures taken against Staff.

5. **WORKING HOURS**

5.1 The Supplier shall ensure that:

5.1.1 the working hours of Staff comply with the Law, and any collective agreements;

5.1.2 the working hours of Staff, excluding overtime, is defined by contract, do not exceed 48 hours per week unless the individual has agreed in writing, and that any such agreement is in accordance with the Law;

5.1.3 overtime is used responsibly, considering:

5.1.3.1 the extent;

5.1.3.2 frequency; and

5.1.3.3 hours worked;

5.1.4 the total hours worked in any seven-day period shall not exceed sixty (60) hours, except where covered by paragraph 5.1.5;

5.1.5 working hours do not exceed sixty (60) hours in any seven (7) day period unless:

5.1.5.1 it is allowed by Law;

5.1.5.2 it is allowed by a collective agreement freely negotiated with a worker's organisation representing a significant portion of the workforce;

5.1.5.3 appropriate safeguards are taken to protect the workers' health and safety; and

5.1.5.4 the Supplier can demonstrate that exceptional circumstances apply such as during unexpected production peaks, accidents or emergencies; and

5.1.6 all Supplier Staff are provided with at least:

5.1.6.1 one (1) day off in every seven (7) day period; or

5.1.6.2 where allowed by Law, two (2) days off in every fourteen (14) day period.

6. **RIGHT TO WORK**

6.1 The Supplier shall:

6.1.1 ensure that all Staff, are employed on the condition that they are permitted to work in the UK; and

6.1.2 notify the Authority immediately if an employee is not permitted to work in the UK.

7. HEALTH AND SAFETY

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

7.1.1 all applicable Laws regarding health and safety; and

7.1.2 the Authority's Health and Safety Policy while at the Authority Premises.

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

8. FRAUD AND BRIBERY

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

8.1.1 committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or

8.1.2 been listed by any Government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in Government procurement programmes or contracts on the grounds of a Prohibited Act.

8.2 The Supplier shall not during the Term:

8.2.1 commit a Prohibited Act; and/or

8.2.2 do or suffer anything to be done which would cause the Authority or any of its employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

8.3 The Supplier shall, during the Term:

8.3.1 establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;

8.3.2 have in place reasonable prevention measures (as defined in section 45(3) and 46(4) of the Criminal Finance Act 2017) to ensure that Associated Persons of the Supplier do not commit tax evasion facilitation offences as defined under that Act;

8.3.3 keep appropriate records of its compliance with its obligations under paragraphs 8.3.1 8.3.2 and make such records available to the Authority on request; and

8.3.4 take account of any guidance about preventing facilitation of tax evasion offences which may be published and updated in accordance with section 47 of the Criminal Finances Act 2017.

8.4 The Supplier shall immediately notify the Authority in writing if it becomes aware of any breach of paragraphs 8.1 and/or 8.2, or has reason to believe that it has or any of the Staff have:

- 8.4.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
 - 8.4.2 been listed by any Government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in Government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
 - 8.4.3 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of the Contract or otherwise suspects that any person directly or indirectly connected with the Contract has committed or attempted to commit a Prohibited Act.
- 8.5 If the Supplier notifies the Authority pursuant to paragraph 8.4, the Supplier shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to Audit any books, records and/or any other relevant documentation.
- 8.6 If the Supplier is in Default under paragraphs 8.1 and/or 8.2, the Authority may by notice:
- 8.6.1 require the Supplier to remove from performance of the Contract any Staff whose acts or omissions have caused the Default; or
 - 8.6.2 immediately terminate the Contract.
- 8.7 Any notice served by the Authority under paragraph 8.6 shall specify the nature of the Prohibited Act, the identity of the party who the Authority believes has committed the Prohibited Act and the action that the Authority has taken (including, where relevant, the date on which the Contract terminates).

PART 2 Corporate Social Responsibility

9. ZERO HOURS CONTRACTS

- 9.1 Any reference to zero hours contracts, for the purposes of this Contract, means as they relate to employees or workers and not those who are genuinely self-employed and undertaking work on a zero hours arrangement.
- 9.2 When offering zero hours contracts, the Supplier shall consider and be clear in its communications with its employees and workers about:
- 9.2.1 whether an individual is an employee or worker and what statutory and other rights they have;
 - 9.2.2 the process by which work will be offered and assurance that they are not obliged to accept work on every occasion; and
 - 9.2.3 how the individual's contract will terminate, for example, at the end of each work task or with notice given by either party.

10. SUSTAINABILITY

- 10.1 The Supplier shall:
- 10.1.1 comply with the applicable Government Buying Standards;

- 10.1.2 provide, from time to time, in a format reasonably required by the Authority, reports on the environmental effects of providing the Goods and Services;
- 10.1.3 maintain ISO 14001 or BS 8555 or an equivalent standard intended to manage its environmental responsibilities; and
- 10.1.4 perform its obligations under the Contract in a way that:
 - 10.1.4.1 supports the Authority's achievement of the Greening Government Commitments;
 - 10.1.4.2 conserves energy, water, wood, paper and other resources;
 - 10.1.4.3 reduces waste and avoids the use of ozone depleting substances; and
 - 10.1.4.4 minimises the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

11. TRANSPARENCY

- 11.1 The Supplier 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 Supplier shall comply with the provisions of this Schedule in order to assist the Authority with its compliance with its obligations under that PPN.
- 11.2 Without prejudice to the Supplier's reporting obligations set out in the Contract, where requested by the Authority, the Supplier shall as soon as reasonably practicable and in any event within three (3) months of the date of such request 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 as notified by the Authority to the Supplier from time to time.
- 11.3 If the Authority rejects any proposed transparency report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval within five (5) Working Days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Authority. If the Parties fail to agree on a draft Transparency Report the Authority shall determine what should be included. Any other disagreement in connection with transparency reports shall be referred to the Dispute Resolution Procedure.

PART B: MARKET STEWARDSHIP PRINCIPLES

These Market Stewardship Principles cover five key principles that must underpin the provision of the Services by the Supplier under the Contract and its engagement with its suppliers and all entities to which it Sub-Contracts the provision of the Services.

Each of the principles is set out in this Schedule together with guidance as to how the Supplier should respond to its obligations against each of the principles.

1. ADHERENCE TO APPROPRIATE MANAGEMENT OF RISK IN THE SUPPLY CHAIN

- 1.1 All contractual and other risk should be appropriately managed. This should extend to not passing risk down supply chains disproportionately, the management of volume fluctuations and other events and the management of intellectual property rights.

- 1.2 The supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at: Meaningful work allocation. The Supplier should be able to evidence its approach in allocating work to supply chain partners in a manner which meets its obligations under this Contract. Where a supplier is specified in the Order Form as Sub-Contractor, the Supplier shall refer appropriate work (including volumes, where appropriate) to that supplier.
- 1.3 The Supplier shall record details of all issues arising out of complaints from Sub-Contractors that they have not received anticipated work (including volumes, where appropriate) and shall refer these complaints to the Relevant Authority.
- 1.4 **Systems for allocation of work to the Supplier.** The Supplier should have systems for allocation of specific work to a supplier where the delivery of the services is best served by calling on the particular expertise of that supplier. The allocations should ensure that the Services are provided from a supply chain organisation that has the correct level of expertise.
- 1.5 **Volume Fluctuations.** The Supplier must demonstrate to the Relevant Authority's satisfaction how it manages any volume fluctuations and the reallocation of work to the supply chain, where appropriate. The potential impact of both increases and particularly reductions in work allocation and associated drop in income, and actions to mitigate these risks, must be set out in the relevant Sub-Contract.
- 1.6 **Spot purchase arrangements.** Spot purchase arrangements may be entirely appropriate but can be detrimental to supply chain partners as opposed to more standard contracts that guarantee an income. Suppliers generally, but also in seeking funding or additional business, may be disadvantaged in only being able to reference spot purchase contracts. The Supplier should therefore ensure that wherever 'spot purchase' arrangements are utilised, options to transition to more stable contractual referral systems are reviewed at regular periods.
- 1.7 **Payment terms.** The Supplier should detail a full exploration of payment terms and the impact of these on the supply chain including the requirement for any clawback/repayment if targets (such as performance targets) are not met. The implications of this should be worked through for each year of the Sub-Contract.
- 1.8 **Minimum contract term.** Consideration should be given to the needs of Sub-Contractors in relation to the contract term. The contract length, if inadequate, may damage the ability of the Sub-Contractor in seeking new business or additional funding from elsewhere. Supporting statements around expected minimum term of Sub-Contracts may be helpful to avoid this.
- 1.9 **Intellectual Property Rights ("IPR").** The Supplier should set out in the Sub-Contract an approach for the handling of intellectual property rights to be established as part of the supply chain selection process.

2. ALIGNMENT OF ETHOS IN THE SUPPLY CHAIN

- 2.1 The Relevant Authority envisages that a sustainable relationship is fostered throughout the contract term, which meets the expectations of both parties according to the position established at contract inception. In entering into a contractual agreement, there should be an understanding of what is important to both parties and this should go on to form part of the contractual agreement which will be reviewed throughout the contract term to ensure that expectations are being met. The Relevant Authority's market engagement has reinforced

that this is an important expectation for many organisations and key to building trust, especially in the early stages of such business relationships.

- 2.2 **Audit trail.** The Supplier must maintain an audit trail of engagement with Sub-Contractors that demonstrates compliance with the principles established at the outset of their working relationship and shall include any additional support the Supplier offers.
- 2.3 **Support declared in the bid to supply chain organisations.** The Supplier must publish a statement with regard to the support that is being offered by the Supplier to each Sub-Contractor. Each support element must be itemised.
- 2.4 **Meetings.** The Supplier must record details of the conduct of all meetings with members of its supply chain and review these records to ensure that they are timely and appropriate and reinforce good relationship management.
- 2.5 **Practitioner forum.** The Supplier shall work with the Relevant Authority to implement a practitioner forum or similar method of sharing and publicising good practice with Sub-Contractors.
- 2.6 **Visibility across the supply chain:**
 - 2.6.1 The Relevant Authority expects that all parties have visibility of participation within the supply chain. This should include payment terms against contractual targets, the volume of business handled by Sub-Contractors, fair apportionment of work, and how the supply chain adjusts to changing volumes.
 - 2.6.2 **Supply chain sourcing, selection and refresh process.** The Supplier must ensure that the sourcing, selection and refresh process of Sub-Contractors is transparent. This information must be made freely available to both the Relevant Authority and each potential Sub-Contractor on request and shall form a constituent part of the Delivery Plan to be submitted annually in line with Schedule 19 (Contract Management).

3. REWARD AND RECOGNITION OF GOOD PERFORMANCE

- 3.1 The Relevant Authority considers it important that organisations in the supply chain receive appropriate reward for good performance. Recognition of good performance should be shared across the chain and this should include the sharing of good practice. As industry forums are instigated, methods for sharing data will be developed.

4. APPLICATION OF THE PRINCIPLES OF THE COMPACT IN WORK WITH CIVIL SOCIETY ORGANISATIONS:

- 4.1 Evidence of compliance and other issues. The Relevant Authority has an expectation that the Supplier and its supply chain follow the principles of the Compact when engaging with Civil Society Organisations (as that term is defined in the Compact).

PART C:

1. The Supplier shall deliver the commitments made in the document(s) found under the sub-heading entitled 'Question 5 – Social Values' at Part B of Schedule 1.

SCHEDULE 9 – DATA PROCESSING

1. The contact details of the Authority's Data Protection Officer are: data.compliance@justice.gov.uk or Data Protection Officer, 102 Petty France, London, SW1H 9AJ.
2. The contact details of the Supplier's Data Protection Officer are: [Insert contact details].
3. The Supplier shall comply with any further written instructions with respect to processing by the Authority.
4. Any such further instructions shall be incorporated into this Schedule 9.

Description	Details
Identity of Controller for each Category of Personal Data	<p>The Authority is Controller and the Supplier is Processor</p> <p>The Parties acknowledge that in accordance with clause D2.2 to D2.12 and for the purposes of the Data Protection Legislation, the Authority is the Controller and the Supplier is the Processor of the following Personal Data:</p> <ul style="list-style-type: none"> • <i>[Insert the scope of Personal Data for which the purposes and means of the processing by the Supplier is determined by the Authority]</i> <p>The Parties are Joint Controllers</p> <p><i>The Parties acknowledge that they are Joint Controllers for the purposes of the Data Protection Legislation in respect of:</i></p> <ul style="list-style-type: none"> • <i>[Insert the scope of Personal Data for which the purposes and means of the processing is determined by both Parties together]</i> <p>The Parties are Independent Controllers of Personal Data</p> <p><i>The Parties acknowledge that they are Independent Controllers for the purposes of the Data Protection Legislation in respect of:</i></p> <ul style="list-style-type: none"> • <i>Business contact details of Staff;</i> • <i>Business contact details of any directors, officers, employees, agents, consultants and contractors of the Authority (excluding the Staff) engaged in the performance of the Authority's duties under the Contract). / [; and]</i> • <i>[Insert the scope of other Personal Data provided by one Party who is Data Controller to the other Party who will separately determine the nature and purposes of its processing the Personal Data on receipt.</i>

	<i>e.g. where (1) the Supplier has professional or regulatory obligations in respect of Personal Data received, (2) a standardised service is such that the Authority cannot dictate the way in which Personal Data is processed by the Supplier, or (3) where the Supplier comes to the transaction with Personal Data for which it is already Controller for use by the Authority]</i>
Duration of the processing	<i>[Clearly set out the duration of the processing including dates]</i>
Nature and purposes of the processing	<i>[Be as specific as possible, but make sure that you cover all intended purposes. The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc. The purpose might include: employment processing, statutory obligation, recruitment assessment etc]</i>
Type of Personal Data being Processed	<i>[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]</i>
Categories of Data Subject	<i>[Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]</i>
Plan for return and destruction of the data once the processing is complete Unless requirement under union or member state law to preserve that type of data	<i>[Describe how long the data will be retained for, how it be returned or destroyed]</i>

Annex 1: Joint Controller Agreement

1. JOINT CONTROLLER STATUS AND ALLOCATION OF RESPONSIBILITIES

- 1.1 With respect to Personal Data under Joint Control of the Parties, the Parties envisage that they shall each be a Data Controller in respect of that Personal Data in accordance with the terms of this Annex 1 (*Joint Controller Agreement*) in replacement of clauses D2.2 to D2.12 and clauses D2.14 to D2.22. Accordingly, the Parties each undertake to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Data Controllers.
- 1.2 The Parties agree that the **[Supplier/Authority]**:
- 1.2.1 is the exclusive point of contact for Data Subjects and is responsible for all steps necessary to comply with the GDPR regarding the exercise by Data Subjects of their rights under the GDPR;
 - 1.2.2 shall direct Data Subjects to its Data Protection Officer or suitable alternative in connection with the exercise of their rights as Data Subjects and for any enquiries concerning their Personal Data or privacy;
 - 1.2.3 is solely responsible for the Parties' compliance with all duties to provide information to Data Subjects under Articles 13 and 14 of the GDPR;
 - 1.2.4 is responsible for obtaining the informed consent of Data Subjects, in accordance with the GDPR, for Processing in connection with the Services where consent is the relevant legal basis for that Processing; and
 - 1.2.5 shall make available to Data Subjects the essence of this Joint Controller Agreement (and notify them of any changes to it) concerning the allocation of responsibilities as Joint Controller and its role as exclusive point of contact, the Parties having used their best endeavours to agree the terms of that essence. This must be outlined in the **[Supplier's/Authority's]** privacy policy (which must be readily available by hyperlink or otherwise on all of its public facing services and marketing).
- 1.3 Notwithstanding the terms of paragraph 1.2, the Parties acknowledge that a Data Subject has the right to exercise their legal rights under the Data Protection Legislation as against the relevant Party as Data Controller.

2. UNDERTAKINGS OF BOTH PARTIES

- 2.1 The Supplier and the Authority each undertake that they shall:
- 2.1.1 report to the other Party every six (6) months on:
 - 2.1.1.1 the volume of Data Subject Access Requests (or purported Data Subject Access Requests) from Data Subjects (or third parties on their behalf);
 - 2.1.1.2 the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;
 - 2.1.1.3 any other requests, complaints or communications from Data Subjects (or third parties on their behalf) relating to the other Party's obligations under applicable Data Protection Legislation;

- 2.1.1.4 any communications from the Information Commissioner or any other regulatory authority in connection with Personal Data; and
- 2.1.1.5 any requests from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law;

that it has received in relation to the subject matter of the Contract during that period;

- 2.1.2 notify each other immediately if it receives any request, complaint or communication made as referred to in paragraphs 2.1.1.3 to 2.1.1.5;
- 2.1.3 provide the other Party with full cooperation and assistance in relation to any request, complaint or communication made as referred to in paragraphs 2.1.1.3 to 2.1.1.5 to enable the other Party to comply with the relevant timescales set out in the Data Protection Legislation;
- 2.1.4 not disclose or transfer the Personal Data to any third party unless necessary for the provision of the Services and, for any disclosure or transfer of Personal Data to any third party, save where such disclosure or transfer is specifically authorised under the Contract or is required by Law. For the avoidance of doubt to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex;
- 2.1.5 request from the Data Subject only the minimum information necessary to provide the Services and treat such extracted information as Confidential Information;
- 2.1.6 ensure that at all times it has in place appropriate Protective Measures to guard against unauthorised or unlawful processing of the Personal Data and/or accidental loss, destruction or damage to the Personal Data and unauthorised or unlawful disclosure of or access to the Personal Data;
- 2.1.7 take all reasonable steps to ensure the reliability and integrity of any of its Personnel who have access to the Personal Data and ensure that its Personnel:
 - 2.1.7.1 are aware of and comply with their duties under this Annex 1 and those in respect of Confidential Information;
 - 2.1.7.2 are informed of the confidential nature of the Personal Data, are subject to appropriate obligations of confidentiality and do not publish, disclose or divulge any of the Personal Data to any third party where the that Party would not be permitted to do so; and
 - 2.1.7.3 have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection Legislation;
- 2.1.8 ensure that it has in place Protective Measures as appropriate to protect against a Data Loss Event having taken account of the:
 - 2.1.8.1 nature of the data to be protected;
 - 2.1.8.2 harm that might result from a Data Loss Event;
 - 2.1.8.3 state of technological development; and

2.1.8.4 cost of implementing any measures;

2.1.9 ensure that it has the capability (whether technological or otherwise), to the extent required by Data Protection Legislation, to provide or correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject that the Supplier holds; and

2.1.10 ensure that it notifies the other Party as soon as it becomes aware of a Data Loss Event.

2.2 Each Joint Controller shall use its reasonable endeavours to assist the other Controller to comply with any obligations under applicable Data Protection Legislation and shall not perform its obligations under this Annex in such a way as to cause the other Joint Controller to breach any of its' obligations under applicable Data Protection Legislation to the extent it is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations

3. DATA PROTECTION BREACH

3.1 Without prejudice to paragraph 3.2, each Party shall notify the other Party promptly and without undue delay, and in any event within forty eight (48) hours, upon becoming aware of any Personal Data Breach or circumstances that are likely to give rise to a Personal Data Breach, providing the other Party and its advisors with:

3.1.1 sufficient information and in a timescale which allows the other Party to meet any obligations to report a Personal Data Breach under the Data Protection Legislation;

3.1.2 all reasonable assistance, including:

3.1.2.1 co-operation with the other Party and the Information Commissioner investigating the Personal Data Breach and its cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;

3.1.2.2 co-operation with the other Party including taking such reasonable steps as are directed by the Authority to assist in the investigation, mitigation and remediation of a Personal Data Breach;

3.1.2.3 co-ordination with the other Party regarding the management of public relations and public statements relating to the Personal Data Breach;

3.1.2.4 providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner investigating the Personal Data Breach, with complete information relating to the Personal Data Breach, including, without limitation, the information set out in paragraph 3.2.

3.2 Each Party shall take all steps to restore, re-constitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Personal Data Breach as if it was that Party's own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Personal Data Breach, including providing the other Party, as soon as possible and within forty eight (48) hours of the Personal Data Breach relating to the Personal Data Breach, in particular:

3.2.1 the nature of the Personal Data Breach;

3.2.2 the nature of Personal Data affected;

- 3.2.3 the categories and number of Data Subjects concerned;
- 3.2.4 the name and contact details of the Supplier's Data Protection Officer or other relevant contact from whom more information may be obtained;
- 3.2.5 measures taken or proposed to be taken to address the Personal Data Breach; and
- 3.2.6 describe the likely consequences of the Personal Data Breach.

4. AUDIT

4.1 The Supplier shall permit:

- 4.1.1 the Authority, or a third-party auditor acting under the Authority's direction, to conduct, at the Authority's cost, data privacy and security audits, assessments and inspections concerning the Supplier's data security and privacy procedures relating to Personal Data, its compliance with this Annex 1 and the Data Protection Legislation; and
- 4.1.2 the Authority, or a third-party auditor acting under the Authority's direction, access to premises at which the Personal Data is accessible or at which it is able to inspect any relevant records, including the record maintained under Article 30 GDPR by the Supplier so far as relevant to the Contract, and procedures, including premises under the control of any third party appointed by the Supplier to assist in the provision of the Services.

- 4.2 The Authority may, in its sole discretion, require the Supplier to provide evidence of the Supplier's compliance with paragraph 4.1 in lieu of conducting such an audit, assessment or inspection.

5. IMPACT ASSESSMENTS

5.1 The Parties shall:

- 5.1.1 provide all reasonable assistance to each other to prepare any Data Protection Impact Assessment as may be required (including provision of detailed information and assessments in relation to processing operations, risks and measures); and
- 5.1.2 maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with the Contract, in accordance with the terms of Article 30 GDPR.

6. ICO GUIDANCE

- 6.1 The Parties agree to take account of any guidance issued by the Information Commissioner and/or any relevant Central Government Body. The Authority may on not less than thirty (30) Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner and/or any relevant Central Government Body.

7. SUB-PROCESSING

7.1 In respect of any Processing of Personal performed by a third party on behalf of a Party, that Party shall:

- 7.1.1 carry out adequate due diligence on such third party to ensure that it is capable of providing the level of protection for the Personal Data as is required by the Contract,

and provide evidence of such due diligence to the other Party where reasonably requested; and

7.1.2 ensure that a suitable agreement is in place with the third party as required under applicable Data Protection Legislation.

8. DATA RETENTION

The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be necessary for them to retain such Personal Data under applicable Data Protection Legislation and their privacy policy (save to the extent (and for the limited period) that such information needs to be retained by a Party for statutory compliance purposes or as otherwise required by the Contract), and taking all further actions as may be necessary to ensure its compliance with Data Protection Legislation and its privacy policy.

SCHEDULE 10 – PARTNERSHIP PROTOCOLS

1. DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

"Authority Objectives" has the meaning given to it in paragraph 2.1;

"Other Suppliers" means the other suppliers of equivalent services at other secure settings or otherwise supplying educational or related services;

"Required Behaviours" means the behaviours set out in Annex 1;

2. OVERARCHING STATEMENT OF SHARED APPROACH

2.1 This Schedule sets out the obligations of the Parties to work cooperatively and collaboratively with each other in order to achieve:

2.1.1 great user experience (internal and external);

2.1.2 pace and flexibility in delivery;

2.1.3 value for money; and

2.1.4 collaboration between the Supplier and Other Suppliers in order to share information to enhance the consistency of education Learners receive during their time in the Secure Setting and avoid the repetition of education stages each time Learners move between secure settings, thereby ensuring a more efficient provision of the Services under the Framework,

(the **"Authority Objectives"**).

2.2 The Parties acknowledge and agree that they share a strong commitment to shared values and common purpose. In particular the Parties:

2.2.1 believe in a whole systems approach to promoting the wellbeing of Learners;

2.2.2 believe that educational services are most effective when they are flexible and align with trauma-informed care and formulation-driven, evidence-based, whole-systems approaches to creating change;

2.2.3 have a strong focus on a curriculum intent to deliver outstanding progress and outcomes for Learners;

2.2.4 are committed to seeking out the voice of Learners to enable them to shape and improve services;

2.2.5 have a shared commitment to continuous improvement, including delivering value for money to the public;

2.2.6 are committed to learning which is flexible in its use of space, time and resources to provide the best possible opportunities and recognise the value of a balance of classroom-based learning, vocational pathways and enrichment activity;

2.2.7 are focussed on destination planning to ensure the best possible outcomes for each Learner upon release; and

2.2.8 will ensure that all staff working within the Secure Setting act as part of a wider education community.

3. GENERAL PRINCIPLES FOR PARTNERSHIP WORKING

3.1 The Parties acknowledge and agree that they will develop good formal and informal working relationships across the Secure Setting that build trust, share responsibility and respect difference in order to deliver effective, integrated services for Learners.

3.2 To facilitate this, the Parties shall comply with the Required Behaviours. Specifically, the Parties shall:

3.2.1 work collaboratively in an environment of trust and respect for each other's roles and responsibilities (linked to Required Behaviour: Taking Responsibility);

3.2.2 demonstrate openness, honesty and transparency in their communications (linked to Required Behaviour: Openness and Communication);

3.2.3 provide consistency in leadership, culture, standards and working practices while making the best use of resources and being flexible in their deployment to improve service quality (linked to Behaviour: Consistency and Convergence);

3.2.4 work with and learn from each other, including shared learning and consolidation of practices (such as assessment, information collection or digital applications) where appropriate;

3.2.5 discuss emerging issues at an early stage and maintain dialogue on priorities;

3.2.6 be ambitious in supporting Learners and their carers to shape and improve the Services;

3.2.7 achieve value and identify and capitalise on opportunities to improve (linked to Behaviour: Delivery and Innovation); and

3.2.8 ensure a no surprises culture.

3.3 If required by the Authority, the Supplier shall enter into an interface agreement with the Authority and, as necessary, other key stakeholders. Such agreement shall incorporate the key responsibilities set out in Annex 2 and shall detail the parties' respective responsibilities in relation to casework and sentence planning, leadership and governance, and risk and security management.

4. COLLABORATION

4.1 In the course of delivering requirements under the Contract, the Supplier will create data through various assessments of Learners, tracking progress in relation to a Learner's educational ability. The Authority may require that the Supplier to share this data with Other Suppliers and third parties notified by the Authority in order to enhance a Learner's ability to benefit from educational activity or the wider programmes designed to reduce offending post-release from a secure setting.

4.2 The Authority may require, via the Specification, that the Supplier uses local data recording systems to collate and share information across the Secure Setting and its staff, across

multiple secure settings and/or with Other Suppliers and third parties notified to the Supplier by the Authority.

- 4.3 The Supplier agrees that it will collaborate with Other Suppliers in relation to the use, reuse and purchase of assets which are used in connection with the Services and in particular but without limit the Supplier shall comply with its obligations in clause B5.10.

5. CHANGES TO COLLABORATION

- 5.1 The Authority shall be entitled to amend this Schedule by giving prior written notice to the Supplier. Subject to paragraph 5.2 below, any such changes shall take effect from the date specified in the notice given pursuant to this paragraph 5.1.

- 5.2 Any changes to the Required Behaviours made pursuant to this paragraph 5 shall take effect no earlier than the commencement of the quarter immediately following the date of the notice given pursuant to paragraph 5.1.

ANNEX 1 Required Behaviours

1 TAKING RESPONSIBILITY

- 1.1 The Supplier shall improve its working relationships with the Other Suppliers taking responsibility to fulfil collaboratively agreed commitments to support the delivery of the Authority Objectives through leadership, awareness, information exchange and joint problem solving.
- 1.2 The Supplier shall demonstrate consistent leadership at all levels to set an agreed expectation for the direction of the collaborative relationship through appropriate actions, behaviours and effective empowerment, in particular by establishing a strong direction and a persuasive future vision.
- 1.3 The Supplier shall seek to understand the Authority Objectives and goals in relation to the delivery of the Services in order to support and improve the Parties' collaborative relationships and behaviours.
- 1.4 The Supplier shall be open, transparent and responsive in sharing with Other Suppliers relevant and accurate information required to facilitate the delivery of the Authority Objectives.
- 1.5 The Supplier shall demonstrate collaborative behaviour with Other Suppliers by proactively leading on, pre-empting, mitigating and contributing to the resolution of service delivery problems or issues.

2 CONSISTENCY AND CONVERGENCE

- 2.1 Each Party acknowledges that adopting common working practices, terminology, standards and technology and a collaborative approach to service development and resourcing with Other Suppliers will support the successful delivery of the Services.
- 2.2 The Supplier shall adopt common working practices and common terminology with Other Suppliers to support the successful delivery of the Services, including by:
 - 2.3 where appropriate, adopting such standard terminology as is used already by the Authority and the Other Suppliers;
 - 2.4 using recognised industry standard terminology wherever possible, in preference to terminology that describes the Supplier's own products, services, tools and processes; and
 - 2.5 working with the Other Suppliers to identify and resolve any ambiguities in the use of terminology in the delivery of the Services; and
 - 2.6 demonstrating an ability and willingness to work proactively with Other Suppliers to deliver potential solution designs and/or optimal services for improved value, using consistent end-to-end service delivery processes.
- 2.7 The Supplier shall work individually and collaboratively with the Other Suppliers to achieve optimal exploitation of people, skills, facilities and tools within the wider organisation and the flexible allocation of those resources to achieve delivery of the current and future business requirements.
- 2.8 The Supplier shall demonstrate willingness to utilise existing solutions, technologies and open standards where commonly available to the Other Suppliers rather than "re-inventing wheels" in order to facilitate the efficient and effective delivery of the Authority Objectives.

3 OPENNESS AND COMMUNICATION

- 3.1 The Parties shall provide cooperation, support, information and assistance to the Other Suppliers in a proactive, transparent and open way and in a spirit of trust and mutual confidence, to achieve the Authority Objectives.
- 3.2 The Supplier shall act as "one team" with the Other Suppliers (i.e. leave company badges at the door) and collaborate to deliver the Authority Objectives (as notified to the Supplier from time to time), including by:
- 3.2.1 maintaining a genuine, non defensive presence and working openly and collaboratively with the Other Suppliers to resolve any problems that arise;
 - 3.2.2 engaging in regular and open communication with the Other Suppliers and avoiding working in "silos";
 - 3.2.3 demonstrating a willingness and ability to:
 - 3.2.4 listen to other parties' concerns and consider in good faith all constructive feedback without triggering escalation; and
 - 3.2.5 provide constructive feedback to Other Suppliers where appropriate; and
 - 3.2.6 behaving in a supportive and considerate manner to all staff, regardless of organisation.
- 3.3 The Parties shall identify and adopt appropriate types and styles of communications, behaviours and engagement activities. This includes the identification of clear lines of engagement and authorities in support of decision making and actively working with the Other Suppliers to develop and improve the working relationships between delivery teams to promote the Authority Objectives.
- 3.4 The Parties shall promptly and proactively:
- 3.4.1 identify factors which may compromise or enhance the solution or performance;
 - 3.4.2 analyse the impact and likelihood of such factors;
 - 3.4.3 escalate and mitigate emerging risks; and
 - 3.4.4 exploit opportunities to enhance the solution or performance.

4 DELIVERY AND INNOVATION

- 4.1 Each Party shall individually and collectively with the Other Suppliers work to deliver the Authority Objectives (as notified to the Supplier from time to time), achieve value and ensure the orderly provision of seamless end to end services.
- 4.2 The Parties shall encourage, identify, implement and capitalise on opportunities to improve products, services, processes, technologies or ideas to deliver better solutions and performance throughout the relationship lifecycle.
- 4.3 The Supplier shall act responsively to change and shall proactively identify situations where change may be appropriate and empower staff to consider and take managed risks.
- 4.4 Each Party shall recognise exceptional performance across the system, regardless of who is responsible for such performance, and where applicable implement processes to achieve such recognition.

ANNEX 2 Contractor Interface Agreement: Key Responsibilities

Lot 2 – Feltham

For the purposes of this Annex 2, references to:

- (a) the “YOI Education Contractor” shall mean the Supplier;
- (b) “YCS” shall mean the Authority;
- (c) “the YOI” shall mean the Secure Setting; and
- (d) “another YOI” shall mean another secure setting.

1. RESETTLEMENT AND RESETTLEMENT PLANNING	
Outcomes	
YOI Education Contractor	
1.1	The YOI Education Contractor shall ensure that all of the YOI Education Contractor's staff understand the principles of the Framework for integrated care working with the child's wider environment.
1.2	The YOI Education Contractor shall put in place suitable communications processes for the YOI Education Contractor's staff, and adhere to those imposed by the YOI, to share information with YCS which might be considered pertinent to the management of an individual with the Resettlement team, including onward referral where health, safety & bullying and substance misuse concerns are identified in the classroom setting.
1.3	The YOI Education Contractor shall ensure children pursue education courses and learning activities based on their needs, which shall be aligned with wider assessment information and Resettlement planning aims and objectives. The YOI Education Contractor shall liaise with Resettlement Practitioners and YOTs or directly with home ETE provision.
1.4	The YOI Education Contractor will be responsible for obtaining, a child's assessments, records and mainstream curriculum work from community education providers within 5 business days. The Education Contractor will share these with the Resettlement Practitioners upon receipt.
1.5	The YOI Education Contractor shall ensure that the agreed key elements of each child's Personalised Learning and Skills Plan are shared with the Resettlement team for incorporation into each Child's Resettlement plan within five (5) business days of a child's arrival at the YOI.
1.6	The YOI Education Contractor shall ensure that the Resettlement team is provided with any updates to children's educational information, as a minimum as part of the six (4) weekly review of children's Personalised Learning and Skills Plan. Reports should be available 1 week before trial/court is due to start (often YOTs request this information to present to court) if date is known in advance.
1.7	Where a child has to discontinue a course/learning activity due to security reasons, the YOI Education Contractor shall work, through the Activities Planning Board, with the resettlement team and security team and Activities Hub to ensure there is no delay in children pursuing alternative courses/learning activities.

1.8	<p>The YOI Education Contractor shall ensure that there is sufficient staff resource to ensure the YOI Education Contractor's staff (with suitable working knowledge and relationship with children) are available to:</p> <ul style="list-style-type: none"> ▪ attend formulation meetings; ▪ attend emergency multi-disciplinary risk and safeguarding meetings; ▪ contribute to ROTL planning and organising for resettlement licence; ▪ contribute to ROTL planning and organising for facilities licence; and ▪ contribute to review of physical restraint incidents that occur in education employees' presence; and ▪ to work with Resettlement Practitioners in setting objectives in relation to ETE.
1.9	<p>The YOI Education Contractor shall ensure that all requests made by the Resettlement team for information and support are dealt with in line with the appropriate urgency of the request within normal office hours.</p>
1.10	<p>The YOI Education Contractor shall be responsible for ensuring a child's education record is shared with relevant community stakeholder(s) as part of continued resettlement planning. <i>The relevant documentation</i>, Personalised Learning and Skills Plan, relevant assessments and progress reports should be shared with the YOT via the Resettlement Team within a maximum of five (5) Business Days following the end of a child's remand period and five (5) Business Days prior to the end of a child's custodial sentence. Records are to be shared directly with the community educational contractor (ETE / Education or Training Provider) to additionally ensure effective information dissemination.</p>
1.11	<p>Where a child transfers to another YOI or to the adult estate, the YOI Education Contractor shall be responsible for ensuring that the Resettlement team is provided with the agreed <i>documentation</i> Personalised Learning and Skills Plan, relevant assessments and progress reports no later than five (5) Business Days prior to a child's planned transfer, and as early as possible as part of transition planning. Additionally, five (5) Business Days following a child's unplanned transfer. In addition, the relevant education staff shall liaise with the YOI Education Contractor in the receiving secure establishment and ensure agreed <i>documentation</i>, Personalised Learning and Skills Plan, relevant assessments and progress reports are shared directly to ensure effective information dissemination.</p>
1.12	<p>The YOI Education Contractor shall work alongside the Resettlement team, YOTs and resettlement consortia, and shall attend all required meetings and shall provide all requested information to assist in a child's resettlement pathway planning.</p>

1.13	<p>The YOI Education Contractor shall implement appropriate communications processes to allow the YOI Education Contractor’s staff to be provided with information relevant to the delivery of the services and ensure that the YOI Education Contractor is able to share information about the education services with YCS to further raise custodial staff awareness on specific aspects of the service. The Education representative (Engagement & Resettlement Team ERT) will be expected to attend every formulation meeting as part of an identified multidisciplinary support team.</p> <p>Ensure that any the Custodial Operator and/or YOI-required training for working in a custodial environment is provided to all of the Supplier's Staff. In particular, the Supplier shall liaise with the Custodial Operator to ensure that mandatory security training and Key Training is delivered (which lasts approximately three hours) as part of this induction). The Supplier acknowledges that staff will not be able to move unaccompanied within the YOI or work unsupervised with children and young adults until they have completed this mandatory training. ensure that Supplier Personnel are released in order to attend any induction courses provided by the secure setting, as well as any mandatory learning and development requirements associated with working in a custodial environment and whole system approaches to care as required by the Authority thereafter (including the Framework for Integrated Care (SECURE STAIRS) training</p>
YCS	
1.14	YCS shall ensure all key stakeholders identified in the site ToR will attend (e.g. Security manager and Resettlement practitioner every Activities Planning Board.
1.15	YCS shall be responsible for arranging weekly Activity Planning Boards and any ad hoc Activity Planning Boards as necessary. The YCS shall ensure that every Activity Planning Board meeting is chaired by a designated member in the YCS and includes nominated managers from the security team and the Resettlement team. Where consensus cannot be reached on a child’s allocation to a particular course, the chair of the Activity Planning Board shall ensure that the matter is escalated to the Head of Reducing Reoffending and Head of Education for a decision. In the event that consensus still cannot be reached, the matter must be escalated to the Governor, whose decision will be final.
1.16	<p>The Head of Security shall ensure that a risk review system is put in place in order that any changes to risk levels which affect children’s participation in educational activities can be identified. The risk review system shall enable risk assessments to be revisited:</p> <ul style="list-style-type: none"> ▪ on a six weekly for children rated as high risk; ▪ on a 12 weekly basis for children rated as medium or low risk; and ▪ when there is a change in a child’s circumstance (e.g. IEP upgrade/downgrade, adjudication, remand to convicted/sentenced etc).
1.17	Resettlement Practitioners shall ensure that the YOI education contractor is equipped with all relevant information and assessment information sent into the Secure Establishment and completed upon induction. This includes the AssetPlus and Resettlement Plan aims and objectives along with relevant health information prior to activity allocation decisions.

1.18	Resettlement Practitioners shall ensure that the agreed key elements of a child's personalised learning and skills plan is included in each child's Resettlement plan.
1.19	The Resettlement Practitioners shall ensure that education targets and objectives are captured on custodial management information systems.
1.20	<p>The Resettlement Team shall:</p> <ul style="list-style-type: none"> ▪ work closely with the nominated education representative(s) in creating the ETE elements of the resettlement plan; ▪ invite nominated education representative(s) to Resettlement plan review meetings; ▪ invite education employee(s) to emergency multi-disciplinary risk and safeguarding meetings; ▪ request YOI Education Contractor's contribution for ROTL planning and organising for resettlement licence; ▪ request YOI Education Contractor's contribution for ROTL planning and organising for facilities licence; and <p>The safeguarding team shall:</p> <ul style="list-style-type: none"> ▪ request education employees' involvement in review of physical restraint incidents that occur in education employees' presence.
1.21	The Resettlement team shall ensure population needs analysis are shared with the YOI Education Contractor in order that provision is available to meet the needs of the population.
1.22	YCS shall ensure that the YOI Education Contractor is part of the multi-disciplinary induction team.
1.23	Resettlement Practitioners shall involve education staff as necessary to assist in organising and supporting resettlement packages for children upon release.
1.24	Resettlement Practitioners shall request the agreed <i>documentation</i> , the child's personalised learning and skills plan, assessments and progress reports from the YOI Education Contractor, ensuring a response from the education contractor is possible within a maximum of five working days following the end of a child's remand and as soon as possible as part of resettlement planning, and/or no later than five days prior to the end of a child's custodial sentence.
1.25	Where a child transfers to another YOI or to the adult estate, the Resettlement team shall request the agreed <i>documentation</i> , the child's personalised learning and skills plan, assessments and progress reports from the YOI Education Contractor, ensuring a response is possible within a maximum of five working days prior to a child's planned transfer and five working days following a child's unplanned transfer.
1.26	YCS shall implement appropriate communications processes to allow the YOI Education Contractor's staff to be provided with information relevant to the delivery of the services and ensure that YCS is able to share information about the custodial services with the

	YOI Education Contractor to further raise education staff awareness on specific aspects of the service.
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2. LEADERSHIP AND GOVERNANCE	
<i>YOI Education Contractor</i>	
2.1	The YOI Education Contractor shall ensure that the Head of Education (or senior representative with delegated authority e.g. a deputy) attends all SMT meetings held by the Governor and education managers attend strategic meetings as requested.
2.2	The YOI Education Contractor shall work with the YOI to plan and manage the services to ensure that delivery fits within the wider custodial environment of the YOI.
2.3	The YOI Education Contractor shall ensure that the chair of the Activities Planning Board ensures that any escalated activity planning decisions are discussed and resolved by the Head of Custodial Services Head of Communities and the Head of Education, or escalated to the Governor within 24 hours.
2.4	The YOI Education Contractor shall liaise with and contribute to the work of YOI senior managers in developing YOI Education Contractor policies and procedures aimed at ensuring the wellbeing, safety and security of children and the public, including IRs, IEP schemes, care planning arrangements, Rule 49 (separation) reviews and ACCT reviews, etc.
YCS	
2.5	The Governor shall ensure the Head of Education is an integral member of the SMT and is invited to all senior management meetings.
2.6	YCS shall ensure that the strategic planning and management of the YOI is focused on enabling delivery of the education provision.
2.7	The Governor shall ensure that any allocation decisions escalated to the Governor are resolved within 24 hours.
2.8	YCS shall ensure that the YOI Education Contractor is consulted on the development and review of local policies and operational procedures in place at the YOI.

3. RISK AND SECURITY MANAGEMENT	
<i>YOI Education Contractor</i>	
3.1	The YOI Education Contractor shall liaise with YCS to ensure that there are suitable procedures and processes in place to enable the YOI Education Contractor's staff to share information about children's behaviour (or anything that might be considered pertinent to the management of an individual) with YOI custody staff following each morning/afternoon education session or immediately if the risk is significant and immediate.
3.2	The YOI Education Contractor shall work with YCS to implement agreed behaviour management strategies to ensure there is a collaborative and consistent approach to behaviour management across the whole establishment.
3.3	The YOI Education Contractor shall ensure that the YOI Education Contractor's staff understand their role within the context of the YOI's behaviour management strategy. The YOI Education Contractor must attend the monthly IEP board.
3.4	The YOI Education Contractor shall ensure that all education courses and learning activities have due regard for YOI security and restricted use of materials within the YOI.
3.5	The YOI Education Contractor shall ensure that the organisation of the curriculum and its associated timetable adheres to: <ul style="list-style-type: none"> ▪ the YOI's published movement times to and from morning/afternoon education sessions; and ▪ agreed movement times to and from lessons within each morning/afternoon education session.
3.6	The YOI Education Contractor shall ensure that YCS' mandatory security and key training (approximately three (3) hours) forms part of the induction for all of the YOI Education Contractor's staff. The YOI Education Contractor acknowledges that the YOI Education Contractor's staff shall not be able to move unaccompanied within the YOI or work unsupervised with children until they have completed this mandatory training.
3.7	The YOI Education Contractor shall ensure that the YOI Education Contractor's staff are available to supervise children from up to fifteen (15) minutes before the start of the morning/afternoon education session and are responsible for Children following the end of each morning/afternoon session until they have been escorted elsewhere by custodial staff.
3.8	The YOI Education Contractor shall ensure that all of the YOI Education Contractor's staff update P-Nomis and YJAF with information about children's behaviour (or anything that might be considered pertinent to the management of an individual), complete IRs and ensure these are shared with the security team following each morning/afternoon session in order for the security team to be alerted to any potential security risks. The YOI Education Contractor's staff access AssetPlus and YJAF in order to gain appropriate information about a child and their educational attainment in the community. Education staff to upload children's Personalised Learning and Skills Plans and progress reports to YJAF, and update AssetPlus as requested by the Resettlement Team.

YCS	
3.9	YCS shall ensure there are procedures and processes in place to enable custodial staff to share information about children's behaviour (or anything that might be considered pertinent to the management of an individual) with education staff prior to each morning/afternoon education session.
3.10	YCS shall ensure that children are supervised by dedicated education patrol staff in learning environments.
3.11	YCS shall ensure: <ul style="list-style-type: none"> ▪ published movement times to and from morning/afternoon education sessions are adhered to; ▪ agreed movement times to and from lessons within each morning/afternoon education session are adhered; and ▪ that children are escorted when leaving the classroom for any reason. ▪ Dialogue between the Education Duty Manager & Site Deputy Governor and/or Orderly Officer regarding to staffing issues or cancellations at the earlier opportunity AM and PM so children are not send to cancelled classes etc.
3.12	The Head of Security shall ensure that security and key training is made available on a weekly basis and that all education staff complete this, and where relevant P-NOMIS training, as part of their induction.
3.13	YCS shall work with the YOI Education Contractor to ensure that education employees are given the opportunity to have an induction to the YOI environment and regime prior to taking up their respective roles in the YOI.
3.14	YCS shall ensure that there is a consistent approach to incident management across establishments aimed at minimising interference with children's participation in education.
3.15	YCS shall work with the YOI Education Contractor to agree behaviour management strategies for managing children's behaviour when they are participating in learning activities delivered by the YOI Education Contractor. YCS shall ensure that agreed behaviour management strategies are implemented in a collaborative and consistent approach across the whole establishment.

4. CHILDREN'S PARTICIPATION IN EDUCATION	
<i>YOI Education Contractor</i>	
4.1	<p>The YOI Education provider shall liaise with YCS to agree the timetabling of PE such that each CYP receives a minimum of 3 hours to a maximum of 4.5 hours of PE each week.</p> <p>These PE hours will be timetabled as individual 1.5 hours session and sit outside any community partnership sporting pathways. Children should not be timetabled (outside of community partnership pathways) for PE session longer than 1.5 hours per session. Each child will receive a minimum of 2 x 1.5-hour PE sessions per week during the education core day per week, these sessions will be protected.</p>
4.2	<p>The YOI Education Contractor shall record all absences from education, capturing the duration of each absence, and reconcile the data with YCS' data on children's absences on a monthly basis. If a child is withdrawn from class, the recorded data shall capture whether this was at the request of the YOI Education Contractor's staff, custodial staff or the child. The YOI Education Contractor will record and input to the requested IT systems.</p>
4.3	<p>The YOI Education Contractor shall liaise as required with YCS to ensure that education is provided to children subject to Rule 49, bespoke units and to children whose movement within the YOI is restricted due to their risk or vulnerability factors.</p>
4.4	<p>The YOI Education provider shall liaise with YCS to implement strategies for re-engaging children who routinely refuse to participate in education provision or engage with their Personalised Learning and Skills Plan.</p>
4.5	<p>The YOI Education Contractor shall work with YCS to employ effective management controls that ensure children maximise their engagement in classroom education and maintain progress against their Personalised Learning and Skills Plan.</p>
4.6	<p>The YOI Education Contractor shall liaise with YCS to implement behaviour management strategies and ensure that IEP strategies are used for re-engaging children who are sent out or withdrawn from an education activity.</p>
4.7	<p>The YOI Education Contractor shall liaise with YCS to implement suitable procedures and processes to enable the YOI Education Contractor to be informed of reactive decisions taken by YCS which impact on a child's participation in education activities.</p>
4.8	<p>The YOI Education Contractor shall ensure that children's participation in education is not hindered by insufficient levels of YOI Education Contractor staff, including insufficient levels of staff due to sickness, leave or vacancies.</p>
4.9	<p>The YOI Education Contractor shall work with YCS to develop and maintain an integrated timetable of children's scheduled activities. The YOI Education Contractor shall ensure that the education timetable is provided to the activities hub and shared on the prison service public drive at least four weeks in advance in order for PE and other activities or appointments, such as interventions and youth work services, to be scheduled by the activities hub for when each child is available</p>

	<p>during the Core Day. The YOI Education Contractor and establishment shall ensure that a copy of the timetable is given to each child on a weekly basis.</p> <p>The Education Provider should be responsible for ensuring that absences from education are minimised through the effective implementation of integrated timetables and working with partners onsite to achieve that.</p>
YCS	
4.10	<p>YCS shall ensure that children’s absences from education only occur during allocated time periods unless the absence is necessary for the child to attend court; to address the child’s immediate health or mental health needs, for religious services or for exceptional / compassionate circumstances. E.g. Family contact, Resettlement, Accredited Interventions & LA meetings. YCS shall ensure that, wherever possible, absences from education for these reasons are planned and managed through the timetabling system so that the impact on children’s attendance at education is minimised as much as possible.</p>
4.11	<p>YCS shall ensure that the YOI Education Contractor is provided with information about the reason for a child’s absence from education before the start of every morning and afternoon session.</p> <p>All none emergency appointment will be timetabled at least 7 days prior to the daily register, through YCS Activities hub. Education Contractor should use the Alpha list to ensure teachers know which children will be attending their classroom each session. Teachers should use the time table to pre plan absences and provide children with any missed learning that week to prevent any education gap! Education Contractor should deliver work each day to children who do not attend.</p>
4.12	<p>YCS shall record all absences from education, capturing the duration of each absence, and reconcile the data with the YOI Education Contractor’s data on children’s absences on a monthly basis. Where a child is withdrawn from class, the recorded data shall capture whether this was at the request of education staff, custodial staff or the child.</p>
4.13	<p>YCS shall ensure there are clear processes and procedures for operational staff to inform the Education Contractor of any reactive decisions which result in children being absent from education.</p>
4.14	<p>YCS shall ensure:</p> <ul style="list-style-type: none"> ▪ that children who incur an interrupted learning session to attend other authorised activity are returned to their planned learning as soon as the activity is completed; ▪ that all children are taken to appointments individually and returned to their planned learning activity immediately following their appointment; ▪ The Head of Security re-visits the non-associations list on a weekly basis and puts in place systems to avoid non-associations issues interfering with children’s participation in education.

4.15	YCS shall work with the YOI Education Contractor to achieve an integrated timetable, ensuring the YOI Education Contractor is given advance notice of bookable or anticipated authorised absences and any change to children's circumstances which would impact on children's participation in education.
4.16	YCS shall ensure that disciplinary proceedings and adjudications are held at times and in locations that minimise the impact on the child's attendance at education.
4.17	YCS shall ensure that PE delivery is restricted to agreed time slots within the wider curriculum timetable.
4.18	YCS shall ensure that children's participation in education is not hindered by insufficient levels of operational staff, including insufficient levels of staff due to sickness, leave or vacancies.
4.19	YCS shall provide access for the YOI Education Contractor and ensure there is sufficient YCS staff to support safe delivery of: <ul style="list-style-type: none"> ▪ Separated education for children located on the wing or Rule 49 separation units; and ▪ education on enhanced support units; and ▪ education for children whose movement within the YOI is restricted due to their risk or vulnerability factors.
4.20	YCS shall ensure that the YOI Education Contractor has access to areas where education can be delivered when delivering services to children: <ul style="list-style-type: none"> ▪ on the wing or Rule 49 separation units; or ▪ whose movement within the YOI is restricted due to their risk or vulnerability factors.
4.21	YCS shall work with the YOI Education Contractor to implement local and/or national strategies for minimising refusals by children.

5. OTHER DEPENDENCIES	
5.1	YCS shall ensure a manager from the Security Team, Residential Team and Resettlement Team attends fortnightly and/or ad-hoc Activity Planning Board meeting as timetabled (and communicated to the relevant parties) by the Contractor.
5.2	The Head of Reducing Reoffending shall ensure that, at least annually, the YOI Resettlement analysis is shared with the Contractor.
5.3	YCS shall ensure that the Contractor is provided with a timetable for Inductions.
6. MANDATORY TRAINING	

6.1 Mandatory Training Table

Mandatory Training

Training	Who Needs	Required for Keys	Refresh Needed / Any Notes
Prison Awareness	All regular visitors	Yes	
Personal Protection	All regular visitors	Yes	
Health & Safety	All regular visitors	No	
Secure Stairs	All managers / teachers / assistants	No	Every 3 years or sooner if changes made
Motivational Interviewing	All teachers / assistants	No	As agreed in initial training
CuSP	All teachers / assistants	No	As agreed in initial training
AssetPlus/YJAF	All staff with direct contact with children	No	Every 2 years or as directed by the Resettlement team
P-Nomis	All staff	No	Online
Conflict Resolution awareness	All regular visitors	No	Annual Refresh
Interventions awareness	All regular visitors	No	Annual Refresh

SCHEDULE 11 – AUTHORITY ASSETS

SCHEDULE 12 – BUSINESS CONTINUITY & DISASTER RECOVERY

1. DEFINITIONS

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

"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 Recovery Plan"	has the meaning given to it in paragraph 2.2.3 of this Schedule;
"Disaster Recovery System"	the system embodied in the processes and procedures for restoring the provision of Services following the occurrence of a Disaster;
"Disaster Recovery Services"	the services embodied in the processes and procedures for restoring the provision of Services following the occurrence of a Disaster;
"Related Supplier"	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
"Supplier's Proposals"	has the meaning given to it in paragraph 6.3 of this Schedule.

2. BCDR PLAN

2.1 Within thirty (30) Working Days of the Commencement Date the Supplier shall prepare and deliver to the Authority for Approval a plan, which shall detail the processes and arrangements that the Supplier shall follow to:

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

2.1.2 the recovery of the Services in the event of a disaster ("**BCDR Plan**").

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 The Supplier shall ensure that the BCDR Plan is consistent with plans which the Authority makes available to the Supplier which deals with the Authority's processes in respect of business continuity and disaster recovery.

- 2.4 Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure. The Supplier agrees that it will not commence provision of the Services until the contents of the BCDR Plan has been agreed.

3. SECTION 1 OF THE BCDR PLAN - GENERAL PRINCIPLES

- 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 Supplier 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 Supplier 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:
 - 3.1.6.1 failure or disruption scenarios and assessments of likely frequency of occurrence;
 - 3.1.6.2 identification of any single points of failure within the provision of Services and processes for managing those risks;
 - 3.1.6.3 identification of risks arising from the interaction of the provision of Services with the goods and/or services provided by a Related Supplier; and
 - 3.1.6.4 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 Supplier (and any Sub-Contractors) 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 Contract at all times during and after the invocation of the BCDR Plan;

3.2.2 the adverse impact of any disaster is minimised as far as reasonably possible;

3.2.3 it complies with the relevant provisions of ISO/IEC 27002 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 Services.

3.4 The Supplier shall not be entitled to any relief from its obligations under the Service Levels or to any increase in the Charges to the extent that a disaster occurs as a consequence of any breach by the Supplier of this Contract.

4. SECTION 2 OF THE BCDR PLAN - BUSINESS CONTINUITY

4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Services remain supported and to ensure continuity of the business operations supported by the Services including:

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 Services; and

4.1.2 the steps to be taken by the Supplier upon resumption of the provision of 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 Services;

4.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Services;

4.2.3 specify any applicable Service Levels with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Service Levels in respect of the provision of other 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. SECTION 3 OF THE BCDR PLAN - DISASTER RECOVERY

5.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a disaster) shall be designed to ensure that upon the occurrence of a disaster the Supplier ensures continuity of the business operations of the Authority supported by the Services following any

disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.

5.2 The Disaster Recovery Plan shall include the following:

5.2.1 the design and build specification of the Disaster Recovery System;

5.2.2 details of the procedures and processes to be put in place by the Supplier in relation to the Disaster Recovery System and the provision of the Disaster Recovery Services and any testing of the same including:

5.2.2.1 the process for conducting a business impact assessment to determine the acceptable length of time of non-availability;

5.2.2.2 such procedures and processes as are required to ensure compliance with ISO 27001:2013

5.2.2.3 identification of all potential disaster scenarios;

5.2.2.4 risk analysis;

5.2.2.5 documentation of processes and procedures;

5.2.2.6 invocation rules;

5.2.2.7 service recovery procedures; and

5.2.2.8 steps to be taken upon resumption of the provision of Services to address any prevailing effect of the failure or disruption of the provision of the Services;

5.2.3 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;

5.2.4 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;

5.2.5 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and

5.2.6 testing and management arrangements.

6. REVIEW AND AMENDMENT OF THE BCDR PLAN

6.1 The Supplier shall review the BCDR Plan:

6.1.1 at its own cost on a regular basis and as a minimum once every six (6) Months;

6.1.2 at its own cost within three 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 Supplier

shall conduct such reviews in accordance with the Authority's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Authority for the Authority's approval. The reasonable costs of both Parties of any such additional reviews shall be met by the Authority except that the Supplier 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 Supplier within such period as the Authority shall reasonably require.
- 6.3 The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the a report (a "**Review Report**") setting out the Supplier's proposals (the "**Supplier's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.
- 6.4 Following receipt of the Review Report and the Supplier's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Supplier's Proposals. If the Parties are unable to agree Review Report and the Supplier's Proposals within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 6.5 The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Services.

7. TESTING OF THE BCDR PLAN

- 7.1 The Supplier shall test the BCDR Plan:
 - 7.1.1 regularly and in any event not less than once in every Contract Year;
 - 7.1.2 in the event of any major reconfiguration of the Services; and
 - 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 Supplier written notice and the Supplier shall conduct the test in accordance with the Authority's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Authority unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the 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 Supplier shall ensure that any use by it or any Sub-Contractor of "live" data in such testing is first approved with the Authority. Copies of live test data used in any such testing shall be (if so required by the Authority) destroyed or returned to the Authority on completion of the test.
- 7.5 The Supplier shall, within twenty (20) Working 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 Supplier's proposals for remedying any such failures.
- 7.6 Following each test, the Supplier 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 Supplier, at its own cost, by the date reasonably required by the Authority.

8. INVOCATION OF THE BCDR PLAN

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

9. FORCE MAJEURE

The Supplier shall not be entitled to relief under clause I2 (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 13 – MOBILISATION PLAN

1. DEFINITIONS

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

"Achieve"	in respect of a milestone, that the Authority has notified the Supplier in writing that it considers such milestone has been achieved and "Achieved" and "Achievement" shall be construed accordingly;
"Delay"	a delay in the Achievement of a Milestone by its Milestone Date;
"Deliverable Item"	an item or feature in the supply of the Services delivered or to be delivered by the Supplier as listed in the Implementation Plan;
"Detailed Mobilisation Plan"	means the plan developed in accordance with this Schedule which sets the Supplier's activities in readiness for the Services Commencement Date;
"Mobilisation Plan"	means the Outline Mobilisation Plan as amended by the Detailed Mobilisation Plan; and
"Outline Mobilisation Plan"	means the document(s) found under the sub-heading entitled 'Question 8 – Mobilisation' at Part B of Schedule 1.

2. CONTENTS OF MOBILISATION PLAN

2.1 The Outline Mobilisation Plans and Detailed Mobilisation Plans must, as a minimum, contain the information set out in paragraph 2.2.

2.2 Mobilisation Plan

The Supplier shall provide Mobilisation Plans that include details of activities that will be undertaken during mobilisation that are specific and should include as a minimum:

- 2.2.1 milestones that apply to mobilisation (for the avoidance of doubt, milestone with a payment attached shall not differ from those set out in Schedule 2 (Prices and Invoicing) and such payments shall only be capable of being invoiced where such milestones have been Achieved);
- 2.2.2 how the Supplier will ensure it is ready to begin providing Services which address the Core Common Curriculum Requirements by the Services Commencement Date;
- 2.2.3 activities that will be undertaken in relation to TUPE and the working relationships associated with any exiting supplier(s);
- 2.2.4 delivery of an organisational structure, including all management structures, roles, responsibilities and relationships;
- 2.2.5 process and activities that will be undertaken in order to have appropriate risk assessments in place, and in time for 'go live';

- 2.2.6 process for the collection and delivery of KPI and Management information and sign off;
- 2.2.7 stakeholder communications plan;
- 2.2.8 a list of all Supplier Personnel that will be working at the Establishment together with status of security clearance;
- 2.2.9 for Supplier Personnel who have not obtained security clearance, a plan to apply for and manage security clearance in time for Delivery of the Services at the Start Date;
- 2.2.10 the list of activities required to enable the efficient and effective transfer of Learner information from exiting suppliers, including any LDD assessments;
- 2.2.11 the list of Supplier equipment, dates for Delivery (together with associated user manuals) and include any collaboration items detailed in [Schedule 10 (Partnership / Protocols)];
- 2.2.12 requirements in terms of adjustments to Secure Settings, equipment, and facilities;
- 2.2.13 details of compliance with Delivery Plan for Contract Year one that reflects the Supplier's proposals;
- 2.2.14 a full and detailed timetable of Delivery of the Services;
- 2.2.15 proposals for use of IT equipment, in line with requirements detailed in the Schedules to this Contract;
- 2.2.16 details of Sub-Contractors that will be used and relationship(s) with third parties;
- 2.2.17 proposals for invoicing;
- 2.2.18 delivery of equality and diversity statements;
- 2.2.19 status for delivery of qualifications; and
- 2.2.20 delivery of an agreed BDCR Plan.

3. FORMATION OF MOBILISATION PLAN

- 3.1 The outline mobilisation plans are set out under the sub-heading entitled 'Question 8 – Mobilisation' at Part B of Schedule 1 ("**Outline Mobilisation Plan**"). The Supplier shall provide further detailed draft mobilisation plans ("**Detailed Mobilisation Plans**") as soon as possible but in any event within ten (10) Working Days of the Commencement Date.
- 3.2 The Detailed Mobilisation Plans must contain the level of detail necessary to manage the implementation stage effectively and as the Authority may otherwise require. The draft Detailed Mobilisation Plans shall take account of all dependencies known to, or which should reasonably be known to, the Supplier. There shall be no dependencies upon the Authority unless otherwise agreed by the Authority in writing.
- 3.3 Following receipt of the Detailed Mobilisation Plans from the Supplier, the Parties shall use best endeavours to agree the contents of the Detailed Mobilisation Plans. If the Parties are unable to agree the contents of the Detailed Mobilisation Plans within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

- 3.4 Once the Detailed Mobilisation Plans have been agreed ("**Mobilisation Plans**"), the Supplier shall perform all of the obligations set out in and provide each of the Deliverable Items identified in each Mobilisation Plan by the date assigned to that Deliverable Item in the Mobilisation Plan and so as to ensure that each Milestone identified in each Mobilisation Plan is achieved on or before its Milestone Date.
- 3.5 The Supplier shall monitor its performance against the Mobilisation Plan and Milestones (if any) and report to the Authority on such performance.

4. CONTROL OF MOBILISATION PLAN

- 4.1 Subject to paragraph 4.2 of this Schedule, the Supplier shall keep the Mobilisation Plans under review in accordance with the Authority's instructions and ensure that it is updated on a regular basis. The Authority shall have the right to require the Supplier to include any reasonable changes or provisions in each version of the Mobilisation Plan.
- 4.2 Changes to any Milestones shall only be made as a Change in accordance with clause F4 (Changes).
- 4.3 Time in relation to Achievement of the go live Milestone shall be of the essence and failure to achieve it by the go live date specified in the Order Form shall be a material Default. In such circumstances, without prejudice to its other rights and remedies, the Authority shall be entitled to recover its Losses incurred as a result of or in connection with such delay and such amount shall include without limit:
- 4.3.1 the cost of providing and/or purchasing emergency education services (the Supplier acknowledges that short periods of delay can result in the Authority needing to enter arrangements for such alternative supply over periods longer than the actual delay) provided that the Authority agrees to minimise such costs as far as reasonably possible;
 - 4.3.2 any additional employment costs arising as a result of the delay including costs relating to any transfers under the Employment Regulations; and
 - 4.3.3 the administration cost of the Authority arising as a result of or in connection with the delay.

5. RECTIFICATION OF DELAY IN MOBILISATION

- 5.1 If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay under this Contract it shall:
- 5.1.1 notify the Authority as soon as practically possible and no later than within two (2) Working Days from becoming aware of the Delay or anticipated Delay;
 - 5.1.2 include in its notification an explanation of the actual or anticipated impact of the Delay;
 - 5.1.3 comply with the Authority's instructions in order to address the impact of the Delay or anticipated Delay; and
 - 5.1.4 use its best endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay.

SCHEDULE 14 - PERFORMANCE MANAGEMENT

PART 1: DEFINITIONS

1. DEFINITIONS

1.1 For the purpose of this **Schedule 14 (Performance Management)**, unless the context otherwise requires the following words have the following meanings:

"Authorised Absences" means the absences detailed in Appendix D to this Schedule;

"Bedding-In Period" means, in respect of each applicable KPI, where indicated the period set out in Appendix B (Key Performance Indicators) during which Service Credit Deductions shall not be applied;

"Classroom-based Education" means timetabled education sessions delivered to Learners in designated education areas where the Staff are present to give specific guidance towards the learning aim being studied. This may include face-to-face sessions to support the delivery and tailoring of timetabled education such as assessments, careers guidance and education resettlement planning. This may also include attendance of work experience opportunities outside of direct supervision by the Staff but in accordance with the Learner's learning aims;

"Classroom-based Learner Hours" means the number of hours of Classroom-based Education delivered to Learners at the Secure Setting;

"Classroom-based Learner Hours Price" has the meaning set out in Schedule 2 (Prices and Invoicing);

"Consultation Nominees" means the individuals nominated and authorised by each Party to act on its behalf to resolve Outstanding Issues pursuant to paragraph 14.2 (Consultation), as at the Commencement Date being (for the Authority) Deputy Director, Commercial and Contract Management (CCM) and (for the Supplier) [**to be inserted**];

"Consultation Notice" has the meaning given to it in paragraph 14.2 (Consultation);

"Improvement Actions" has the meaning given to it in paragraph 12.4.2 (Improvement Notices and Improvement Plan);

"Improvement Notice"	has the meaning given to it in paragraph 12.1 (Improvement Notices and Improvement Plan);
"Improvement Plan"	has the meaning given to it in paragraph 12.4 (Improvement Notices and Improvement Plan);
"Joint Education Forum"	has the meaning given to it in paragraph 8.8 (Performance Reporting);
"Key Performance Indicator" or "KPI"	means a key performance measure as set out in the table in Appendix B (Key Performance Indicators);
"Key Performance Management Information"	means the management information and reports set out in Appendix A (Contract Management Information Reporting Requirements);
"KPI Review Period"	has the meaning given to it in paragraph 11.1 (Key Performance Indicators Review);
"Management Information Report"	has the meaning given to it in paragraph 8.1.2 (Performance Reporting);
"Offender Day"	means each full weekday in which a Learner is in custody in the Secure Setting. It excludes the day of arrival, the induction period (as further detailed in the Authority's Requirements), the day that the Learner exits the Secure Setting and any bank holidays when education services are not delivered;
"Other Suppliers"	has the meaning given to it in paragraph 8.8 (Performance Reporting);
"Outstanding Issues"	has the meaning given to it in paragraph 14.1 (Consultation);
"Outstanding Issues Notice"	has the meaning given to it in paragraph 14.1 (Consultation);
"Payment Period"	means a period of one calendar month in respect of which the Price is payable;
"Payment Period Report"	has the meaning given to it in paragraph 8.1.1 (Performance Reporting);
"Performance Reports"	has the meaning given to it in paragraph 8.1 (Performance Reporting);
"Planned Learner Hours"	means the total number of Classroom-based Learner Hours required to be delivered to Learners at the Secure Setting (and, for the

avoidance of doubt, such number does not take into account any Authorised Absences);

"Rectification Actions"	has the meaning given to it in paragraph 13.2 (Rectification);
"Rectification Notice"	has the meaning given to it in paragraph 13.1.6 (Rectification);
"Rectification Plan"	has the meaning given to it in paragraph 13.2 (Rectification);
"Reduced Performance"	has the meaning given to it in paragraph 5.1 (Reduced Performance);
"Required Standard"	has the meaning given to it in paragraph 3.1 (Introduction);
"Revised KPI Performance Indicators"	has the meaning given to it in paragraph 11.2 (Key Performance Indicators Review);
"Service Credit Deductions"	means a deduction from the Price made in accordance with this Schedule 14 and Schedule 2 (Prices and Invoicing) as a result of Reduced Performance;
"Service Credit Deduction Notice"	means a notice issued in accordance with paragraphs 8.4.1 (Performance Reporting), 12.6.1 (Improvement Notices and Improvement Plan), 12.9.1 (Improvement Notices and Improvement Plan) and from the date of which Service Credit Deductions shall apply in accordance with paragraph 7.1 (Calculation of Service Credit Deductions) below; and
"Service Credit Deduction Period"	has the meaning given to it in paragraph 7.1 (Calculation of Service Credit Deductions).

PART 2: MANAGEMENT INFORMATION REPORTING REQUIREMENTS

2. INTRODUCTION

- 2.1 The Supplier shall provide to the Authority the Key Performance Management Information in accordance with the timescales listed in the tables within Appendix A (Contract Management Information Reporting Requirements).
- 2.2 In addition the Supplier shall provide to the Authority all other management information required to be provided under this Contract together with any further management information deemed necessary by the Authority.
- 2.3 The Supplier shall provide to the Authority a report of issues of concern and of matters that may become of ministerial interest or may have media interest

immediately upon becoming aware of such matters or upon the Authority's request.

PART 3: AUTHORITY'S CONTRACT PERFORMANCE REPORTING REQUIREMENTS

3. INTRODUCTION

- 3.1 The Supplier shall provide the Services to the standard set in this contract including so as to meet the targets applicable to the Key Performance Indicators identified within Appendix B (Key Performance Indicators) (the "**Required Standard**"), and the Parties are committed to working together to achieve continuous improvement in performance.
- 3.2 The Key Performance Indicators shall be construed and measured in accordance with the measurement methodology and definition requirements set out in Appendix B (Key Performance Indicators). Each Key Performance Indicator shall apply from the relevant start date specified in Appendix B (Key Performance Indicators).

4. PERFORMANCE REPORTING

- 4.1 The Authority shall measure the Supplier's performance in the delivery of the Services against the Key Performance Indicators and Key Performance Management Information.
- 4.2 The Supplier shall report performance of the delivery of the Services to the Authority against the Key Performance Indicators and, separately, Key Performance Management Information, in performance reports in accordance with the timeframes given at paragraph 8 (Performance Reporting).
- 4.3 The Authority will use the Key Performance Indicators and Key Performance Management Information to benchmark performance of the delivery of the Services against performance by other Suppliers in respect of comparable education services at Secure Settings.
- 4.4 Without prejudice to its rights under paragraph 11 (Key Performance Indicators Review), the Authority may, following discussions with the Supplier, provide notice to the Supplier to add to, delete or amend any of the Key Performance Indicators. The Authority's final decision in relation to any such additions, deletions or amendments shall be binding on the Supplier.

5. REDUCED PERFORMANCE

- 5.1 If the Authority considers (acting reasonably) that there are any instances of performance that fall below the Required Standard ("**Reduced Performance**"):
- 5.1.1 the Authority may issue an Improvement Notice in accordance with paragraph 12 (Improvement Notices and Improvement Plan); and/or

5.1.2 the Authority shall be entitled to a reduction in the Price representing the reduced value of the Services received by the Authority in accordance with paragraph 6 (Authority's Right to Make Deductions).

6. AUTHORITY'S RIGHT TO MAKE DEDUCTIONS

6.1 The Authority shall be entitled to make Service Credit Deductions in accordance with paragraph 7 (Calculation of Service Credit Deductions) where:

6.1.1 the Key Performance Indicators show performance below the associated target levels (as relevant); and/or

6.1.2 there are instances of Reduced Performance.

6.2 Any deductions from the Price as a result of the application of Service Credit Deductions, as described in this paragraph 6 (Authority's Right to Make Deductions), shall be without prejudice to the Authority's other rights or remedies under this Contract. The Supplier acknowledges and agrees that the deductions are not an estimate of the loss or damage that may be suffered by the Authority as a result of the Reduced Performance and nor are they onerous or a penalty.

7. CALCULATION OF SERVICE CREDIT DEDUCTIONS

7.1 The Authority shall calculate Service Credit Deductions in accordance with this paragraph 7 (Calculation of Service Credit Deductions).

7.2 Where the Supplier, in relation to all of the KPI Measures save for KPI Measures 2A(i) and 2C (as set out in Appendix B (Key Performance Indicators)), fails to meet the associated performance target in any Payment Period then the relevant Service Credit Deductions set out in Appendix B (Key Performance Indicators) shall apply and the relevant sums shall be deducted by the Supplier from the Price payable in respect of the Payment Period in which the Supplier has failed to meet the relevant performance targets.

7.3 Without prejudice and in addition to the rights set out in to paragraph 7.2 above and without prejudice to any other rights or remedies set out in the contract, in circumstances where the Authority has issued a Service Credit Deduction Notice in accordance with paragraphs 8.4.1 (Performance Reporting), 12.6.1 (Improvement Notices and Improvement Plan), 12.9.1 (Improvement Notices and Improvement Plan) below, the Authority may, to account for issues relating to Reduced Performance (as opposed to the Reduced Performance itself) from the date of issuing the Service Credit Deduction Notice until the date that the relevant issues have been successfully resolved to the Authority's satisfaction (the "**Service Credit Deduction Period**"), deduct from the Price a sum of up to five (5) percent of the total Price payable in the relevant Service Credit Deduction Period and such sums shall be deducted by the Authority from the Price every third Payment Period.

7.4 Without prejudice to paragraph 7.2 above, if the Supplier fails to achieve the KPI in 2A(i) so that a head of education post is not occupied for a period of more than 12 weeks:

- 7.4.1 for the first Service Month following such 12 week period, the Price shall be reduced by an amount equivalent to 115% of the cost of the head of education;
- 7.4.2 for the second Service Month following such 12 week period, provided that the head of education post has remained unoccupied, the Price shall be reduced by an amount equivalent to 120% of the cost of the head of education; and
- 7.4.3 for each subsequent Service Month after those identified in paragraph 7.4.2 provided that the head of education post has remained unoccupied, the Price shall be reduced by an amount equivalent to 125% of the cost of the head of education.

8. PERFORMANCE REPORTING

- 8.1 The Supplier shall submit to the Authority the following performance reports in accordance with Appendix A (Contract Management Information Reporting Requirements):
 - 8.1.1 a report every Payment Period (the "**Payment Period Report**") no later than five (5) Days after the end of the relevant Payment Period setting out the information in section 2 of Appendix A (Payment Period Report); and
 - 8.1.2 a report every six (6) weeks (the "**Management Information Report**") no later than five (5) Days after the end of the relevant six-week period setting out the information in section 3 of Appendix A (Management Information Report),

(together known as the "**Performance Reports**").
- 8.2 Each Performance Report shall state the Supplier's performance against all of the relevant Key Performance Indicators and identify any occurrences of Reduced Performance with the Supplier's assessment of the reasons for such occurrences. The Authority will provide the Supplier with the contact details of the appropriate recipient(s) as these change.
- 8.3 Where the Authority accepts the Supplier's assessment of performance as stated in the relevant Performance Report, or following its own assessment in accordance with paragraph 8.4 (Performance Reporting), the provisions of paragraphs 7 (Calculation of Service Credit Deductions) and 12 (Improvement Notices and Improvement Plan) shall apply (as relevant) on the basis of such assessment.
- 8.4 Where the Authority does not agree with the Supplier's assessment of performance against any of the Key Performance Indicators or of the occurrence of Reduced Performance as stated in the relevant Performance Report:
 - 8.4.1 it shall so notify the Supplier, stating its own provisional assessment of such performance and may issue a "**Service Credit Deductions Notice**"; and/or

- 8.4.2 it may issue an Outstanding Issues Notice in accordance with **paragraph 14.1 (Consultation)** and the provisions of **paragraph 14 (Consultation)** shall apply.
- 8.5 If and to the extent that any Outstanding Issues are not resolved in accordance with paragraph 14 (Consultation), the Authority shall notify the Supplier of its final assessment of such performance, and the provisions of paragraphs 7 (Calculation of Service Credit Deductions) and 12 (Improvement Notices and Improvement Plan) shall apply (as relevant) on the basis of such assessment.
- 8.6 Within five (5) Days of the submission of the Management Information Report by the Supplier (or at such other intervals as the Authority deems to be necessary), the Authority representatives and the Supplier's representatives shall meet to discuss the Supplier's performance, any relevant Performance Reports, open Improvement Plans and any problems or issues requiring decision or escalation. The Authority and the Supplier shall agree the necessary actions arising from such meeting.
- 8.7 The Supplier shall ensure that it provides the Authority with all required information prior to the meetings described in paragraph 8.6 (Performance Reporting) above and shall arrange for a written record of all meetings to be made and sent to the Authority for review and approval within five (5) Days of each meeting. Following approval of the same at the next meeting, the record shall be accepted as a true representation of the discussions and resolutions which have taken place and a copy of such record shall be retained by both parties.
- 8.8 The Supplier's representatives, the Authority's representatives and representatives from the other Suppliers providing similar education services at other Secure Settings (the "**Other Suppliers**"), shall meet (at the Authority's Premises) at least quarterly (or at such other intervals as the parties shall agree to be necessary) to discuss the Supplier's (and each Other Supplier's) performance and any common issues or areas of concern (the "**Joint Education Forum**").
- 8.9 The Supplier shall enter into a partnering agreement with the Authority and the Other Suppliers which shall set out the parties' agreement in relation to the content and aim of the Joint Education Forum and/or any other meeting or forum and shall be developed by the parties during the Mobilisation Phase.
9. **BEDDING-IN PERIOD**
- 9.1 In respect of those Key Performance Indicators to which there is a related Bedding-In Period (as set out in Appendix B (Key Performance Indicators)), the following provisions shall apply:
- 9.1.1 the Supplier shall, within ten (10) Working Days after the end of the relevant reporting period, submit the relevant Performance Report to the Authority setting out in respect of the relevant reporting period a summary of its performance of the Services, identifying the Key Performance Indicators and quantifying the Service Credit Deductions that would be made if paragraph 9.1.2 (Bedding-In Period) did not apply; and

9.1.2 no adjustment shall be made to any invoices in respect of any Service Credit Deductions in the relevant Bedding-In Period.

10. **SUPPLIER'S OBLIGATIONS DURING BEDDING-IN PERIOD**

10.1 Notwithstanding the provisions of paragraph 9 (Bedding-In Period), during the Bedding-In Period the Supplier shall not be relieved of any of its obligations under this Contract.

11. **KEY PERFORMANCE INDICATORS REVIEW**

11.1 Following the Services Commencement Date and during the Bedding-In Period for KPI Measures 1A, 1B and 4B (as set out in **Appendix B (Key Performance Indicators)**) (the "**KPI Review Period**"), the Authority shall:

11.1.1 compare the Supplier's performance against the Other Suppliers in respect of such KPIs where such Other Suppliers have a similar measure in contracts relating to other secure settings; and

11.1.2 use the Joint Education Forum as a method for obtaining feedback from the Supplier and Other Suppliers on these KPIs and other similar measures.

11.2 Following the expiry of the relevant KPI Review Period, the Authority shall, acting reasonably, develop new or updated targets, measurements and reporting requirements for the applicable Key Performance Indicators ("**Revised KPI Performance Measures**").

11.3 The Authority's final decision in relation to the Revised KPI Performance Measures shall be binding on the Supplier and the Revised KPI Performance Measures shall apply from the date specified by the Authority.

11.4 In respect of KPI Measure, following each anniversary of the start date of the relevant KPI (as set out in **Appendix B (Key Performance Indicators)**), the Authority shall:

11.4.1 review the relevant survey results for the relevant year and compare the Supplier's performance against the Other Suppliers in respect of these KPIs and other similar measures; and

11.4.2 use the Joint Education Forum as a method for obtaining feedback from the Supplier and Other Suppliers on these KPIs and other similar measures; and

11.4.3 acting reasonably, develop new or updated targets, measurements and reporting requirements for KPI Measures (which shall be binding on the Supplier and which shall apply from the date specified by the Authority).

12. **IMPROVEMENT NOTICES AND IMPROVEMENT PLAN**

12.1 If the event of Reduced Performance the Authority may issue a notice (an "**Improvement Notice**") bringing this to the attention of the Supplier.

- 12.2 The Authority may issue an Improvement Notice concerning any aspect of the provision of the Services whether or not related Key Performance Indicators.
- 12.3 An Improvement Notice shall state:
- 12.3.1 any area of Reduced Performance; and
 - 12.3.2 any other supporting information which the Authority considers to be relevant.
- 12.4 Within seven (7) days of the date of issue of an Improvement Notice the Supplier shall deliver to the Authority a plan (the "**Improvement Plan**") in respect of any areas of Reduced Performance stated in the Improvement Notice, which shall:
- 12.4.1 provide an explanation of the causes of the Reduced Performance;
 - 12.4.2 identify the actions (the "**Improvement Actions**") needed to remedy the Reduced Performance identified in the Improvement Notice and prevent its re-occurrence;
 - 12.4.3 set out:
 - (a) the Supplier's proposals for carrying out the Improvement Actions;
 - (b) a programme for undertaking such actions; and
 - (c) the date by which such actions will be completed;
 - 12.4.4 identify any actions or consents required from the Authority to facilitate the Supplier's remedial actions; and
 - 12.4.5 specify proposed criteria for the purpose of auditing completion of the remedial actions and resolution of the Reduced Performance.
- 12.5 Following receipt of an Improvement Plan, the Authority may (acting reasonably):
- 12.5.1 agree it; or
 - 12.5.2 reject it and require the Supplier to submit a revised Improvement Plan within seven (7) Days of such rejection (or such other time as may be agreed by the Parties in writing).
- 12.6 Where the Supplier fails to submit a revised Improvement Plan in accordance with paragraph 12.5.2 (Improvement Notices and Improvement Plan) or the revised Improvement Plan is in the Authority's reasonable opinion unacceptable, the Authority may issue:
- 12.6.1 a Service Credit Deduction Notice; and/or
 - 12.6.2 an Outstanding Issues Notice in accordance with paragraph 14.1 (Consultation) and the provisions of paragraph 14 (Consultation) shall apply.

- 12.7 The Supplier shall implement all the Improvement Actions by the date specified in the Improvement Plan at no cost to the Authority.
- 12.8 An Improvement Plan shall remain open until the Improvement Actions identified therein have been completed in accordance with the agreed Improvement Plan to the Authority's satisfaction, whereupon it shall be closed.
- 12.9 Where the Improvement Actions are carried out and completed but do not succeed in remedying the Reduced Performance identified in the Improvement Notice or in preventing its re-occurrence or the Supplier fails to complete the Improvement Actions in an Improvement Plan by the date specified in it for their completion or to the Authority's satisfaction, the Authority may:
- 12.9.1 issue a Service Credit Deduction Notice; and/or
 - 12.9.2 issue an Outstanding Issues Notice in accordance with paragraph 14.1 (Consultation), in which case the provisions of paragraph 14 (Consultation) shall apply.
- 12.10 Each Improvement Plan shall be sequentially numbered from a central register maintained by the Authority. In the event that a further unconnected circumstance occurs which results in the issue of a separate Improvement Notice, a separate Improvement Plan shall be raised and recorded in the central register under a separate sequential number.
- 12.11 A report on progress against each open Improvement Plan shall be provided at each meeting described in paragraph 8.5 (Performance Reporting) above.
- 12.12 The Authority may:
- 12.12.1 request a meeting with the Supplier to discuss progress against any open Improvement Plan by giving not less than two (2) Working Days' notice to the Supplier; and/or
 - 12.12.2 set out the frequency for meetings with the Supplier to review open Improvement Plans during the approval process for Improvement Plans as set out in paragraphs 12.4 (Improvement Notices and Improvement Plan) and 12.5 (Improvement Notices and Improvement Plan) above.
13. **RECTIFICATION**
- 13.1 If an Outstanding Issues Notice is issued where:
- 13.1.1 the Supplier fails to submit a revised Improvement Plan in accordance with paragraph 12.5.2 (Improvement Notices and Improvement Plan) or the revised Improvement Plan is in the Authority's reasonable opinion unacceptable; or
 - 13.1.2 Improvement Actions are carried out and completed but do not succeed in remedying the Reduced Performance identified in the Improvement Notice or in preventing its re-occurrence as described in paragraph 12.9 (Improvement Notices and Improvement Plan); or

13.1.3 the Improvement Actions in an Improvement Plan are not completed by the date specified or to the Authority's satisfaction in accordance with paragraph 12.9 (Improvement Notices and Improvement Plan)

and any of the Outstanding Issues are not resolved pursuant to paragraph 14 (Consultation), the Authority may at its sole discretion:

13.1.4 agree an extension to the Improvement Plan;

13.1.5 agree a revised Improvement Plan; or

13.1.6 issue a notice (a "**Rectification Notice**") in respect of such Outstanding Issues.

13.2 Following receipt of a Rectification Notice, the Supplier shall within fourteen (14) days of the date of its issue (or such other time as may be agreed by the Parties in writing) provide a plan (a "**Rectification Plan**") which shall set out the Supplier's proposals for carrying out the actions necessary to ensure that the Outstanding Issues identified in the Outstanding Issues Notice are rectified and do not re-occur ("**Rectification Actions**") and a programme for undertaking the Rectification Actions and the date by which they will be completed.

13.3 On receipt of a Rectification Plan the Authority may:

13.3.1 agree it; or

13.3.2 reject it and require the Supplier to submit a revised Rectification Plan within seven (7) Days of such rejection (or such other time as may be agreed by the Parties in writing).

13.4 If:

13.4.1 the Supplier fails to submit a revised Rectification Plan in accordance with paragraph 13.3.2 (Rectification); or

13.4.2 the revised Rectification Plan is in the Authority's reasonable opinion unacceptable; or

13.4.3 within twenty eight (28) Days of a Rectification Plan (or a revised Rectification Plan) being agreed the Supplier fails to carry out and complete the Rectification Actions in accordance with the Rectification Plan programme, or in the Authority's reasonable opinion fails to make substantial progress with the Rectification Actions;

the Authority may in its sole discretion:

13.4.4 agree an extension to the time for carrying out and completing the Rectification Plan; or

13.4.5 agree a revised Rectification Plan; or

13.4.6 issue a Termination Notice on grounds of Material Breach in accordance with clause H2 (Default).

14. **CONSULTATION**

14.1 Where either:

14.1.1 the Performance Report is not agreed pursuant to paragraph 8.4 (Performance Reporting); or

14.1.2 the Supplier fails to submit a revised Improvement Plan in accordance with paragraph 12.5.2 (Improvement Notices and Improvement Plan) or the revised Improvement Plan is in the Authority's reasonable opinion unacceptable; or

14.1.3 Improvement Actions are carried out and completed but do not succeed in remedying the Reduced Performance identified in the Improvement Notice or in preventing its re-occurrence as described in paragraph 12.9 (Improvement Notices and Improvement Plan); or

14.1.4 the Improvement Actions in an Improvement Plan are not completed by the date specified or to the Authority's satisfaction in accordance with paragraph 12.9 (Improvement Notices and Improvement Plan)

the Authority may issue a notice (an "**Outstanding Issues Notice**") to the Supplier identifying any issues relating to the Performance Report requiring agreement, any circumstances that apply under paragraph 12.6 (Improvement Notices and Improvement Plan) (including, where relevant, the aspects in which the revised Improvement Plan is unacceptable), any circumstances that apply under paragraph 12.9 (Improvement Notices and Improvement Plan) (any of which shall constitute "**Outstanding Issues**") and the Parties shall in good faith attempt to resolve such Outstanding Issues.

14.2 If the Parties fail to reach agreement in resolving the Outstanding Issues within fourteen (14) Days of the date of the Outstanding Issues Notice (or such other time as may be agreed by the Parties in writing), the Supplier shall within two (2) Days of the expiry of the fourteen (14) day period, issue a notice (a "**Consultation Notice**") to the Consultation Nominees to which a copy of the Outstanding Issues Notice shall be annexed, and shall at the same time provide the Authority with a copy of the Consultation Notice. If the Supplier fails to do so within the specified time, the Authority may issue a Consultation Notice containing the required information, providing a copy to the Supplier.

14.3 Within seven (7) days of the date of issue of the Consultation Notice (or such other time as may be agreed by the Parties in writing), each Party may produce a concise and unambiguous statement (no more than 4 A4 sheets) of any matters it considers relevant to the Outstanding Issues, which shall be considered by the Consultation Nominees.

14.4 Within fourteen (14) Days of the date of the Consultation Notice, the Consultation Nominees shall meet and attempt in good faith to resolve the Outstanding Issues.

14.5 Where the Consultation Nominees are able to resolve the Outstanding Issues or any part of them, they shall produce a statement of such resolution and any agreed actions, and the Parties shall carry out and complete such actions.

- 14.6 Where and to the extent that the Consultation Nominees are unable to resolve the Outstanding Issues or any part of them within twenty-eight (28) Days of the date of the Consultation Notice for any reason, **paragraphs 8.5 (Performance Reporting)** and/or **13.1 (Rectification)** (as relevant) shall apply.

APPENDIX A

1. CONTRACT MANAGEMENT INFORMATION REPORTING REQUIREMENTS

Plan or Report	Frequency	Date Required
Asset Verification Report	Once, ahead of SCD	Report to be issued before Services Commencement Date.
Maintenance & Replacement Plan	Annually	Plan to be issued at the same time as the Asset Verification Report before the Services Commencement Date.
Equipment Register	On-going/ live	An up-to-date register is to be maintained from Services Commencement Date.
Annual Delivery Plan (for year ahead) (incl updated Curriculum) (agreed with Authority)	Annually	On or before the date which is three (3) Months after the Services Commencement Date and on or before 1 August in each subsequent Contract Year.
An Annual Report (backwards looking), including: <ul style="list-style-type: none"> • a statement of accounts; • performance against KPIs; • key achievements and planned improvement; • and benefits realisation analysis. 	Annually	On or before 10th January each Contract Year.
Payment Period Report	Monthly	Within five (5) Working Days after the end of each Payment Period
KPI Report (to support monthly base payment)	Monthly	Within five (5) Working Days after the end of each Payment Period
Management Information Report Should include teaching quality assessments (as assessed by Supplier)	Six weekly	Within five (5) Days after the end of the relevant six-week period
Action plans – Self audit, HMIP / Ofsted, MQPL	As available	As available. The Supplier will be required to contribute to Secure Setting actions plans resulting from HMIP/ Ofsted inspections and MQPL reports.
Equality Impact Assessments	As required	The Authority will request this report as and when required.
Supplier's Staff Information	As Required	The Authority will request this report as and when required.

Maintenance of Records	As Required	As and when required. The Authority shall have the right to examine and copy records relating to the provision of the Services in accordance with the Contract
Ad-hoc requests	On Request	As requested, within timescales agreed by the parties.

2. PAYMENT PERIOD REPORT

The Supplier shall produce a Payment Period Report which shall set out the following information and in such format as may be reasonably required by the Authority. All reports shall be provided electronically (unless otherwise requested by the Authority) and be able to export data in XML format.

ID	Information	Measure
2.a	Report on the Supplier's performance against KPIs 1A, 1B and 2	Measures are set out in Appendix B next to the relevant KPIs.
2.b	The total number of hours of Authorised Absences	Total number of hours of Authorised Absences in the Payment Period. Note: The total number of hours will require to be broken down against all the permissible categories of Authorised Absence.
2.c	The total number of hours of unauthorised absences	The total number of hours of unauthorised absences in the Payment Period.

3. MANAGEMENT INFORMATION REPORT

The Supplier shall prepare a six (6) weekly Management Information Report which shall set out the following information and in such format as may be reasonably required by the Authority. All reports shall be provided electronically (unless otherwise requested by the Authority) and be able to export data in XML format.

ID	Information	Measure
3.a	Report on the Supplier's performance against any KPIs in Appendix B which have a six (6) or twelve (12) weekly reporting frequency	Measures are set out in Appendix B next to the relevant KPIs.

ID	Information	Measure
3.b	Number of Learners whose prior learning records could not be obtained.	= The number of Learners admitted during the reporting period for whom prior learning records are not obtained within ten (10) Days of initial reception.
3.c	Percentage of Learners allocated to education.	$\text{Percentage of Learners allocated to learning} = \frac{\text{Total number of Learners admitted to the Secure Setting and allocated to education in a Payment Period}}{\text{Total number of Learners admitted to the Secure Setting in a Payment Period}} \times 100$
3.d	Number of Learners not attending education due to Authorised Absences.	= The total number of different Learners who are recorded as having at least 1 Authorised Absence in the reporting period.
3.e	Number of Learners sent out from a lesson by the Supplier's Staff.	= The total number of different Learners who are sent out from Classroom-based Education by the Supplier's staff during the reporting period.
3.f	Number of Learners withdrawn from a lesson by NOMS.	= The total number of different Learners who are withdrawn by NOMS from Classroom-based Education during the reporting period.
3.g	Number of occasions a particular Learner has been sent out or withdrawn from education.	= The total number of occasions during the reporting period that each different Learner counted for measures 3.d and 3.e was sent out or withdrawn from Classroom-based Education.
3.h	Number of Learners who are not re-engaged with education services within 24 hours of being sent out or withdrawn.	= Count the total number of different Learners during the reporting period who are <u>not</u> receiving Classroom-based Education after 24 hours of being sent out from a lesson (as counted under measure 3.d) or withdrawn from education (as counted under measure 3.e).
3.i	Learners' learning and skills ability/levels on entering the Secure Setting.	Record the learning and skills level (as assessed within the induction period) for each Learner entering the Secure Setting.
3.j	Learners' learning and skills ability/levels at the end of their stay in the Secure Setting.	Record the learning and skills level (as assessed for the resettlement review) for each Learner whose departure from the Secure Setting is planned.

ID	Information	Measure
3.k	A RAG analysis of Learners' predicted performance based on data and assessment.	Record the assessments completed by Learners and Learners' progress towards predicted attainment and expected progress (as assessed within the induction period).
3.l	An analysis of Learners' behaviour and attitude towards learning	<p>Record Learners' behaviour (including details of unacceptable behaviour) and attitude towards learning as assessed within the induction period and any changes in this following the induction period.</p> <p>The analysis shall consider, but not be limited to, information on Learners':</p> <ul style="list-style-type: none"> • Self regard as a learner; • Attitudes towards teachers; • Confidence in learning; • Attitude to attendance; • General work ethic; and • Engagement/ interaction with peers.
3.m	An analysis of the performance and achievement of minority groups against the performance and achievement of wider Secure Setting population.	<p>Record the progress and attainment of each Learner.</p> <p>Provide an analysis comparing these records for minority groups with the same records for the whole Secure Setting population.</p> <p>The analysis shall include, but shall not be limited to, information on:</p> <ul style="list-style-type: none"> • BAME Learners; • Learners with EHC Plans or Statements of SEN (as applicable); and • Learners with "looked after" status (as defined in the Children Act 1989).
3.n	A report on strategies implemented to address attainment gaps.	A report showing the strategies implemented by the Supplier to address attainment gaps as well as the assessed effectiveness of these strategies in narrowing attainment gaps (as identified through the analysis under measure 3.m).
3.o	Qualifications achieved by Learners.	Note: Qualifications are to be reported by type and volume.
3.p	Percentage of Common Transfer Forms completed and sent to receiving secure	$\frac{\text{Percentage of Common Transfer Forms completed}}{\text{Total number of Common Transfer Forms completed and sent to receiving organisation in required timescales}} \times 100$

ID	Information	Measure
	establishment, Youth Offender Team, local authority education or training provider at least 5 Working Days prior to a Learner's transition.	Total number of Learners released in the reporting period
3.q	Learners' education, training or employment destinations on their departure from the Secure Setting.	Record the education, training and/or employment destinations that Learners who are resettled from the Secure Setting are to undertake in their communities.
3.r	Learners' sustained education, training or employment for two (2) quarters following their departure from the Secure Setting.	<p>Record the education, training and/ or employment activities that Learners who are resettled from the Secure Setting are undertaking in communities:</p> <p>(i) Three (3) Months following the relevant Learner's departure</p> <p>(ii) Six (6) Months following the relevant Learner's departure.</p> <p>(Single contact with YOT and/ or known ETE placement required at points i) and ii)).</p>
3.s	Complaints made by Learners about Services delivered and/or Services managed by the Supplier.	<p>Number of different complaints made by Learners about education services during the reporting period.</p> <p>This includes complaints made to NOMS, advocacy services or any other agency, where this is about education services provided by the Supplier and where the Supplier is made aware of such a complaint.</p>
3.t	An assessment of the quality of teaching.	<p>Record, with reference to the Ofsted assessment framework, the quality of teaching across education services, including information on:</p> <ul style="list-style-type: none"> • the lessons observed; • the quality of lessons; and • actions taken to address poor quality teaching. <p><i>(Note: this indicator is required to be reported to the Authority on a twelve (12) weekly basis, providing qualitative information alongside KPI 2A below)</i></p>

APPENDIX B

KEY PERFORMANCE INDICATORS AND REMEDIES

ID	KPI Description	Measure of KPI		Performance Target	Reporting Frequency	Start Date	Bedding-In Period (following relevant Start Date)	Remedy (without prejudice to other remedies including in the Agreement)
1A	Every child or Learner has a Baseline Education assessment completed for every child and Learner within five (5) Working Days of entry to the Secure Setting.	Percentage of new entrants who have had their Baseline Education assessment completed within five (5) Working days of entry to the Secure Setting.	$= \frac{\text{Total number of new entrants who have had their Baseline Education assessment completed within five (5) Working Days of entry to the Secure Setting}}{\text{Total number of children or Learners who have entered the Secure Setting within each Payment Period}} \times 100$	100%	Monthly	From SCD	100% of new assessments (using Supplier's new assessment model) in time for the next formulation (up to 6 weeks after 1 Sep 2022 (i.e. 100% of new assessments completed for all those in custody Friday 14 October 2022))	Service Points: 9 points per month
1B	Every child or Learner has an individualised Education and	Percentage of new entrants who have had their	$= \frac{\text{Total number of new entrants who have had their Individualised Education and Learning Plan completed within}}{\text{Total number of new entrants who have had their Individualised Education and Learning Plan completed within}} \times 100$	100%	Monthly	From SCD	100% of new entrants from 1 Sep 2022	Service Points: 9 points per month

ID	KPI Description	Measure of KPI		Performance Target	Reporting Frequency	Start Date	Bedding-In Period (following relevant Start Date)	Remedy (without prejudice to other remedies including in the Agreement)
	Learning Plan that reflects their most recent Formulation and is demonstrably informed by baseline assessment.	Individualised Education and Learning Plan completed within five (5) Working Days after their Formulation meeting	<p>five (5) Working Days after their Formulation meeting in each Payment Period</p> <hr/> <p>Total number of children or Learners who have had a Baseline Education assessment within each Payment Period</p> <p>Exceptions: e.g. those going on trial, those with medical issues</p> <hr/>				100% of learning plans for existing learners (up to 6 weeks after 1 Sep 2022 (ie 100% of all learning plans completed for all those in custody by Friday 14 October 2022))	
2A	Target Supplier Staffing Levels are in place and are in line with the Target Staffing Model within agreed tolerances.	Measure against staffing profile provided by the Supplier (incl the specific staff as set out in the Delivery Plan).		All staff to be in place (including existing staff TUPEing over and new staff (appropriately	Monthly	From SCD		Service Points: 14 points per month.

ID	KPI Description	Measure of KPI	Performance Target	Reporting Frequency	Start Date	Bedding-In Period (following relevant Start Date)	Remedy (without prejudice to other remedies including in the Agreement)
			<p>cleared) from 1 Sep 2022</p> <p>100% of staff in place from 1 Sep 2022 as per Delivery Plan.</p> <p>Staffing levels should fulfil minimum 15hrs learner hours per Learner.</p>				
2A(i)	Head of Education post is occupied	<p>Head of Education post is occupied on a permanent contractual basis for each calendar day of each calendar month.</p> <p>Evidence to be provided that Head of Education has been hired on a permanent basis (eg by sharing the contract)</p> <p>After 12-week period of post being with sliding scale of financial remedy (eg up to 115-125% of cost of Head of Ed</p>	Head of Education post 100% occupied over the month (with 12 week maximum period of substantive (ie recruited for	Monthly	From SCD	No bedding-in period	See paragraph 7.4

ID	KPI Description	Measure of KPI	Performance Target	Reporting Frequency	Start Date	Bedding-In Period (following relevant Start Date)	Remedy (without prejudice to other remedies including in the Agreement)
		being deducted from monthly payments per month after 12 weeks)	<p>on a permanent basis) post holder vacancy.</p> <p>Head of Education has an education qualification and has (or on appointment is willing to work towards) a nationally recognised education leadership qualification.</p>				
2C	'Overall effectiveness is rated "Good" by Ofsted.	'Overall effectiveness' assessed by Ofsted	See paragraph 1 of Appendix C below	Annually	The first deduction period as described in Appendix C		See paragraph 1 of Appendix C below

ID	KPI Description	Measure of KPI	Performance Target	Reporting Frequency	Start Date	Bedding-In Period (following relevant Start Date)	Remedy (without prejudice to other remedies including in the Agreement)
2C(i)	On reviewing Education and Learning plans, children and Learners must have made 'Good' progress whilst in custody. Including those with LDD and SEND needs.	<p>The Authority will develop in collaboration with the Supplier a reporting regime against this KPI over Year 1 of the Contract:</p> $\frac{\text{Percentage of children and Learners making 'Good' educational progress whilst in custody}}{\text{Number of Individualised Education and Learning plans reviewed in a one (1) month period where progress is assessed as being 'Good'}} \times 100$ <p>Number of Education and Learning plans reviewed in a one (1) month period</p>	<p>100%</p> <p>Performance will be benchmarked over Contract Year 1 of the Contract.</p> <p>Subsequently, the Authority will revise and set the target percentage.</p>	Monthly (or alignment with formulation processes (every 6 weeks))	From end December	No bedding-in period	9 points
2C(ii)	Overall effectiveness is rated 'requires improvement' or 'inadequate'	'Overall effectiveness' is assessed by Ofsted (as part of an annual 'Full inspection' as being 'requires improvement' or 'inadequate'.	The annualised HMIP / Ofsted inspection of the Secure Setting will provide independent measure against this KPI.	Annually	From the second Ofsted inspection rating received after SCD		25 points (for the avoidance of doubt applicable annually)

ID	KPI Description	Measure of KPI	Performance Target	Reporting Frequency	Start Date	Bedding-In Period (following relevant Start Date)	Remedy (without prejudice to other remedies including in the Agreement)
4B	The Supplier shall provide information required by the Authority regularly and in a timely manner.	<ul style="list-style-type: none"> i. Management Information requirements, as specified in this Schedule are complied with and delivered to the Authority according to the specified timelines. ii. Any reasonable request for information made by the Authority Representative in writing to the Supplier will be fulfilled within ten (10) business days of said notice, unless explicitly specified otherwise. <p>The authority will make clear where such requests for information are being made under this KPI.</p>	<ul style="list-style-type: none"> i. Points applied for each MI report stipulated but not provided. ii. Points applied for each incident where request for information is not provided within timeframe. Points will apply for every additional business 	Monthly	SCD	4 months (from SCD)	Service Points: 1 point per report or request per day of lateness. For the avoidance of doubt, the total service points available in a month in relation to this KPI shall not apply to the MTSP when calculating Service Credits in Schedule 2

ID	KPI Description	Measure of KPI	Performance Target	Reporting Frequency	Start Date	Bedding-In Period (following relevant Start Date)	Remedy (without prejudice to other remedies including in the Agreement)
			day elapsed until request fulfilled.				

APPENDIX C

KEY PERFORMANCE INDICATOR 2C

1. KEY PERFORMANCE INDICATOR 2C

1.1 The Parties acknowledge and agree that the following shall apply in respect of the Key Performance Indicator identified as 2C in Appendix B

1.2 In this Appendix C, the following words shall have the following meanings:

“Deduction Period” means:

- a) for the first Deduction Period, the period commencing on the earlier of
 - I. the first anniversary of the Commencement Date and ending on the completion of the next Ofsted review of the Secure Site; and
 - II. the completion of the first Ofsted review of the Secure Site following the Commencement Date and ending on the completion of the next Ofsted review of the Secure Site
- b) for each subsequent Deduction Period, commencing on the date immediately following completion of an Ofsted review of the Secure Site and ending on the completion of the next Ofsted review of the Secure Site

“Fixed Deduction” means 2.5% of the Commissioned Baseline Payment;

“Maximum Deduction” means 5% of the Commissioned Baseline Payment;

1.3 The Parties acknowledge and agree that the following shall apply in respect of the Key Performance Indicator identified as 2C in Appendix B

1.3.1 No deduction from the Commissioned Baseline Payment shall be made during:

- (i) each Deduction Period where, the Overall effectiveness rated by Ofsted improves by one level or more in any year as against the previous year; and
- (ii) each Deduction Period where the Overall effectiveness rated by Ofsted is “Outstanding”.

1.3.2 The Fixed Deduction shall apply in each Deduction Period where the Overall effectiveness rated by Ofsted is good where there was no improvement (so for the avoidance of doubt, where the Overall effectiveness rated by Ofsted in the previous year was also good);

1.3.3 the Maximum Deduction shall apply in:

- (i) each Deduction Period where the ‘Overall effectiveness is rated “Inadequate” (or worse) by Ofsted’; and
- (ii) each Deduction Period where the Overall effectiveness rated by Ofsted declines as against the previous Deduction Period;
- (iii) each Deduction Period where the Overall effectiveness rated by Ofsted is less than good and where there was no improvement;

for the avoidance of doubt, in the event both scenarios in paragraphs 1.3.3(i) and 1.3.3(ii) exist in the same Deduction Period, the shall only be one application of the Maximum Deduction for that Deduction Period;

1.4 Where paragraph 1.3.3(ii) applies, the Deduction Amount for the following Deduction Period shall:

- 1.4.1 subject to paragraphs 1.4.2 and 1.4.3, be multiplied by two hundred per cent (200%);
- 1.4.2 never exceed the Maximum Deduction Amount; and
- 1.4.3 where there would not have been a Deduction Amount for the following Deduction Period such Deduction Amount shall instead be the Fixed Deduction.

1.5 The table below sets out a worked example:

	Final Score of previous Year	Final score at end of Year 1	Final score at end of Year 2	Final score at end of Year 3	Final score at end of Year 4	Final score at end of Year 5	Final score at end of Year 6	Final score at end of Year 7
Scenario 1	Inadequate	Requires improvement	Requires Improvement	Good	Good	Outstanding	Good	Outstanding
Deduction Applicable to Scenario 1	N/A	No deduction due to improvement (paragraph 1.3.1(i))	Maximum Deduction as no improvement and not "good" (paragraph 1.3.3(iii))	No deduction due to improvement (paragraph 1.3.1(i))	Fixed Deduction as rated good but no improvement (paragraph 1.3.2)	No deduction due to outstanding (paragraph 1.3.1(ii))	Maximum Deduction as performance declined (paragraph 1.3.3(ii))	No deduction due to outstanding (paragraph 1.3.1(ii))
Scenario 2	Good	Good	Requires Improvement	Good	Good	Good	Outstanding	Outstanding
Deduction Applicable to Scenario 2	N/A	Fixed Deduction as maintained good but no improvement (paragraph 1.3.2)	Maximum Deduction as performance declined (paragraph 1.3.3(ii))	Fixed Deduction as improvement and good but previous year decline (paragraph 1.4.3)	Fixed Deduction as maintained good but no improvement (paragraph 1.3.2)	Fixed Deduction as maintained good but no improvement (paragraph 1.3.2)	No deduction due to outstanding (paragraph 1.3.1(ii))	No deduction due to outstanding (paragraph 1.3.1(ii))

APPENDIX D
AUTHORISED ABSENCES

The Parties acknowledge and agree that this Appendix D is made up of the following file(s) which were sent by [REDACTED] to [REDACTED] on 24 August 2022 at 16:20 :

Authorised absence table_final.docx

SCHEDULE 15 – EXIT MANAGEMENT

1. DEFINITIONS

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

"Exclusive Assets"	Supplier Assets used exclusively by the Supplier or a Key Sub-contractor in the provision of the Services and all Inherited Assets;
"Exit Information"	has the meaning given to it in paragraph 3.1 of this Schedule;
"Exit Manager"	the person appointed by each Party to manage their respective obligations under this Schedule;
"Net Book Value"	the current net book value of the relevant Supplier Asset(s) calculated in accordance with the Framework Tender Response or Call Off Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice);
"Non-Exclusive Assets"	those Supplier Assets used by the Supplier or a Key Sub-contractor in connection with the Services but which are also used by the Supplier or Key Sub-contractor for other purposes;
"Register"	the register referred to in paragraph 2.2 of this Schedule;
"Replacement Goods"	any goods which are substantially similar to any of the Goods and which the Authority receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Authority internally and/or by any third party;
"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 following the End Date, whether those goods are provided by the Authority internally and/or by any third party;
"Termination Assistance"	the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Authority pursuant to the Termination Assistance Notice;
"Termination Assistance Notice"	has the meaning given to it in paragraph 5.1 of this Schedule;
"Termination Assistance Period"	the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to paragraph 5.2 of this Schedule;

"Transferable Assets"	Exclusive Assets which are capable of legal transfer to the Authority including the Inherited Assets;
"Transferable Contracts"	Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Authority or any Replacement Supplier to provide the Services or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation;
"Transferring Assets"	has the meaning given to it in paragraph 8.2.1 of this Schedule; and
"Transferring Contracts"	has the meaning given to it in paragraph 8.2.3 of this Schedule.

2. OBLIGATIONS DURING THE TERM TO FACILITATE EXIT

- 2.1 The Supplier shall within twenty (20) Working 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 Supplier shall promptly create and maintain a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Services ("**Register**").
- 2.3 The Supplier shall:
 - 2.3.1 ensure that all Exclusive Assets listed in the Register are clearly physically identified as such; and
 - 2.3.2 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 Supplier upon the Supplier ceasing to provide the Services (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Authority and the Authority may require the Supplier to procure an alternative Sub-Contractor or provider of Services.
- 2.4 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 Contract.

3. OBLIGATIONS TO ASSIST ON RE-TENDERING OF SERVICES

- 3.1 The Supplier shall, on reasonable notice, provide to the Authority and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), such information 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 Suppliers undertaking due diligence (the "**Exit Information**").

- 3.2 The Supplier acknowledges that the Authority may disclose the Supplier's Confidential Information (excluding the Supplier's or its Sub-contractors' prices or costs) to an actual or prospective Replacement Supplier to the extent that such disclosure is necessary in connection with such engagement.
- 3.3 The Supplier shall provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and notify the Authority within five (5) Working 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 Supplier.

4. EXIT PLAN

- 4.1 The Supplier shall, within three (3) Months after the Commencement Date, deliver to the Authority an Exit Plan which complies with the requirements set out in paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Authority.
- 4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 4.3 The Exit Plan shall set out, as a minimum:
- 4.3.1 a detailed description of both the transfer and cessation processes, including a timetable;
 - 4.3.2 how the Services will transfer to the Replacement Supplier and/or the Authority;
 - 4.3.3 details of any contracts which will be available for transfer to the Authority and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;
 - 4.3.4 proposals for the training of key members of the Replacement Supplier's personnel in connection with the continuation of the provision of the Services following the Expiry Date;
 - 4.3.5 proposals for providing the Authority or a Replacement Supplier copies of all documentation relating to the use and operation of the Services and required for their continued use;
 - 4.3.6 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Services;
 - 4.3.7 proposals for the identification and return of all Authority Property in the possession of and/or control of the Supplier or any third party;
 - 4.3.8 proposals for the disposal of any redundant Services and materials;
 - 4.3.9 how the Supplier will ensure that there is no disruption to or degradation of the Services during the Termination Assistance Period; and

4.3.10 any other information or assistance reasonably required by the Authority or a Replacement Supplier.

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 Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:

5.1.1 the nature of the Termination Assistance required; and

5.1.2 the start date and period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the date that the Supplier ceases to provide the Services.

5.2 The Authority shall have an option to extend the Termination Assistance Period beyond the Termination Assistance Notice period provided that such extension shall not extend for more than six (6) Months beyond the end of the Termination Assistance Period and provided that it shall notify the Supplier of the extension no later than twenty (20) Working Days prior to the date on which the provision of Termination Assistance is otherwise due to expire. The Authority shall have the right to terminate its requirement for Termination Assistance by serving not less than twenty (20) Working Days' written notice upon the Supplier.

6. TERMINATION ASSISTANCE PERIOD

6.1 Throughout the Termination Assistance Period the Supplier shall:

6.1.1 continue to provide the Services (as applicable) (and for the avoidance of doubt the Supplier shall be entitled to be paid for such Services in accordance with Schedule 2) and, if required by the Authority, provide the Termination Assistance;

6.1.2 provide to the Authority any reasonable assistance requested by the Authority including assistance to facilitate the orderly transfer of responsibility for and conduct of the Services to the Authority and/or its Replacement Supplier;

6.1.3 use all reasonable endeavours to reallocate resources to provide such assistance without additional costs to the Authority;

6.1.4 provide the Services and the Termination Assistance at no detriment to the Service Levels; and

6.1.5 at the Authority's request and on reasonable notice, deliver an up-to-date Register to the Authority.

6.2 If it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in paragraph 6.1.2 without additional costs to the Authority, any additional costs incurred by the Supplier in providing such reasonable assistance shall be subject to the Variation Procedure.

6.3 If the Supplier demonstrates to the Authority's reasonable satisfaction that the provision of the Termination Assistance will have a material, unavoidable adverse effect on the Supplier's ability to meet one or more particular Service Level(s), the Parties shall vary the relevant Service Level(s) accordingly.

7. TERMINATION OBLIGATIONS

- 7.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Assistance), the Supplier shall:
- 7.2.1 vacate any Authority Premises;
 - 7.2.2 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Services and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;
 - 7.2.3 provide access during normal working hours to the Authority and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:
 - 7.2.3.1 such information relating to the Services as remains in the possession or control of the Supplier; and
 - 7.2.3.2 such members of the Supplier Personnel as have been involved in the design, development and provision of the Services and who are still employed by the Supplier, provided that the Authority and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to such requests for access.
- 7.3 Except where this Contract provides otherwise, all licences, leases and authorisations granted by the Authority to the Supplier in relation to the Services shall be terminated with effect from the end of the Termination Assistance Period.

8. ASSETS, SUBCONTRACTS AND SOFTWARE

- 8.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier 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 Supplier Assets or acquire any new Supplier Assets.
- 8.2 Following receipt of the up-to-date Register provided by the Supplier and at least twenty (20) Working Days prior to the expiry of the Termination Assistance Period, the Authority shall notify the Supplier 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 Supplier ("**Transferring Assets**");
 - 8.2.2 which, if any, of:
 - 8.2.2.1 the Exclusive Assets that are not Transferable Assets; and
 - 8.2.2.2 the Non-Exclusive Assets,

the Authority and/or the Replacement Supplier 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 Supplier (the "**Transferring Contracts**"),

in order for the Authority and/or its Replacement Supplier to provide the Services from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Authority and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Services or the Replacement Goods and/or Replacement Services.

- 8.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Authority and/or the Replacement Supplier for their Net Book Value provided that in respect of any Transferring Assets that were Inherited Assets their total Net Book Value (and price which shall be payable) shall be deemed to be one pound (£1.00).
- 8.4 Risk in the Transferring Assets shall pass to the Authority or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.
- 8.5 Where the Authority and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
- 8.5.1 procure a non-exclusive, perpetual, royalty-free licence for the Authority and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
- 8.5.2 procure a suitable alternative to such assets, the Authority or the Replacement Supplier to bear the reasonable proven costs of procuring the same.
- 8.6 The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Authority and/or the Replacement Supplier. The Supplier 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 Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
- 8.7.2 once a Transferring Contract is novated or assigned to the Authority and/or the Replacement Supplier, discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.
- 8.8 The Supplier shall hold any Transferring Contracts on trust for the Authority until the transfer of the relevant Transferring Contract to the Authority and/or the Replacement Supplier has taken place.
- 8.9 The Supplier shall indemnify the Authority (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a

Transferring Contract which is assigned or novated to the Authority (and/or Replacement Supplier) pursuant to paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 15 (Rights of Third Parties) shall not apply to this paragraph 8.9 which is intended to be enforceable by Third Parties Beneficiaries by virtue of the CRTPA.

9. CHARGES

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

10. APPORTIONMENTS

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

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

SCHEDULE 16 - DEPENDENCIES

1. DEFINITIONS

In this Schedule, unless the context otherwise requires:

"Authorised Absence"	has the meaning given in Schedule 14 (Performance Management Schedule) ;
"Key Training"	has the meaning given to it in Schedule 1 (Authority's Requirements) ;
"ROTL"	has the meaning given to it in Schedule 1 (Authority's Requirements) and
"Senior Management Team"	has the meaning given to it in Schedule 1 (Authority's Requirements) .

2. INTRODUCTION

This Schedule sets out the Dependencies that the Authority agrees to provide (or procure the provision of) to enable the Contractor to provide the Services. Any obligations of the Authority set out elsewhere in the Agreement shall not be Authority Dependencies.

1. Casework and sentence planning	
The Authority shall:	
	ensure that the Supplier is provided with: ASSET and Sentence Plan aims and objectives; and where available, other prior information and/or records relevant to the Learners which are sent into the YOI prior to education activity allocation decisions.
	ensure that the relevant representatives of the Supplier (as nominated by the Supplier) are provided with the timetabling information for, and are invited to, the following: <ul style="list-style-type: none"> • Resettlement Team meetings; • sentence plan review meetings; • emergency multi-disciplinary risk and safeguarding meetings; and • ROTL planning and organising for resettlement and facilities licences.

2. Leadership and governance	
The Authority shall:	
	ensure the Head of Education is invited to all meetings of the Senior Management Team.
	Implement appropriate communications processes to allow the Supplier's Staff to be provided with information relevant to the delivery of the Services (including Resettlement Analyses and any operational issues including those affecting the

	Authority's ability to provide sufficient staff to escort Learners to education activities).
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3. Risk and security management	
The Authority shall:	
	ensure that dedicated YCS staff patrol the learning environments at the YOI during education sessions.
	deliver mandatory security and Key Training for Supplier staff prior to them commencing their respective roles in the YOI.
	Undertake security and/or risk assessments of education courses and review these at least annually.
	shall ensure that a risk review system is implemented which enables risk assessments for Learners to be undertaken and to be revisited on at least a six (6) weekly basis and following adjudication (ie to enable any changes to risk levels which affect Learner's participation in educational activities to be identified).

4. Young people's participation in education	
The Authority shall:	
	ensure that: published movement times are adhered to; agreed movement times to and from education activities are adhered to; and Learners are escorted when leaving a classroom for any reason.
	ensure that Learners who attend activities categorised as Authorised Absences are returned to their planned education activity as soon as the Authorised Absence activity is completed.
	ensure access for the Supplier to support education delivery for Learners whose movement within the YOI is restricted due to their risk or vulnerability factors.
	the Head of Security at the Secure Setting shall ensure that a risk review system is put in place in order that any changes to risk levels which affect Learner's participation in educational activities can be identified.

5. Mobilisation	
The Authority shall:	
	perform those obligations as set out in the Detailed Implementation Plan.

SCHEDULE 17 – MANDATORY POLICIES

Statutory Obligations, Policies and Guidance

To note this list is not exhaustive

- YOI Rules 2000
- Children’s Act 2004
- Education Act 1996
- Working Together to Safeguard Children 2018
- Equality Act 2010
- Apprenticeships, Skills, Children and Learning Act 2009
- Children and Families Act 2014
- Special educational needs and disability code of practice: 0 to 25 years (January 2015)

Policies and guidance documents

- Framework for Integrated Care – Principles and Outcomes
- National Standards for Youth Justice Services 2019
- Gatsby Charitable Foundation’s Benchmarks (Careers advice provision benchmarks)
- Careers guidance and access for education and training providers (October 2018) (for information and guidance only)
- Ofsted Handbook for inspecting education, skills and work activities in prisons and young offender institutions from 1 February 2020
- Information Security and ISO 27001
- Specification of the Individual Learner Record for 2020/21
- Building Bridges: A Positive Behaviour Framework for the Children and Young People Secure Estate

Operational policies

- PSI 2012/08 – The Care and Management of Young People
- PSI 32/2011 – Ensuring Equality
- PSI 10/2012 – Conveyance and Possession of Prohibited Items and Other Related Offences
- PSI 49/2011 – Prisoner Communication Services
- PSI 03/2012 – Activity Allocation
- PSO 1215 – Professional Standards - Preventing and Handling Staff Wrongdoing
- PSI 11/2011 – Incentives and Earned Privileges
- PSI 73/2011 – Prison NOMIS
- PSI 64/2011 – Safer Custody – Management of Prisoners at Risk of Harm to Self, to Others and from Others
- PSI 22/2012 – Intelligence – Regulation of Investigatory Powers Act: Covert Surveillance
- PSI 55/2011 – Security Management Function – Management and Security of Keys and Locks
- PSI 07/2014 – National Security Framework Vetting Function – Security Vetting

SCHEDULE 18: STAFF TRANSFER

1. DEFINITIONS

In this Schedule, the following words have the following meanings and they shall supplement Clause A1(Definitions and Interpretation):

"Employee Liabilities"	<p>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:</p> <ul style="list-style-type: none">(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 and also including any payments arising in respect of pensions;(f) claims whether in tort, contract or statute or otherwise; and(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;
"Former Supplier"	<p>a supplier supplying services to the Authority before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any Sub-Contractor of such supplier (or any Sub-Contractor of any such Sub-Contractor);</p>
"Relevant Transfer"	<p>a transfer of employment to which TUPE applies;</p>

"Relevant Transfer Date"	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place (and, if more than one, the relevant date or each relevant date as the context so requires), and for the purposes of Part D: Pensions, shall include the Commencement Date, where appropriate;
"Replacement Supplier Sub-Contractor"	any sub-contractor at any level of a Replacement Supplier;
"Service Transfer"	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-Contractor to a Replacement Supplier or a Replacement Supplier Sub-Contractor;
"Service Transfer Date"	the date of a Service Transfer;
"Supplier's Final Supplier Personnel List"	a list provided by the Supplier of all Supplier Personnel whose employment will transfer under TUPE on the Service Transfer Date;
"Supplier's Provisional Supplier Personnel List"	a list prepared and updated by the Supplier of all Supplier Personnel who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;
"Supplier Personnel"	those persons who are or who at any time have been employed or engaged or utilised by the Supplier or any Sub-Contractor in the performance of the Services or any part of the Services;
"Staffing Information"	<p>in relation to all persons identified on the Supplier's Provisional Supplier Personnel List or Supplier's Final Supplier Personnel List, as the case may be, such information as the Authority may reasonably request (subject to all applicable provisions of the Data Protection Legislation), but including in an anonymised format:</p> <ul style="list-style-type: none">(a) all of the information listed in the employee information spreadsheet annexed to this Schedule (which the Authority may, acting reasonably, update at any time at its sole discretion);(b) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);(c) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;

- (d) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees);
- (e) any other "employee liability information" as such term is defined in regulation 11 of TUPE; and
- (f) such other information as the Authority may reasonably request;

"Transferring Former Supplier Employees" in relation to a Former Supplier, those employees of the Former Supplier or any Sub-Contractor thereof to whom TUPE will apply on the Relevant Transfer Date and whose names are provided to the Supplier on or prior to the Relevant Transfer Date; and

"Transferring Supplier Employees" those employees of the Supplier and/or any Sub-Contractor to whom TUPE applies or will apply on the Service Transfer Date (or relevant Service Transfer Date).

2. INTERPRETATION

- 2.1 Where a provision in this Schedule imposes any obligation on the Supplier including (without limit) to comply with a requirement or provide an indemnity, undertaking or warranty, the Supplier shall procure that each of its Sub-Contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Authority, Former Supplier, Replacement Supplier or Replacement Sub-Contractor, as the case may be and where the Sub-Contractor fails to satisfy any claims under such indemnities the Supplier will be liable for satisfying any such claim as if it had provided the indemnity itself.
- 2.2 The provisions of Paragraphs 2.1, 2.3, 3.1 and 3.3 of Part B, Paragraphs 4.1 and 4.2 of Part D and Paragraphs 2.4, 3.3 and 3.5 of Part E confer benefits on third parties and are intended to be enforceable by such third parties by virtue of the CRTPA.

PART A: STAFF TRANSFER AT START DATE – OUTSOURCING FROM THE AUTHORITY

Not used.

PART B: STAFF TRANSFER AT START DATE – TRANSFER FROM FORMER SUPPLIER ON REPROCUREMENT

1. RELEVANT TRANSFERS

- 1.1 The Authority and the Supplier agree that:
- 1.1.1 the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the Transferring Former Supplier Employees; and
 - 1.1.2 as a result of the operation of TUPE, the contracts of employment between each Former Supplier and the Transferring Former Supplier Employees (except in relation to any terms disapplied through the operation of regulation 10(2) of TUPE) shall have effect on and from the Relevant Transfer Date as if originally made between the Supplier and/or any Sub-Contractor and each such Transferring Former Supplier Employee.
- 1.2 The Authority shall procure that each Former Supplier shall comply with all its obligations under TUPE and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees in respect of the period up to (but not including) the Relevant Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions.

2. FORMER SUPPLIER INDEMNITIES

- 2.1 Subject to Paragraph 2.2, the Authority shall procure that each Former Supplier shall indemnify the Supplier and any Sub-Contractor against any Employee Liabilities arising from or as a result of:
- 2.1.1 any act or omission by the Former Supplier in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in TUPE) of any Transferring Former Supplier Employee arising before the Relevant Transfer Date;
 - 2.1.2 any failure or alleged failure by the Former Supplier to comply with its obligations under TUPE to inform and/or consult with any Transferring Former Supplier Employee and/or their appropriate representative (as defined in TUPE).
- 2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier or any Sub-Contractor whether occurring or having its origin before, on or after the Relevant Transfer Date.
- 2.3 Subject to Paragraphs 2.4 and 2.5, if any employee of a Former Supplier who is not identified as a Transferring Former Supplier Employee and claims, and/or it is determined, in relation to such person that his/her contract of employment or any liability relating to his/her contract of employment has been transferred from a Former Supplier to the Supplier and/or any Approved Sub-Contractor pursuant to TUPE then:
- 2.3.1 the Supplier will within 5 Working Days of becoming aware of that fact notify the Authority and the relevant Former Supplier in writing;
 - 2.3.2 the Former Supplier may offer employment to such person, or take such other steps as it considers appropriate to resolve the matter, within 10 Working Days of receipt of notice from the Supplier;

- 2.3.3 if such offer of employment is accepted, the Supplier shall immediately release the person from its employment;
- 2.3.4 if after the period referred to in Paragraph 2.3.2 no such offer has been made, or such offer has been made but not accepted, the Supplier may within 5 Working Days give notice to terminate the employment of such person;
- 2.3.5 and subject to the Supplier's compliance with Paragraphs 2.3.1 to 2.3.4 the Authority shall procure that the Former Supplier will indemnify the Supplier and/or the relevant Sub-Contractor against the following costs in relation to each such person whose employment is terminated under Paragraph 2.3:

- 2.3.5.1 the cost of statutory minimum or, if higher, contractual notice;

- 2.3.5.2 the cost of statutory redundancy payments or , if higher, contractual redundancy payments (based on the terms and conditions applicable to such person immediately prior to the Relevant Transfer Date);

- 2.3.5.3 the cost of salary, benefits and national insurance contributions payable to such person(s) in respect of the period from the Relevant Transfer Date to the date of such termination under Paragraph 2.3.

2.4 For the avoidance of doubt the indemnity in paragraph 2.3 shall not apply to any claim:

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

- 2.4.2 that the termination of employment was unfair because the Supplier and/or Sub-Contractor neglected to follow a fair dismissal procedure.

2.5 The indemnity in Paragraph 2.3 shall not apply to any termination of employment occurring later than 3 Months from the Relevant Transfer Date or more than one month after the date on which the Supplier and/or relevant Sub-Contractor becomes aware of the alleged transfer.

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

3. SUPPLIER INDEMNITIES AND OBLIGATIONS

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

- 3.1.1 any act or omission by the Supplier or any Sub-Contractor in respect of any Transferring Former Supplier Employee or any appropriate employee representative (as defined in TUPE) of any Transferring Former Supplier Employee whether occurring before, on or after the Relevant Transfer Date;

- 3.1.2 any failure or alleged failure by the Supplier or any Sub-Contractor to comply with its obligations under TUPE to inform and/or consult with any Transferring Former Supplier Employee and/or their appropriate representative (as defined in TUPE);

- 3.1.3 any substantial change made or proposed to be made by the Supplier or any Sub-Contractor in the terms of employment or working conditions of any Transferring Former Supplier Employee which is detrimental to any Transferring Former Supplier Employee;
- 3.1.4 any substantial change to the material detriment made or proposed to be made by the Supplier or any Sub-Contractor in the terms of the employment or working conditions of any person or persons who would have transferred pursuant to the Relevant Transfer but who objected to the transfer and/or terminated their employment by reason of such change; and/or
- 3.1.5 any change in the identity of the employer of all or any Transferring Former Supplier Employee where that change is a significant change and to the detriment of all or any Transferring Former Supplier Employee.
- 3.2 The indemnities in Paragraph 3.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Supplier whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Supplier's failure to comply with its obligations under TUPE.
- 3.3 The Supplier shall comply with all its obligations under TUPE and shall perform and discharge all its obligations in respect of all the Transferring Former Supplier Employees, on and from the Relevant Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions and all such sums due under Part D: Pensions.

4. INFORMATION

The Supplier shall promptly provide to the Authority and/or at the Authority's direction, the Former Supplier, in writing such information as is necessary to enable the Authority and/or the Former Supplier to carry out their respective duties under regulation 13 of TUPE. The Authority shall use reasonable endeavours to procure that the Former Supplier shall promptly provide to the Supplier in writing such information as is necessary to enable the Supplier and any Sub-Contractor to carry out their respective duties under regulation 13 of TUPE.

5. PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

- 5.1 The Supplier shall comply with any requirement notified to it by the Authority relating to pensions in respect of any Transferring Former Supplier Employee as set down in (i) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised in 2007 and in 2013; (ii) HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999; (iii) HM Treasury's guidance: "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or (iv) the New Fair Deal.
- 5.2 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 5.1 shall be agreed in accordance with clause F4 (Changes) .

6. PROCUREMENT OBLIGATIONS

Notwithstanding any other provisions of this Part B, where in this Part B the Authority accepts an obligation to procure that a Former 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's must use reasonable endeavours to procure that the Former Supplier does or does not act accordingly.

7. PENSIONS

7.1 The Supplier shall comply with:

7.1.1 all statutory pension obligations in respect of all Transferring Former Supplier Employees; and

7.1.2 the provisions in Part D: Pensions.

PART C: NO STAFF TRANSFER ON START DATE

Not used.

PART D: PENSIONS

1. DEFINITIONS

In this Part D, the following words have the following meanings and they shall supplement Schedule A1 (Definitions and Interpretations), and shall be deemed to include the definitions set out in the Annexes:

- "Actuary"** a Fellow of the Institute and Faculty of Actuaries;
- "Admission Agreement"** means any or all of the CSPS Admission Agreement (as defined in Annex D1: CSPS), the LGPS Admission Agreement (as defined in Annex D2: LGPS) or the TPS Participation Agreement (as defined in Annex D3: TPS), as the context requires;
- "Broadly Comparable"**
- (a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department (or such other Actuary appointed by the Authority for the purpose) 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 (or such other Actuary appointed by the Authority for the purpose),
- and **"Broad Comparability"** shall be construed accordingly;
- "CSPS"** the schemes as defined in Annex D1 to this Part D;
- "Fair Deal Employees"** means
- (a) those:
 - a. Transferring Authority Employees; and/or
 - b. Transferring Former Supplier Employees; and/or
 - c. employees who are not Transferring Authority Employees or Transferring Former Supplier Employees but to whom TUPE apply on the Relevant Transfer Date to transfer their employment to the Supplier or a Sub-Contractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.3.4 of Parts A or B or Paragraph **Error! Reference source not found.** of Part C; and/or
 - (b) where the Former Supplier becomes the Supplier, those employees;

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

"Fair Deal Schemes" means the relevant Statutory Scheme, and/or a Broadly Comparable pension scheme;

"Fund Actuary" means Fund Actuary as defined in Annex D2 to this Part D;

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

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

(a) any amendments to that document immediately prior to the Relevant Transfer Date; and

(b) any similar pension protection, in accordance with the subsequent Annex D1 and D2 inclusive including The Best Value Authorities Staff Transfer (Pensions) Direction 2007 (as amended from time to time), as notified to the Supplier by the Authority or Authority;

"Statutory Schemes" means the CSPS and/or LGPS and/or the TPS; and

"TPS" means the scheme as defined in Annex D3 to this Part D.

2. PARTICIPATION

2.1 In respect of all or any Fair Deal Employees each of Annex D1: CSPS and/or Annex D2: LGPS and/or Annex D3: TPS shall apply, as appropriate.

2.2 The Supplier undertakes to do all such things and execute any documents (including any relevant Admission Agreement, if necessary) as may be required to enable the Supplier to participate in the appropriate Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.

2.3 The Supplier undertakes:

2.3.1 to pay to the Statutory Schemes all such amounts as are due under the relevant Admission Agreement or otherwise and shall deduct and pay to the Statutory Schemes such employee contributions as are required; and

2.3.2 to be fully responsible for all other costs, contributions, payments and other amounts relating to its participation in the Statutory Schemes, including for the avoidance of doubt any exit payments and the costs of providing any bond, indemnity or guarantee required in relation to such participation.

2.4 In so far as the involvement of the Authority is a necessary condition and/or requirement, the Authority shall use reasonable endeavours to facilitate the Supplier's obligations under Paragraph 2.2 (including executing such admission documentation as may, in the opinion of the Authority, be reasonably required and drafted).

3. PROVISION OF INFORMATION

- 3.1 The Supplier undertakes to the Authority:
- 3.1.1 to provide all information which the Authority may reasonably request concerning matters referred to in this Part D, as expeditiously as possible; and
 - 3.1.2 not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of the Authority (such consent not to be unreasonably withheld or delayed).

4. INDEMNITIES

- 4.1 The Supplier undertakes to the Authority to indemnify and keep indemnified the Authority, and/or any Replacement Supplier and/or any Replacement Sub-Contractor on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards all and any Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which arise from any breach by the Supplier of this Part D, and/or the CSPA Admission Agreement and/or the LGPS Admission Agreement or relates to the payment of benefits under and/or participation in an occupational pension scheme (within the meaning provided for in section 1 of the Pension Schemes Act 1993) or the Fair Deal Schemes.
- 4.2 The Supplier hereby indemnifies the Authority, the Authority and/or any Replacement Supplier and/or Replacement Sub-Contractor from and against all Losses suffered or incurred by it or them which arise from claims by Fair Deal Employees of the Supplier and/or of any Sub-Contractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:
- 4.2.1 relate to pension rights in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of this Contract; or
 - 4.2.2 arise out of the failure of the Supplier and/or any relevant Sub-Contractor to comply with the provisions of this Part D before the date of termination or expiry of this Contract.
- 4.3 The indemnities in this Part D and its Annexes:
- 4.3.1 shall survive termination of this Contract; and
 - 4.3.2 shall not be affected by the caps on liability contained in Clause G1 (Liability, Indemnity and Insurance).

5. DISPUTES

- 5.1 The Dispute Resolution Procedure will not apply to this Part D and any dispute between the Authority and/or the Supplier or between their respective actuaries or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of agreement between the Authority and/or the Supplier be referred to an independent Actuary:
- 5.1.1 who will act as an expert and not as an arbitrator;
 - 5.1.2 whose decision will be final and binding on the Authority and/or the Supplier; and

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

6. THIRD PARTY RIGHTS

6.1 The Parties agree clause 15 (Rights of Third Parties) does not apply and that the CRTPA applies to this Part D to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to him or her or it by the Supplier under this Part D, in his or her or its own right under section 1(1) of the CRTPA.

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

7. BREACH

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

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

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

8. TRANSFER TO ANOTHER EMPLOYER/ SUB- CONTRACTORS

8.1 Save on expiry or termination of this Contract, if the employment of any Fair Deal Employee transfers to another employer (by way of a transfer under TUPE) the Supplier shall and shall procure that any relevant Sub-Contractor shall:

8.1.1 consult with and inform those Fair Deal Employees of the pension provisions relating to that transfer; and

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

9. PENSION ISSUES ON EXPIRY OR TERMINATION

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

10. BROADLY COMPARABLE PENSION SCHEMES

10.1 If either:

10.1.1 the terms of any of Paragraph 0 of Annex D1: CSPS and/or Paragraph 4 of Annex D2: LGPS and/or Paragraph 2.2 of Annex D3: TPS apply; and/or

10.1.2 the Authority agrees, having considered the exceptional cases provided for in New Fair Deal (such agreement not to be unreasonably withheld) that the Supplier (and/or its Sub-Contractors, if any) need not continue to provide the Fair Deal Employees, who continue to qualify for Fair Deal Protection, with access to the appropriate Statutory Scheme;

the Supplier must (and must, where relevant, procure that each of its Sub-Contractors will) ensure that, with effect from the Relevant Transfer Date or if later cessation of participation in the Statutory Scheme until the day before the Service Transfer Date, the relevant Fair Deal Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Fair Deal Scheme, and then on such terms as may be decided by the Authority.

10.2 Where the Supplier has set up a Broadly Comparable pension scheme or schemes pursuant to the provisions of Paragraph 10.1 of this Part D, the Supplier shall (and shall procure that any of its Sub-Contractors shall):

10.2.1 supply to the Authority details of its (or its Sub-Contractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability covering all relevant Fair Deal Employees, as soon as it is able to do so and in any event no later than 28 days before the Relevant Transfer Date;

10.2.2 fully fund any such Broadly Comparable pension scheme in accordance with the funding requirements set by that Broadly Comparable pension scheme's Actuary or by the Government Actuary's Department for the period ending on the Service Transfer Date;

10.2.3 instruct any such Broadly Comparable pension scheme's Actuary to, and to provide all such co-operation and assistance in respect of any such Broadly Comparable pension scheme as the Replacement Supplier and/or the Authority and/or CSPS and/or the relevant Administering Authority and/or the Authority may reasonably require, to enable the Replacement Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Employee that remain eligible for New Fair Deal protection following a Service Transfer;

10.2.4 provide a replacement Broadly Comparable pension scheme with immediate effect for those Fair Deal Employees who are still employed by the Supplier and/or relevant Sub-Contractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Sub-Contractor's Broadly Comparable pension scheme is terminated;

10.2.5 allow and make all necessary arrangements to effect, in respect of any Fair Deal Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the relevant Statutory Scheme and as is relevant on a day for day service basis and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal. For the avoidance of doubt, should the amount offered by the Broadly Comparable pension scheme be less than the amount required by the appropriate Statutory Scheme to fund day for day service ("Shortfall"), the Supplier or the Sub-Contractor (as agreed between them) must pay the Statutory Scheme, as required, provided that in the absence of any agreement between the Supplier and any Sub-Contractor, the Shortfall shall be paid by the Supplier; and

10.2.6 indemnify the Authority and/or the Authority and/or CSPS and/or the relevant Administering Authority and/or on demand for any failure to pay the Shortfall as required under Paragraph 10.2.5 of this Part D above.

Annex D1: CSPS

1. DEFINITIONS

In this Annex D1: CSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Schedule A1 (Definitions and Interpretations):

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

2. FUTURE SERVICE BENEFITS

- 2.1 The Supplier shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the CSPS that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on the Relevant Transfer Date and the Supplier shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of the CSPS for service from (and including) the Relevant Transfer Date.
- 2.2 The Supplier undertakes that should it cease to participate in the CSPS for whatever reason at a time when it has CSPS Eligible Employees, that it will, at no extra cost to the Authority, provide to any Fair Deal Employee who immediately prior to such cessation of participation remained a CSPS Eligible Employee with access to a pension scheme which is Broadly Comparable to the CSPS on the date the CSPS Eligible Employees ceased to participate in the CSPS.

Annex D2: LGPS

1. DEFINITIONS

In this Annex D2: LGPS to Part D: Pensions, the following words have the following meanings and they shall supplement Schedule A1 (Definitions and Interpretations):

"Administering Authority"	in relation to the Fund, the relevant Administering Authority of that Fund for the purposes of the Local Government Pension Scheme Regulations 2013;
"Fund Actuary"	the actuary to a Fund appointed by the Administering Authority of that Fund;
"Fund"	such pension fund within the LGPS as shall be notified to the Supplier by the Authority;
"LGPS"	the Local Government Pension Scheme as governed by the LGPS Regulations, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the Local Government Pension Scheme;
"LGPS Admission Agreement"	an admission agreement within the meaning in Schedule 1 of the Local Government Pension Scheme Regulations 2013;
"LGPS Admission Body"	an admission body (within the meaning of Part 3 of Schedule 2 of the Local Government Pension Scheme Regulations 2013);
"LGPS Eligible Employees"	any Fair Deal Employee who at the relevant time is an eligible employee as defined in the LGPS Admission Agreement or otherwise any Fair Deal Employees who immediately before the Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the LGPS or of a scheme Broadly Comparable to the LGPS; and
"LGPS Regulations"	the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the LGPS.

2. SUPPLIER TO BECOME AN LGPS ADMISSION BODY

- 2.1 Where the Supplier employs any LGPS Eligible Employees from a Relevant Transfer Date, the Supplier shall become an LGPS Admission Body and shall on or before the Relevant Transfer Date enter into a LGPS Admission Agreement with the Administering Authority which will have effect from and including the Relevant Transfer Date.
- 2.2 The LGPS Admission Agreement must ensure that all LGPS Eligible Employees covered by that agreement who were active LGPS members immediately before the Relevant Transfer Date are admitted to the LGPS with effect on and from the Relevant Transfer Date. Any

LGPS Eligible Employees who were eligible to join the LGPS but were not active LGPS members immediately before the Relevant Transfer Date must retain the ability to join the LGPS after the Relevant Transfer Date if they wish to do so.

- 2.3 The Supplier shall provide any indemnity, bond or guarantee required by an Administering Authority in relation to an LGPS Admission Agreement.
- 2.4 The Supplier shall not automatically enrol or re-enrol for the purposes of the Pensions Act 2008 any LGPS Eligible Employees in any pension scheme other than the LGPS.

3. RIGHT OF SET-OFF

The Authority shall have a right to set off against any payments due to the Supplier under the Contract an amount equal to any overdue employer and employee contributions and other payments (and interest payable under the LGPS Regulations) due from the Supplier (or from any relevant Sub-Contractor) under an LGPS Admission Agreement and shall pay such amount to the relevant Fund.

4. SUPPLIER CEASES TO BE AN LGPS ADMISSION BODY

If the Supplier employs any LGPS Eligible Employees from a Relevant Transfer Date and the Supplier either cannot or does not participate in the LGPS, the Supplier shall offer such LGPS Eligible Employee membership of a pension scheme Broadly Comparable to the LGPS.

5. DISCRETIONARY BENEFITS

Where the Supplier is an LGPS Admission Body, the Supplier shall award benefits to the LGPS Eligible Employees under the LGPS in circumstances where the LGPS Eligible Employees would have received such benefits had they still been employed by their previous employer. Where such benefits are of a discretionary nature, they shall be awarded on the basis of the previous employer's written policy in relation to such benefits at the time of the Relevant Transfer Date.

Annex D3: TPS

1. DEFINITIONS

In this Annex D3: TPS to Part D: Pensions, the following words have the following meanings and they shall supplement Schedule A1 (Definitions and Interpretations);

"TPS Participation Agreement"	a participation agreement in the form available on the Teachers' Pension Scheme website immediately prior to the Relevant Transfer Date to be entered into for the TPS in respect of the Services;
"TPS Eligible Employee"	any Fair Deal Employee who at the relevant time is an eligible employee as defined in the TPS Participation Agreement; and
"TPS"	means the Teachers' Pension Scheme, which is a scheme made under the powers of section 9 of the Superannuation Act 1972 and provided for in The Teachers' Pensions Regulations 2010 and/or a scheme made under the powers of section 1 of the Public Service Pensions Act 2013 and provided for in The Teachers' Pension Scheme Regulations 2014.

2. FUTURE SERVICE BENEFITS

- 2.1 The Supplier shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the TPS that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on the Relevant Transfer Date and the Supplier shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of the TPS for service from (and including) the Relevant Transfer Date.
- 2.2 The Supplier undertakes that should it cease to participate in the TPS for whatever reason at a time when it has TPS Eligible Employees, that it will, at no extra cost to the Authority, provide to any Fair Deal Employee who immediately prior to such cessation of participation remained a TPS Eligible Employee with access to a pension scheme which is Broadly Comparable to the TPS on the date the TPS Eligible Employees ceased to participate in the TPS.

3. TPS

- 3.1 The Supplier shall comply with all of its obligations under The Teachers' Pensions Regulations 2010 and The Teachers' Pension Scheme Regulations 2014 (in each case as amended from time to time) in respect of the TPS Eligible Employees.
- 3.2 If the Supplier is an employer listed in Schedule 2, Part 2 of The Teachers' Pensions Regulations 2010 or Schedule 1, Part 3 of the Teachers' Pension Scheme Regulations 2014 (in each case as amended from time to time), the Supplier must, within one (1) month of the Relevant Transfer Date, inform any of the Fair Deal Employees who are members of or are eligible to be members of the TPS of their right to request participation in the TPS and thereafter must comply with all of its obligations under The Teachers' Pensions Regulations 2010 and The Teachers' Pension Scheme Regulations 2014 (in each case as amended from time to time), and the relevant TPS Participation Agreement.

PART E: STAFF TRANSFER ON EXIT

1. DEFINITIONS

In this Part E, the terms "Broadly Comparable", "Fair Deal Employees", "Fair Deal Schemes" and "New Fair Deal" shall have the same meanings as set out in Part D.

2. PRE-SERVICE TRANSFER OBLIGATIONS

2.1 The Supplier agrees that within 20 Working Days of the earliest of:

2.1.1 receipt of a notification from the Authority of a Service Transfer or intended Service Transfer;

2.1.2 receipt of the giving of notice of early termination or any of the Contract or Services or any part of the Services or Contract;

2.1.3 the date which is 12 Months before the end of the Term; and

2.1.4 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 6 Month period),

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

2.2 At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Authority or at the direction of the Authority to any Replacement Supplier and/or any Replacement Sub-Contractor (i) the Supplier's Final Supplier Personnel List, which shall identify the basis upon which they are Transferring Supplier Employees and (ii) the Staffing Information in relation to the Supplier's Final Supplier Personnel List (insofar as such information has not previously been provided).

2.3 The Authority shall be permitted to use and disclose information provided by the Supplier under Paragraphs 2.1 and 2.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Sub-Contractor.

2.4 The Supplier warrants, for the benefit of The Authority, any Replacement Supplier, and any Replacement Sub-Contractor that all information provided pursuant to Paragraphs 2.1 and 2.2 shall be true and accurate in all material respects at the time of providing the information.

2.5 From the date of the earliest event referred to in Paragraph 2.1.1, 2.1.2 and 2.1.3, the Supplier agrees that it shall not and shall procure that any Sub-Contractor shall not assign any person to the provision of the Services who is not listed on the Supplier's Provisional Supplier Personnel List and the Supplier shall and shall procure that any Sub-Contractor shall, unless otherwise instructed by the Authority (acting reasonably):

2.5.1 not replace or re-deploy any Supplier Personnel listed on the Supplier Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;

2.5.2 not make, promise, propose, permit or implement any material changes to the terms and conditions of (i) employment and/or (ii) pensions, retirement and death benefits

- (including not to make pensionable any category of earnings which were not previously pensionable or reduce the pension contributions payable) of the Supplier Personnel (including any payments connected with the termination of employment);
- 2.5.3 not increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;
 - 2.5.4 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 Supplier's Provisional Supplier Personnel List;
 - 2.5.5 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);
 - 2.5.6 not terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Personnel List save by due disciplinary process;
 - 2.5.7 not dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Authority and/or the Replacement Supplier and/or Replacement Sub-Contractor;
 - 2.5.8 give the Authority and/or the Replacement Supplier and/or Replacement Sub-Contractor reasonable access to Supplier Personnel and/or their consultation representatives to inform them of the intended transfer and consult any measures envisaged by the Authority, Replacement Supplier and/or Replacement Sub-Contractor in respect of persons expected to be Transferring Supplier Employees;
 - 2.5.9 give, if requested, the Authority and/or the Replacement Supplier and/or Replacement Sub-Contractor consent under S198A Trade Union & Labour Relations (Consultation) Act 1992 to carry out pre-transfer redundancy consultation and shall facilitate and co-operate with such consultation;
 - 2.5.10 co-operate with the Authority and the Replacement Supplier to ensure an effective consultation process and smooth transfer in respect of Transferring Supplier Employees in line with good employee relations and the effective continuity of the Services, and to allow for participation in any pension arrangements to be put in place to comply with New Fair Deal;
 - 2.5.11 promptly notify the Authority or, at the direction of the Authority, any Replacement Supplier and any Replacement Sub-Contractor of any notice to terminate employment given by the Supplier or received from any persons listed on the Supplier's Provisional Supplier Personnel List regardless of when such notice takes effect;
 - 2.5.12 not for a period of 12 Months from the Service Transfer Date re-employ or re-engage or entice any employees, suppliers or Sub-Contractors whose employment or engagement is transferred to the Authority and/or the Replacement Supplier;
 - 2.5.13 not adversely affect pension rights accrued by all and any Fair Deal Employees in the period ending on the Service Transfer Date;
 - 2.5.14 fully fund any Broadly Comparable pension schemes set up by the Supplier;

- 2.5.15 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 Supplier or any Sub-Contractor in the provision of the Services on the expiry or termination of this Contract (including without limitation identification of the Fair Deal Employees);
 - 2.5.16 promptly provide to the Authority such documents and information mentioned in Paragraph 3.1.1 of Part D: Pensions which the Authority may reasonably request in advance of the expiry or termination of this Contract; and
 - 2.5.17 fully co-operate (and procure that the trustees of any Broadly Comparable pension scheme shall fully co-operate) with the reasonable requests of the Supplier relating to any administrative tasks necessary to deal with the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Sub-Contractor in the provision of the Services on the expiry or termination of this Contract.
- 2.6 On or around each anniversary of the Commencement Date and up to four times during the last 12 Months of the Term, the Authority may make written requests to the Supplier for information relating to the manner in which the Services are organised. Within 20 Working Days of receipt of a written request the Supplier shall provide such information as the Authority may reasonably require which shall include:
- 2.6.1 the numbers of employees engaged in providing the Services;
 - 2.6.2 the percentage of time spent by each employee engaged in providing the Services;
 - 2.6.3 the extent to which each employee qualifies for membership of any of the Fair Deal Schemes (as defined in Part D: Pensions); and
 - 2.6.4 a description of the nature of the work undertaken by each employee by location.
- 2.7 The Supplier shall provide all reasonable cooperation and assistance to the Authority, any Replacement Supplier and/or any Replacement Sub-Contractor to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, on or before the Service Transfer Date, the Supplier shall provide to the Authority or, at the direction of the Authority, to any Replacement Supplier and/or any Replacement Sub-Contractor (as appropriate), in respect of each person on the Supplier's Final Supplier Personnel List who is a Transferring Supplier Employee:
- 2.7.1 the most recent month's copy pay slip data;
 - 2.7.2 details of cumulative pay for tax and pension purposes;
 - 2.7.3 details of cumulative tax paid;
 - 2.7.4 tax code;
 - 2.7.5 details of any voluntary deductions from pay;
 - 2.7.6 bank/building society account details for payroll purposes; and
 - 2.7.7 such personnel records as are reasonably relevant to the continuation of employment of the Transferring Supplier Employees.

3. TUPE EXIT PROVISIONS

- 3.1 A change in the identity of the supplier of the Services (or part of the Services), howsoever arising, may constitute a Relevant Transfer to which TUPE will apply. The Authority and the Supplier agree that where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of TUPE) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Sub-Contractor (as the case may be) and each such Transferring Supplier Employee.
- 3.2 The Supplier shall comply with all its obligations in respect of the Transferring Supplier Employees arising under TUPE in respect of the period up to (and including) the Service Transfer Date including (without limit) the payment of all remuneration, benefits, entitlements, PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Fair Deal Schemes (as defined in Part D: Pensions).
- 3.3 Subject to Paragraph 3.4, the Supplier shall indemnify the Authority and/or the Replacement Supplier and/or any Replacement Sub-Contractor against any Employee Liabilities arising from or as a result of:
- 3.3.1 any act or omission of the Supplier or any Sub-Contractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in TUPE) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date; and
 - 3.3.2 any failure or alleged failure by the Supplier or any Sub-Contractor to comply with its/their obligations under TUPE to inform and/or consult with any Transferring Supplier Employee and/or their appropriate representative (as defined in TUPE).
- 3.4 The indemnity in Paragraph 3.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Authority, Replacement Supplier and/or any Replacement Sub-Contractor whether occurring or having its origin before, on or after the Service Transfer Date.
- 3.5 Subject to Paragraphs 3.6 and 3.7, if any employee of the Supplier or any Sub-Contractor who is not identified in the Supplier's Provisional Supplier Personnel List and/or Supplier's Final Transferring Supplier Employee List in full compliance of the Supplier's obligations under Paragraphs 2.1 and 2.2 claims, or it is determined in relation to any employees of the Supplier, that his/her contract of employment and/or any liability regarding his/her employment has been transferred from the Supplier or any Sub-Contractor to the Authority or Replacement Supplier and/or Replacement Sub-Contractor pursuant to TUPE then:
- 3.5.1 the Authority and/or Replacement Supplier and/or Replacement Sub-Contractor will, within 5 Working Days of becoming aware of that fact, notify the Supplier in writing;
 - 3.5.2 the Supplier may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within 10 Working Days of receipt of notice from the Replacement Supplier and/or Replacement Sub-Contractor;
 - 3.5.3 if such offer of employment is accepted, the Replacement Supplier and/or Replacement Sub-Contractor shall immediately release the person from its employment;

3.5.4 if after the period referred to in Paragraph 3.5.2 no such offer has been made, or such offer has been made but not accepted or the claim by such person is not withdrawn, the Authority and/or Replacement Supplier and/or Replacement Sub-Contractor may within 5 Working Days give notice to terminate the employment of such person;

and subject to the Replacement Supplier's and/or Replacement Sub-Contractor's compliance with Paragraphs 3.5.1 to 3.5.4 the Supplier will indemnify the Authority, the Replacement Supplier and/or Replacement Sub-Contractor against all Employee Liabilities arising out of the termination of the employment of any of the Supplier's or Sub-Contractor's employees referred to in Paragraph 3.5.

3.6 The indemnity in Paragraph 3.5 shall not apply to:

3.6.1 any claim for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief, or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees, arising as a result of any alleged act or omission of the Replacement Supplier and/or Replacement Sub-Contractor, or

3.6.2 any claim that the termination of employment was unfair because the Authority, Replacement Supplier and/or Replacement Sub-Contractor neglected to follow a fair dismissal procedure.

3.7 The indemnity in Paragraph 3.5 shall not apply to any termination of employment occurring later than 3 Months from the Service Transfer Date.

3.8 If at any point the Authority, Replacement Supplier and/or Replacement Sub-contractor accepts the employment of any such person as is described in Paragraph 3.5, such person shall be treated as a Transferring Supplier Employee and Paragraph 3.5 shall cease to apply to such person.

3.9 The Supplier shall promptly provide the Authority and any Replacement Supplier and/or Replacement Sub-Contractor, in writing such information as is necessary to enable the Authority, the Replacement Supplier and/or Replacement Sub-Contractor to carry out their respective duties under regulation 13 of TUPE. The Authority shall or shall procure that the Replacement Supplier and/or Replacement Sub-Contractor shall promptly provide to the Supplier and each Sub-Contractor in writing such information as is necessary to enable the Supplier and each Sub-Contractor to carry out their respective duties under regulation 13 of TUPE.

3.10 Subject to Paragraphs 3.5 and 3.9, the Authority shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Sub-Contractor and its Sub-Contractors against any Employee Liabilities arising from or as a result of any act or omission, whether occurring before, on or after the Service Transfer Date, of the Authority, Replacement Supplier and/or Replacement Sub-Contractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in TUPE) of any such Transferring Supplier Employee.

3.11 The indemnity in Paragraph 3.10 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-Contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Sub-Contractor (as applicable) to comply with its obligations under TUPE, or to the extent the Employee Liabilities arise in relation to any person who is not identified in the Supplier's

Provisional Supplier Personnel List and/or Supplier's Final Supplier Personnel List in full compliance of the Supplier's obligations under Paragraphs 2.1 and 2.

Annex: Employee Information Spreadsheet

The Parties acknowledge and agree that this Annex is made up of the following file(s) which were sent by [REDACTED] to [REDACTED] on 24 August 2022 at 16:20 :

Employee information spreadsheet.xls

SCHEDULE 19 - CONTRACT MANAGEMENT

1. DEFINITIONS

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

Annual Delivery Planning Board	the board established in accordance with paragraph 3.1 of this Schedule;
Performance Review Meeting	a forum to discuss performance related issues to the Contract;
Contract Review Meeting	means the process described in paragraph 7 of this Schedule;
Checkpoint Meeting	local oversight forum to monitor performance of the Contract and address any arising issues which may impact the performance;
Improvement Actions	has the meaning given to it in paragraph 11.3.2 (Improvement Notices and Improvement Plan);
KPI Review Period	has the meaning given to it in paragraph 10.1 (Key Performance Indicators Review);
Performance Year	means each twelve month period beginning on the Service Commencement Date;

2. ANNUAL DELIVERY PLAN

2.1 The Supplier and the Authority acknowledge and agree that for each Contract Year, details in respect of the core services to be delivered will need to be discussed and agreed and this shall be documented in a Delivery Plan which shall be developed and agreed in accordance with this Schedule. Each Delivery Plan shall as a minimum include details of:

- 2.1.1 The core education services to be provided and how they meet the outcomes stated in the specification for Learners;
- 2.1.2 the expected volume of assessments of Learners;
- 2.1.3 the expected volume of screening of Learners for learning difficulties and/or disabilities;

- 2.1.4 the expected volume of accredited courses by subject, programme weighting and guided learning hours where appropriate and the number of Learners expected to be allocated to each course;
 - 2.1.5 the expected volume of unaccredited courses by subject and the number of Learners expected to be allocated to each course;
 - 2.1.6 where appropriate, details of the qualification towards which Learners will be working and the name of the Awarding Organisation whose qualification will be used;
 - 2.1.7 any enrichment activity to be delivered, describing the activity by the volume of hours delivered and/or by the number of Learners supported; and
 - 2.1.8 any other educational services to be delivered, describing the activity by the volume of hours delivered and/or by the number of Learners supported.
- 2.2 In respect of those items referred to in paragraphs 2.1.4, 2.1.5, 2.1.7, 2.1.8, the Delivery Plan shall include a grid setting out for the outcomes time commitment and in which weeks the Supplier expects to deliver the relevant Services.
- 2.3 The Supplier and the Authority recognise that the Delivery Plan is a planning tool and not a statement of the exact services that will be provided during the Performance Year and that actual delivery may vary.
- 2.4 The Authority and the Supplier may agree changes to the Delivery Plan as needed within the Contract Year. Any agreed changes will be recorded in writing in an updated version of the Delivery Plan. Where the Authority requires changes then the Supplier shall consider them in good faith and the Supplier will use all reasonable endeavours to include any substantive changes requested by the Authority in the Delivery Plan.

3. ANNUAL DELIVERY PLANNING BOARD

- 3.1 The Supplier and the Authority shall establish an Annual Delivery Planning Board, upon which both Parties and other suppliers who provide education services to the Authority (nominated by the Authority) shall be represented. The Annual Delivery Planning Board shall consider the Delivery Plan produced in accordance with paragraph 2 provided that the contents of the final version shall be agreed between the Supplier and the Authority.
- 3.2 The Annual Delivery Planning Board members, frequency and location of board meetings and planned start date by which the board shall be established are set out in Appendix B to this Schedule.
- 3.3 In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably withheld or delayed). Each Authority board member shall have at all times a counterpart Supplier board member of equivalent seniority and expertise.
- 3.4 Each Party shall ensure that its board members shall make all reasonable efforts to attend the Annual Delivery Planning Board meetings at which that board member's attendance is required. If any board member is not able to attend a board meeting, that person shall use all reasonable endeavours to ensure that a delegate attends in

his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.

4. SPOT CHECK OF EDUCATION DELIVERY

4.4 A representative from the Secure Setting will perform a minimum of two (2) spot checks of education on a monthly basis, every four (4) weeks. The spot check will be done with reference to the Ofsted assessment framework.

4.4.1 The spot check will cover the following:

4.4.1.1 An observation of a core education lesson to assess the engagement of the Learners;

4.4.1.2 An observation of a pathway lesson to assess the engagement of the Learners;

4.4.1.3 The audit check of the number of Learners not in education for that day against the number reported by the Supplier;

4.4.1.4 An audit of where people should be against where they are;

4.4.1.5 An audit check of the timetables for a sample of Learners to cross reference their location against their timetable;

4.4.1.6 An audit check of the number of lessons being cancelled;

4.4.1.7 An audit check that work is being provided to Learners not in education or marked as engaged in self-guided studying.

4.5 The spot check results will feed into any self-assessment of the quality of education delivery undertaken by the Supplier as a means of support for the Supplier's declarations concerning the engagement levels of the Learners. The Secure Setting representative will provide feedback from the spot check including areas of good practice and areas of concern to the Supplier at the checkpoint meeting which falls closest to the last spot checks undertaken.

4.6 The Secure Setting representative is not required to give prior notification to the Supplier that they will be undertaking a spot check but the Supplier must do their best to accommodate the requirements of the Secure Setting representative to undertake a spot check including the requests for any documents.

4.7 A report containing the key observations from all spot checks undertaken in the 4-week period between each Performance Review Meeting will also be required to be written up and provided to the Contract Management team 5 days prior to the upcoming Performance Review Meeting.

5. CHECKPOINT MEETING

5.1 The Supplier will meet with a Secure Setting representative on a fortnightly basis ((10 Working days) for a checkpoint meeting.

5.2 In the event that the Supplier has been issued an improvement notice by the Authority, the frequency of the checkpoint meeting should be increased to a weekly basis ((5

working days) until such time arises where the relevant issues have been successfully resolved to the Authority's satisfaction.

- 5.3 The purpose of the checkpoint meeting is to monitor performance of education delivery at a local level, discuss good practice and address any arising issues which may impact the performance.
- 5.4 The checkpoint meeting will cover:
 - 5.4.1 risks and issues, managing them at a local level and developing mitigations. If necessary, risks or issues will be escalated up to the Contract Management team prior to the performance review meeting. A risk register must be kept of all risks resolved and unresolved and an updated version provided to the Contract Management team alongside the Performance Information report every four (4) weeks;
 - 5.4.2 staffing recruitment for both the Supplier and Authority. Any changes to the person in a role on the Supplier or Authority side, whether permanent or interim, should be communicated to the contract management team within five (5) working days of the decision being made at a local level;
 - 5.4.3 reports relating to Learners not engaging in education. The contract management team should be alerted at Learner not receiving education: 5 days, 10 days, 15 days;
 - 5.4.4 review and agreement of a summary report of the checkpoint meeting;
 - 5.4.5 the results of the education spot check. Where any concerns are raised, developing an action plan mapping out the road to improvement.
 - 5.4.6 improvement plan and the improvement actions in the event that an improvement notice is issued by the Authority. Discuss at a local level any progress of the improvement actions;
 - 5.4.7 sharing best practice across the estate to all providers.
- 5.5 The summary report will be circulated to all attendees at the meeting within three (3) working days of the meeting taking place and sent to the Head of Learning and Skills within five (5) working days of the meeting taking place. The report will be co-written by the Learning and Skills Manager and the Head of Reducing Reoffending
- 5.6 The YCS HQ Head of Learning and Skills on receiving the summary reports for all four establishments will provide assurance about performance for the education contracts through submission of the reports to the YCS Contract Management team. If necessary, risks or issues will be escalated up to the Contract Management team prior to the Performance review meeting.
- 5.7 The checkpoint meeting will be attended by the following standing attendees:
 - 5.7.1 Head of Education for provider
 - 5.7.2 YCS Learning and Skills Manager
 - 5.7.3 YCS Head of Reducing Reoffending

- 5.8 In the event that an improvement notice has been issued by the Authority, until such time arises where the relevant issues have been successfully resolved to the Authority's satisfaction, the checkpoint meeting in addition to the standing attendees will also be attended by:
- 5.8.1 YCS HQ Head of Learning and Skills
 - 5.8.2 YCS Contract Management team
- 5.9 Deputies from each respective role may stand in if a standing member is unable to attend providing, they are able to give updates on the areas of responsibilities and the levels of assurance required as stated this paragraph 5. The Head of Learning and Skills will be required for the checkpoint meeting that falls closest to the next Performance review meeting for the purposes of the responsibility listed in 5.4.1.
- 5.10 The meeting will be co-chaired by the Learning and Skills Manager and the Head of Reducing Reoffending.
- 5.11 The agenda for the checkpoint meeting must cover the following items:
- 5.11.1 Outstanding actions
 - 5.11.2 Performance highlights (including movements, cancellations, young people who are self excluded from education, children not in mainstream – ESU/ Keppel etc)
 - 5.11.3 Risks and Issues (both on the provider and operational side)
 - 5.11.4 Feedback from spot check monitoring of education (minimum of two (2) every four (4) weeks)
 - 5.11.5 YP complaints and feedback from the YP Forum

6. PERFORMANCE REVIEW MEETING

- 6.1 The Supplier will meet with the Authority every four (4) weeks and within ten (10) working days after submission of the Performance Information report for a performance review meeting. There will be a performance review meeting for each establishment.
- 6.2 The purpose of the performance review meeting (PRM) is to create an opportunity for the HMPPS Youth Custody Service to meet with the education provider together at each establishment monthly, primarily to review and assess the supplier's performance of delivery addressing any local and national issues arising which may impact on service delivery and outcomes for children.
- 6.3 The YOI Education Performance Review meeting will be responsible for:
- 6.3.1 Enhancing and maintaining communication between the provider, YCS and MOJ. Reviewing and understanding the providers view on their own performance using the management reports and 4 weekly payment period report.

- 6.3.2 Providing an opportunity for the education provider and YCS Education Operational team to highlight performance and compliance outcomes, achievements, areas of good practice and issues.
- 6.3.3 Reviewing Data on completion rates, reason for attrition and success & achievement rates.
- 6.3.4 Reviewing the education risk register ensuring there is clarity and shared understanding of any risks and issues and the impact they can/will have on the service.
- 6.3.5 Discussing the outcome of any quality assurance activity.
- 6.3.6 Facilitating the sharing of the authorities view on the providers performance
- 6.3.7 Facilitating the sharing of emerging and best practice to improve the outcomes for children and young people.
- 6.3.8 monitoring providers staff retention and recruitment
- 6.3.9 ensure signed local partnership agreements are abided by
- 6.3.10 monitor and review any actions from OFSTED /HMIP or thematic reviews.
- 6.3.11 Discussing progress on any improvement plans issued by the Authority
- 6.4 The Performance Review meeting will be attended by the following standing attendees:
 - 6.4.1 Governor- Chair
 - 6.4.2 Head of Reducing Reoffending
 - 6.4.3 YCS Operational Contract Manager
 - 6.4.4 YCS Head of learning & Skills
 - 6.4.5 Learning and Skills Manager (Secretariat)
 - 6.4.6 Head of Education
 - 6.4.7 Providers Director of Operations /youth custody.
 - 6.4.8 MOJ commercial Manager (by exception)
- 6.5 If a standing member is unable to attend a Performance Review meeting, a suitable replacement must be found. Ad hoc attendees may attend the meeting. Notice of additional attendees must be given no later than five (5) working days before the date of the Performance Review meeting.
- 6.6 The Meeting will be chaired by the Governor.
- 6.7 The agenda for the Performance Review Meeting must cover the following items:
 - 6.7.1 Minutes from the last meeting

- 6.7.2 Providers Performance report
- 6.7.3 Improvement plan and actions (if applicable)
- 6.7.4 Local risk register review
- 6.7.5 Establishment update
- 6.7.6 Matters arising
- 6.7.7 AOB
- 6.7.8 Date and time of next meeting.

7. CONTRACT REVIEW MEETING

- 7.1 The Supplier will meet with the Authority every twelve (12) weeks for a Contract Review Meeting.
- 7.2 The purpose of the Contract Review Meeting is to create an opportunity for the Youth Custody Service (YCS), the Education Provider and the MoJ Commercial Contract Managers (CCMs) to review the contract performance and compliance, good practice and provide an opportunity for information sharing.
- 7.3 The YOI Education Contract Review meeting will be responsible for:
 - 7.3.1 Facilitating the sharing of the authority's view on the providers performance
 - 7.3.2 Provide an opportunity for the Provider to highlight performance and compliance against the contract and highlight any key risks and issue.
 - 7.3.3 Reviewing the Central Education Risk Register ensuring there is clarity and shared understanding of any risks and issues and the impact they can/will have on the service.
 - 7.3.4 Facilitating the sharing of strategic operating information and best practice to enhance the performance of the education contracts within YOI's and improve outcomes for children and young people.
- 7.4 The Contract Review meeting will be attended by the following standing attendees:
 - 7.4.1 YCS Deputy Director of Operations
 - 7.4.2 YCS Operational Contract Manager
 - 7.4.3 YCS Head of Learning & Skills
 - 7.4.4 MOJ Commercial Contract Manager
 - 7.4.5 Provider's Director of Education
 - 7.4.6 Provider's Assurance Manager
 - 7.4.7 YCS Secretariat – Minute Taker.

- 7.5 If any of the following attendees are unable to attend:
- 7.5.1 Director of Education for provider
 - 7.5.2 MoJ Commercial Contract Manager
 - 7.5.3 YCS Deputy Director of Operations
- 7.6 The Contract Review meeting should be adjourned to a date which suits these attendees. For all other standing attendees, a suitable replacement must be found. Ad hoc attendees may attend the meeting. Notice of additional attendees must be given no later than five (5) working days before the date of the Contract Review meeting.
- 7.7 The Meeting will be chaired by the YCS Deputy Director of Operations
- 7.8 The agenda for the Contract Review meeting must cover the following items:
- 7.8.1 Attendee introduction and apologies
 - 7.8.2 Minutes of last meeting
 - 7.8.3 Providers report
 - 7.8.3.1 Contractual compliance
 - 7.8.3.2 CDI overview
 - 7.8.3.3 Establishment(s) update
 - 7.8.3.4 Risk /issues /concerns
 - 7.8.3.5 Young people’s feedback
 - 7.8.4 YCS central risk register review
 - 7.8.5 YCS update
 - 7.8.6 MOJ Commercial update
 - 7.8.7 AOB
 - 7.8.8 Date of next meeting
- 8. MANAGEMENT INFORMATION**
- 8.1 The Supplier shall provide to the Authority the Key Performance Management Information in accordance with the timescales listed in the tables within Appendix A (Contract Management Information Reporting Requirements).
- 8.2 In addition the Supplier shall provide to the Authority all other management information required to be provided under this Contract together with any further management information deemed necessary by the Authority.

- 8.3 The Supplier shall provide to the Authority a report of issues of concern and of matters that may become of ministerial interest or may have media interest immediately upon becoming aware of such matters or upon the Authority's request.

9. PERFORMANCE REPORTING

- 9.1 The Supplier shall provide the Services to the standard set in this contract including so as to meet the targets applicable to the Key Performance Indicators identified within schedule 14 (the "Required Standard"), and the Parties are committed to working together to achieve continuous improvement in performance.
- 9.2 The Key Performance Indicators shall be construed and measured in accordance with the measurement methodology and definition requirements set out in Schedule 14. Each Key Performance Indicator shall apply from the relevant start date specified in Schedule 14.
- 9.3 The Authority shall measure the Supplier's performance in the delivery of the Services against the Key Performance Indicators and Key Performance Management Information.
- 9.4 The Supplier shall report performance of the delivery of the Services to the Authority against the Key Performance Indicators and, separately, Key Performance Management Information, in performance reports in accordance with the timeframes given in this paragraph (Performance Reporting).
- 9.5 The Authority will use the Key Performance Indicators and Key Performance Management Information to benchmark performance of the delivery of the Services against performance by other Suppliers in respect of comparable education services at Secure Settings.
- 9.6 Without prejudice to its rights under paragraph 10 (Key Performance Indicators Review), the Authority may, following discussions with the Supplier (including obtaining feedback through the Joint Education Forum), provide notice to the Supplier to add to, delete or amend any of the Key Performance Indicators. The Authority's final decision in relation to any such additions, deletions or amendments shall be binding on the Supplier.

10. KEY PERFORMANCE INDICATORS REVIEW

- 10.1 Following the Services Commencement Date (the "KPI Review Period"), the Authority shall:
- 10.1.1 compare the Supplier's performance against the Other Suppliers in respect of such KPIs where such Other Suppliers have a similar measure in contracts relating to other secure settings; and
 - 10.1.2 use the Joint Education Forum as a method for obtaining feedback from the Supplier and Other Suppliers on these KPIs and other similar measures.
- 10.2 Following the expiry of the relevant KPI Review Period, the Authority shall, acting reasonably, develop new or updated targets, measurements and reporting requirements for the applicable Key Performance Indicators ("Revised KPI Performance Measures").

- 10.3 The Authority's final decision in relation to the Revised KPI Performance Measures shall be binding on the Supplier and the Revised KPI Performance Measures shall apply from the date specified by the Authority.
- 10.4 In respect of KPI Measure, following each anniversary of the start date of the relevant KPI, the Authority shall:
- 10.4.1 review the relevant survey results for the relevant year and compare the Supplier's performance against the Other Suppliers in respect of these KPIs and other similar measures; and
 - 10.4.2 use the Joint Education Forum as a method for obtaining feedback from the Supplier and Other Suppliers on these KPIs and other similar measures; and
 - 10.4.3 acting reasonably, develop new or updated targets, measurements and reporting requirements for KPI Measures (which shall be binding on the Supplier and which shall apply from the date specified by the Authority).

11. IMPROVEMENT NOTICES AND IMPROVEMENT PLAN

- 11.1 If the event of Reduced Performance the Authority may issue a notice (an "Improvement Notice") bringing this to the attention of the supplier.
- 11.2 The Authority may issue an Improvement Notice concerning any aspect of the provision of the Services whether or not there are related Key Performance Indicators
- 11.2.1 An Improvement Notice shall state:
 - 11.2.1.1 any area of Reduced Performance; and
 - 11.2.1.2 any other supporting information which the Authority considers to be relevant.
- 11.3 Within seven (7) Days of the date of issue of an Improvement Notice the supplier shall deliver to the Authority a plan (the "Improvement Plan") in respect of any areas of Reduced Performance stated in the Improvement Notice, which shall:
- 11.3.1 provide an explanation of the causes of the Reduced Performance;
 - 11.3.2 identify the actions (the "Improvement Actions") needed to remedy the Reduced Performance identified in the Improvement Notice and prevent its re-occurrence;
 - 11.3.3 set out:
 - 11.3.3.1 the supplier's proposals for carrying out the Improvement Actions;
 - 11.3.3.2 a programme for undertaking such actions; and
 - 11.3.3.3 the date by which such actions will be completed;

- 11.3.4 identify any actions or consents required from the Authority, any Authority Related Party and/or any Agency to facilitate the supplier's remedial actions; and
- 11.3.5 specify proposed criteria for the purpose of auditing completion of the remedial actions and resolution of the Reduced Performance.
- 11.4 Following receipt of an Improvement Plan, the Authority may (acting reasonably):
 - 11.4.1 agree it; or
 - 11.4.2 reject it and require the Supplier to submit a revised Improvement Plan within seven (7) Days of such rejection (or such other time as may be agreed by the Parties in writing).
- 11.5 Where the Supplier fails to submit a revised Improvement Plan in accordance with paragraph 11.3 (Improvement Notices and Improvement Plan) or the revised Improvement Plan is in the Authority's reasonable opinion unacceptable, the Authority may issue:
 - 11.5.1 a Service Credit Deduction Notice; and/or
 - 11.5.2 an Outstanding Issues Notice in accordance with paragraph 13.1 (Consultation) and the provisions of paragraph 13 (Consultation) shall apply.
- 11.6 The supplier shall implement all the Improvement Actions by the date specified in the Improvement Plan at no cost to the Authority.
- 11.7 An Improvement Plan shall remain open until the Improvement Actions identified therein have been completed in accordance with the agreed Implementation Plan to the Authority's satisfaction, whereupon it shall be closed.
- 11.8 Where the Improvement Actions are carried out and completed but do not succeed in remedying the Reduced Performance identified in the Improvement Notice or in preventing its re-occurrence or the Supplier fails to complete the Improvement Actions in an Improvement Plan by the date specified in it for their completion or to the Authority's satisfaction, the Authority may:
 - 11.8.1 issue a Service Credit Deduction Notice; and/or
 - 11.8.2 issue an Outstanding Issues Notice in accordance with paragraph 13.1 (Consultation), in which case the provisions of paragraph 13 (Consultation) shall apply.
- 11.9 Each Improvement Plan shall be sequentially numbered from a central register maintained by the Authority. In the event that a further unconnected circumstance occurs which results in the issue of a separate Improvement Notice, a separate Improvement Plan shall be raised and recorded in the central register under a separate sequential number.
- 11.10 A report on progress against each open Improvement Plan shall be provided at each meeting described in paragraph **Error! Reference source not found.** (Performance Reporting) above.

11.11 The Authority may:

- 11.11.1 request a meeting with the Supplier to discuss progress against any open Improvement Plan by giving not less than two (2) Business Days ' notice to the Contractor; and/or
- 11.11.2 set out the frequency for meetings with the Supplier to review open Improvement Plans during the approval process for Improvement Plans.

12. RECTIFICATION

12.1 If an Outstanding Issues Notice is issued where:

- 12.1.1 the Supplier fails to submit a revised Improvement Plan in accordance with paragraph 11.4.2 (Improvement Notices and Improvement Plan) or the revised Improvement Plan is in the Authority's reasonable opinion unacceptable; or
- 12.1.2 Improvement Actions are carried out and completed but do not succeed in remedying the Reduced Performance identified in the Improvement Notice or in preventing its re-occurrence as described in paragraph 11.8 (Improvement Notices and Improvement Plan); or
- 12.1.3 the Improvement Actions in an Improvement Plan are not completed by the date specified or to the Authority's satisfaction in accordance with paragraph 11.8 (Improvement Notices and Improvement Plan)

12.2 and any of the Outstanding Issues are not resolved pursuant to paragraph 13 (Consultation), the Authority may at its sole discretion:

- 12.2.1 agree an extension to the Improvement Plan;
- 12.2.2 agree a revised Improvement Plan; or
- 12.2.3 issue a notice (a "Rectification Notice") in respect of such Outstanding Issues.

12.3 Following receipt of a Rectification Notice, the supplier shall within fourteen (14) Days of the date of its issue (or such other time as may be agreed by the Parties in writing) provide a plan (a "Rectification Plan") which shall set out the Contractor's proposals for carrying out the actions necessary to ensure that the Outstanding Issues identified in the Outstanding Issues Notice are rectified and do not re-occur ("Rectification Actions") and a programme for undertaking the Rectification Actions and the date by which they will be completed.

12.4 On receipt of a Rectification Plan the Authority may:

- 12.4.1 agree it; or
- 12.4.2 reject it and require the Supplier to submit a revised Rectification Plan within seven (7) Days of such rejection (or such other time as may be agreed by the Parties in writing).

12.5 If:

- 12.5.1 the Supplier fails to submit a revised Rectification Plan in accordance with paragraph 12.3 (Rectification); or
 - 12.5.2 the revised Rectification Plan is in the Authority's reasonable opinion unacceptable; or
 - 12.5.3 within twenty eight (28) Days of a Rectification Plan (or a revised Rectification Plan) being agreed the Supplier fails to carry out and complete the Rectification Actions in accordance with the Rectification Plan programme, or in the Authority's reasonable opinion fails to make substantial progress with the Rectification Actions;
- the Authority may in its sole discretion:
- 12.5.4 agree an extension to the time for carrying out and completing the Rectification Plan; or
 - 12.5.5 agree a revised Rectification Plan; or
 - 12.5.6 issue a terminate in accordance with clause H2.

13. CONSULTATION

- 13.1 Where either:
 - 13.1.1 the Performance Reports are not agreed pursuant to paragraph 9 (Performance Reporting); or
 - 13.1.2 the Supplier fails to submit a revised Improvement Plan in accordance with paragraph 11.3 (Improvement Notices and Improvement Plan) or the revised Improvement Plan is in the Authority's reasonable opinion unacceptable; or
 - 13.1.3 Improvement Actions are carried out and completed but do not succeed in remedying the Reduced Performance identified in the Improvement Notice or in preventing its re-occurrence as described in paragraph 11.8 (Improvement Notices and Improvement Plan); or
 - 13.1.4 the Improvement Actions in an Improvement Plan are not completed by the date specified or to the Authority's satisfaction in accordance with paragraph 11.8 (Improvement Notices and Improvement Plan)
- 13.2 The Authority may issue a notice (an "Outstanding Issues Notice") to the Supplier identifying any issues relating to the Performance Report requiring agreement, any circumstances that apply under paragraph 11.6 (Improvement Notices and Improvement Plan) (including, where relevant, the aspects in which the revised Improvement Plan is unacceptable), any circumstances that apply under paragraph 11.9 (Improvement Notices and Improvement Plan) (any of which shall constitute "Outstanding Issues") and the Parties shall in good faith attempt to resolve such Outstanding Issues.
- 13.3 If the Parties fail to reach agreement in resolving the Outstanding Issues within fourteen (14) Days of the date of the Outstanding Issues Notice (or such other time as may be agreed by the Parties in writing), the supplier shall within two (2) Days of the

expiry of the fourteen (14) Day period, issue a notice (a "Consultation Notice") to the Consultation Nominees to which a copy of the Outstanding Issues Notice shall be annexed, and shall at the same time provide the Authority with a copy of the Consultation Notice. If the Supplier fails to do so within the specified time, the Authority may issue a Consultation Notice containing the required information, providing a copy to the Contractor.

- 13.4 Within seven (7) Days of the date of issue of the Consultation Notice (or such other time as may be agreed by the Parties in writing), each Party may produce a concise and unambiguous statement (no more than 4 A4 sheets) of any matters it considers relevant to the Outstanding Issues, which shall be considered by the Consultation Nominees.
- 13.5 Within fourteen (14) Days of the date of the Consultation Notice, the Consultation Nominees shall meet and attempt in good faith to resolve the Outstanding Issues.
- 13.6 Where the Consultation Nominees are able to resolve the Outstanding Issues or any part of them, they shall produce a statement of such resolution and any agreed actions, and the Parties shall carry out and complete such actions.
- 13.7 Where and to the extent that the Consultation Nominees are unable to resolve the Outstanding Issues or any part of them within twenty-eight (28) Days of the date of the Consultation Notice for any reason, paragraphs **Error! Reference source not found.** (Performance Reporting) and/or 12 (Rectification) (as relevant) shall apply.

APPENDIX A (CONTRACT MANAGEMENT INFORMATION REPORTING REQUIREMENTS):

1. The Supplier shall prepare the following reports and plans at the frequency, and by the dates, specified below and in such format agreed by the parties during the Mobilisation Phase. All reports shall be provided electronically (unless otherwise requested by the Authority) and be able to export data in XML format.

Plan or Report	Frequency	Date Required
Asset Verification Report	Once, ahead of SCD	Report to be issued before Services Commencement Date.
Maintenance & Replacement Plan	Annually	Plan to be issued at the same time as the Asset Verification Report before the Services Commencement Date.
Equipment Register	On-going/ live	An up-to-date register is to be maintained from Services Commencement Date.
Annual Delivery Plan (for year ahead) (incl updated Curriculum) (agreed with Authority)	Annually	Within twenty (20) Working Days after the Commencement Date in respect of the first Contract Year, and on or before 1 August in each subsequent Contract Year.
An Annual Report (backwards looking), including: <ul style="list-style-type: none"> • a statement of accounts; • performance against KPIs; • key achievements and planned improvement; • and benefits realisation analysis. 	Annually	On or before 10th January each Contract Year.
Payment Period Report	Monthly	Within five (5) Working Days after the end of each Payment Period

Plan or Report	Frequency	Date Required
Checkpoint summary report	Fortnightly	Within three (3) working days after the occurrence of a checkpoint meeting
KPI Report (to support monthly base payment)	Monthly	Within five (5) Working Days after the end of each Payment Period
Management Information Report Should include teaching quality assessments (as assessed by Supplier)	Monthly	Within five (5) Working Days after the end of each Payment Period
Action plans – Self audit, HMIP / Ofsted, MQPL	As available	As available. The Supplier will be required to contribute to Secure Setting actions plans resulting from HMIP/ Ofsted inspections and MQPL reports.
Equality Impact Assessments	As required	The Authority will request this report as and when required.
Supplier's Staff Information	As Required	The Authority will request this report as and when required.
Maintenance of Records	As Required	As and when required. The Authority shall have the right to examine and copy records relating to the provision of the Services in accordance with the Contract
Ad-hoc requests	On Request	As requested, within timescales agreed by the parties.

THE PAYMENT PERIOD REPORT

2. The Supplier shall produce a Payment Period Report which shall set out the following information and in such format as may be reasonably required by the Authority. All reports shall be provided electronically (unless otherwise requested by the Authority) and be able to export data in XML format. Note to Bidders: due to new financial reporting systems, the following may be updated

ID	Information	Measure
1.a	Report on the Supplier's performance against KPIs 1A, 1B, 1C and 2	Measures are set out in Appendix B of Schedule 14 next to the relevant KPIs.
1.b	The total number of hours of Authorised Absences	Total number of hours of Authorised Absences in the Payment Period. Note: The total number of hours will require to be broken down against all the permissible categories of Authorised Absence.
3.c	The total number of hours of unauthorised absences	The total number of hours of unauthorised absences in the Payment Period.

MANAGEMENT INFORMATION REPORT

3. The supplier shall prepare a four (4) weekly Management Information Report which shall set out the following information and in such format as may be reasonably required by the Authority. All reports shall be provided electronically (unless otherwise requested by the Authority) and be able to export data in XML format

ID	Information	Measure
2.a	Report on the Contractor's performance against any KPIs in Appendix B which have a four (4) or thirteen (13) weekly reporting frequency	Measures are set out in Appendix B of Schedule 14 next to the relevant KPIs.
2.b	Number of Learners whose prior learning records could not be obtained.	= The number of Learners admitted during the reporting period for whom prior learning records are not obtained within ten (10) Days of initial reception.
2.c	Percentage of Learners allocated to education.	$\text{Percentage of learners allocated to learning} = \frac{\text{Total number of Learners admitted to the Secure Setting and allocated to education in a Payment Period}}{\text{Total number of Learners admitted to the Secure Setting in a Payment Period}} \times 100$
2.d	Number of Learners not attending education due to Authorised Absences.	= The total number of different Learners who are recorded as having at least 1 Authorised Absence in the reporting period.
2.e	Number of Learners sent out from a lesson by the Supplier's Staff.	= The total number of different Learners who are sent out from Classroom-based Education by the Supplier's staff during the reporting period.
2.f	Number of learners withdrawn from a lesson by YCS.	= The total number of different Learners who are withdrawn by YCS from Classroom-based Education during the reporting period.
2.g	Number of occasions a particular Learner has been	= The total number of occasions during the reporting period that each different Learner counted for measures 2.d and 2.e was sent out or withdrawn from Classroom-based Education.

ID	Information	Measure
	sent out or withdrawn from education.	
2.h	Number of Learners who are not re-engaged with education services within 24 hours of being sent out or withdrawn.	= Count the total number of different Learners during the reporting period who are <u>not</u> receiving Classroom-based Education after 24 hours of being sent out from a lesson (as counted under measure 2.d) or withdrawn from education (as counted under measure 2.e).
2.i	Learner's learning and skills ability/levels on entering the Secure Setting.	Record the learning and skills level (as assessed within the induction period) for each Learner entering the Secure Setting.
2.j	Learner's learning and skills ability/levels at the end of their stay in the Secure Setting.	Record the learning and skills level (as assessed for the resettlement review) for each Learner whose departure from the Secure Setting is planned.
2.k	A RAG analysis of Learner's predicted performance based on data and assessment.	Record the assessments completed by Learners and Learner's progress towards predicted attainment and expected progress (as assessed within the induction period).
2.l	An analysis of Learner's behaviour and attitude towards learning-	<p>Record Learner's behaviour (including details of unacceptable behaviour) and attitude towards learning as assessed within the induction period and any changes in this following the induction period.</p> <p>The analysis shall consider, but not be limited to, information on Learner's:</p> <ul style="list-style-type: none"> • Self-regard as a learner; • Attitudes towards teachers; • Confidence in learning; • Attitude to attendance; • General work ethic; and • Engagement/ interaction with peers.
2.m	An analysis of the performance and achievement of minority	Record the progress and attainment of each Learner.

ID	Information	Measure
	groups against the performance and achievement of wider Secure Setting population.	<p>Provide an analysis comparing these records for minority groups with the same records for the whole Secure Setting population.</p> <p>The analysis shall include, but shall not be limited to, information on:</p> <ul style="list-style-type: none"> • BAME Learners; • Learners with EHC Plans or Statements of SEN (as applicable); and • Learners with "looked after" status (as defined in the Children Act 1989).
2.n	A report on strategies implemented to address attainment gaps.	A report showing the strategies implemented by the Supplier to address attainment gaps as well as the assessed effectiveness of these strategies in narrowing attainment gaps (as identified through the analysis under measure 2.m).
2.o	Qualifications achieved by Learners.	Note: Qualifications are to be reported by type and volume.
2.p	Percentage of Common Transfer Forms completed and sent to receiving secure establishment, Youth Offender Team, local authority education or training provider at least 5 Working Days prior to a Learner's transition.	$\text{Percentage of Common Transfer Forms completed} = \frac{\text{Total number of Common Transfer Forms completed and sent to receiving organisation in required timescales}}{\text{Total number of Learners released in the reporting period}}$
2.q	Learner's education, training or employment destinations on their departure from the Secure Setting.	Record the education, training and/or employment destinations that Learners who are resettled from the Secure Setting are to undertake in their communities.
2.r	Learner's sustained education, training or employment for two (2) quarters following their departure from the Secure Setting.	<p>Record the education, training and/ or employment activities that Learners who are resettled from the Secure Setting are undertaking are undertaking in communities:</p> <ul style="list-style-type: none"> (i) Three (3) Months following the relevant Learner's departure (ii) Six (6) Months following the relevant Learner's departure. <p>(Single contact with YOT and/ or known ETE placement required at points i) and ii)).</p>

ID	Information	Measure
2.s	Complaints made by Learners about Services delivered and/or Services managed by the Supplier.	<p>Number of different complaints made by Learners about education services during the reporting period.</p> <p>This includes complaints made to NOMS, advocacy services or any other agency, where this is about education services provided by the Supplier and where the Supplier is made aware of such a complaint.</p>
2.t	An assessment of the quality of teaching.	<p>Record, with reference to the Ofsted assessment framework, the quality of teaching across education services, including information on:</p> <ul style="list-style-type: none"> • the lessons observed; • the quality of lessons; and • actions taken to address poor quality teaching. <p><i>(Note: this indicator is required to be reported to the Authority on a twelve (12) weekly basis, providing qualitative information alongside KPI 9 below)</i></p>

APPENDIX B (ANNUAL DELIVERY PLANNING BOARD)

4. The Annual Delivery Planning Board shall be stood up in good time so as to ensure the Annual Delivery Plan is developed and agreed.
5. The start date and frequency shall be as and when required by the Authority.
6. The Annual Delivery Planning Board meeting will be attended by the following standing attendees:
 - 6.1 Governor- Chair
 - 6.2 Head of Reducing Reoffending
 - 6.3 YCS Operational Contract Manager
 - 6.4 YCS Head of learning & Skills
 - 6.5 Learning and Skills Manager (Secretariat)
 - 6.6 Head of Education
 - 6.7 Providers Director of Operations /youth custody
 - 6.8 MOJ commercial Manager (by exception)
7. If a standing member is unable to attend a Annual Delivery Planning Board meeting, a suitable replacement must be found. Ad hoc attendees may attend the meeting. Notice of additional attendees must be given no later than five (5) working days before the date of the Annual Delivery Planning Board meeting.
8. The Meeting will be chaired by the Governor.

SCHEDULE 20 – INSURANCE REQUIREMENTS

1. THIRD PARTY PUBLIC AND PRODUCTS LIABILITY INSURANCE

1.1 Insured

The Supplier.

1.2 Interest

To indemnify the insured in respect of all sums which the insured shall become legally liable to pay, (including claimant's costs and expenses) as damages in respect of accidental:

1.2.1 death or bodily injury to or sickness, illness or disease contracted by any person; and

1.2.2 loss of or damage to property,

happening during the period of insurance (in paragraph 1.5 below) and arising out of or in connection with the provision of the Services and in connection with the Contract.

1.3 Limit of indemnity

Not less than twenty million pounds (£20,000,000) in respect of any one occurrence, the number of occurrences being unlimited during the annual period of insurance, but in the annual aggregate in respect of pollution and products liability.

1.4 Territorial limits

United Kingdom.

1.5 Period of insurance

From the date of the Contract for the duration of the Contract and renewable on an annual basis unless agreed otherwise by the parties.

1.6 Cover features and extensions

1.6.1 Indemnity to principal's clause under which the Authority shall be indemnified in respect of claims made against the Authority arising from death or bodily injury or third party property damage, and for which the Supplier is legally liable in the provision of the Services under this Contract;

1.6.1.1 Cross liability clause;

1.6.1.2 Contingent motor liability;

1.6.1.3 Legal defence costs;

1.6.1.4 Health and Safety at Work Act(s) clause;

1.6.1.5 Data Protection legislation clause; and

1.6.1.6 Defence, appeal and prosecution costs relating to the Corporate Manslaughter and Corporate Homicide Act.

1.7 Principal exclusions

- 1.7.1 War and related perils;
- 1.7.2 Nuclear and radioactive risks;
- 1.7.3 Liability for death, illness, disease or bodily injury sustained by employees of the insured arising out of the course of their employment;
- 1.7.4 Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by legislation in respect of such vehicles;
- 1.7.5 Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the insured;
- 1.7.6 Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property;
- 1.7.7 Liability arising from the ownership, possession or use of any aircraft or marine vessel; and
- 1.7.8 Liability arising from seepage and pollution unless caused by a sudden, unintended and unexpected occurrence.

2. PROFESSIONAL INDEMNITY INSURANCE

2.1 Insured

The Supplier.

2.2 Interest

To indemnify the insured for all sums which the insured shall become legally liable to pay (including claimants costs and expenses) as a result of any claim or claims first made against the insured during the period of insurance required in paragraph 2.5 below by reason of any act, error and/or omission arising from or in connection with the Contract and the provision of the Services.

2.3 Limit of indemnity

Not less than two million pounds (£2,000,000) in respect of any one claim, and in the annual aggregate during the period of insurance.

2.4 Territorial limits

United Kingdom.

2.5 Period of insurance

From the date of the Contract for the duration of the Contract and a period of six (6) years following the expiry or termination of the Contract whichever occurs earlier.

2.6 Cover features and extensions

2.6.1 In respect of any claims made policy wording, retroactive cover from the date of the Contract.

2.7 Principal exclusions

2.7.1 War and related perils; and

2.7.2 Nuclear/radioactive risks.

3. UNITED KINGDOM COMPULSORY INSURANCES

- 3.1 The Supplier is required to meet its United Kingdom statutory insurance obligations in full. Insurances are required to comply with all legislation during the period of the Contract including employers' liability insurance and motor third party liability insurance.
- 3.2 The limit of indemnity for the employers' liability insurance being any one occurrence inclusive of costs, the number of occurrences being unlimited during the annual period of insurance.
- 3.3 Employers' liability insurance to contain an indemnity to principal's clause in respect of claims made against the Authority arising out of the performance of the Supplier of his duties under this Contract.
- 3.4 All insurances required by legislation shall be maintained throughout the period of the Contract.

SCHEDULE 21 – FINANCIAL DIFFICULTIES

1. DEFINITIONS

1.1 In this Schedule, the following words shall apply:

“Applicable Indicators”	Financial	means the financial indicators from Paragraph 5.1 of this Schedule which are to apply to the Monitored Suppliers as set out in Paragraph 5.2 of this Schedule;
“Bidder Annual Revenue”		Revenue shown on the face of the Supplier’s Income Statement in a standard set of financial statements for each accounting year. It should exclude the entity’s share of the revenue of associates, joint ventures and any other group entities which are not fully consolidated;
“Board”		means the controlling individuals in executive positions;
“Board Confirmation”		means written approval of one or more of the Board in the form of Annex 5 to this Schedule;
“Credit Rating Level”		a credit rating level as specified in Annex 1 of this Schedule;
“Credit Rating Threshold”		the minimum Credit Rating Level for each entity in the FDE Group as set out in Annex 3 of this Schedule;
“Expected Annual Contract Value”		The annual monetary value of the Contract, which shall be £1,354,663.07 in the first Financial Year and thereafter shall be the total contract value as set out in the Contract applicable to the relevant Financial Year;
“FDE Group”		means the Supplier, its Affiliates and Sub-contractors.
“Financial Distress Event”		means those events in paragraph 3 of this Schedule;
“Financial Remediation Plan”	Distress	has the meaning in paragraph 4.3 of this Schedule;
“Financial Indicators”		in respect of the Supplier, Sub-contractors and the Affiliates, means each of the financial indicators set out at paragraph 5.1 of this Schedule; and in respect of each Monitored Supplier, means those Applicable Financial Indicators;
“Financial Target Thresholds”		means the target thresholds for each of the Financial Indicators set out at paragraph 5 of this Schedule;
“Monitored Suppliers”		means those entities specified at paragraph 5.3 of this schedule;
“Rating Agencies”		the rating agencies listed in Annex 1 of this Schedule.

2. WARRANTIES AND DUTY TO NOTIFY

- 2.1 The Supplier warrants and represents to the Authority for the benefit of the Authority that as at the date of the Contract:
- 2.1.1 the long-term credit ratings issued for each entity in the FDE Group by each of the Rating Agencies are as set out in Annex 3 of this Schedule; and
 - 2.1.2 the financial position or, as appropriate, the financial performance of each entity in the FDE Group satisfies the Financial Target Thresholds.
- 2.2 The Supplier shall promptly notify (or shall procure that its auditors promptly notify) the Authority in writing if there is any downgrade in the credit rating issued by any Rating Agency for any entity in the FDE Group (and in any event within 5 Working Days of the occurrence of the downgrade).
- 2.3 The Supplier shall:
- 2.3.1 regularly monitor the credit ratings of each entity in the FDE Group with the Rating Agencies;
 - 2.3.2 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 Paragraph 5.1 (where specified) and in any event, on a regular basis and no less than once a year within 120 days after the accounting reference date; and
 - 2.3.3 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 5 Working Days of the date on which the Supplier first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event).
- 2.4 For the purposes of determining whether a Financial Distress Event has occurred pursuant to the provisions of Paragraphs 3.1.1, and for the purposes of determining relief under Paragraph 7.1, the credit rating of an FDE Group entity shall be deemed to have dropped below the applicable Credit Rating Threshold if:
- 2.4.1 any of the Rating Agencies have given a Credit Rating Level for that entity which is below the applicable Credit Rating Threshold; or
 - 2.4.2 a Rating Agency that is specified as holding a Credit Rating for an entity as set out at Annex 3 of this Schedule ceases to hold a Credit Rating for that entity.
- 2.5 Each report submitted by the Supplier pursuant to paragraph 2.3.2 shall:
- 2.5.1 be a single report with separate sections for each of the FDE Group entities;
 - 2.5.2 contain a sufficient level of information to enable the Authority to verify the calculations that have been made in respect of the Financial Indicators;
 - 2.5.3 include key financial and other supporting information (including any accounts data that has been relied on) as separate annexes;
 - 2.5.4 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

2.5.5 include a history of the Financial Indicators reported by the Supplier in graph form to enable the Authority to easily analyse and assess the trends in financial performance.

3. FINANCIAL DISTRESS EVENTS

3.1 The following shall be Financial Distress Events:

3.1.1 the credit rating of an FDE Group entity dropping below the applicable Credit Rating Threshold;

3.1.2 an FDE Group entity issuing a profits warning to a stock exchange or making any other public announcement, in each case about a material deterioration in its financial position or prospects;

3.1.3 there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of an FDE Group entity;

3.1.4 an FDE Group entity committing a material breach of covenant to its lenders;

3.1.5 a Key Sub-contractor notifying the Authority that the Supplier has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute;

3.1.6 any of the following:

3.1.6.1 commencement of any litigation against an FDE Group entity with respect to financial indebtedness greater than £1m or obligations under a service contract with a total contract value greater than £3m;

3.1.6.2 non-payment by an FDE Group entity of any financial indebtedness;

3.1.6.3 any financial indebtedness of an FDE Group entity becoming due as a result of an event of default;

3.1.6.4 the cancellation or suspension of any financial indebtedness in respect of an FDE Group entity; or

3.1.6.5 the external auditor of an FDE Group entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that FDE entity;

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

3.1.7 any one of the Financial Indicators set out at Paragraph 5 for any of the FDE Group entities failing to meet the required Financial Target Threshold.

4. CONSEQUENCES OF FINANCIAL DISTRESS EVENTS

4.1 Immediately upon notification by the Supplier of a Financial Distress Event (or if the Authority becomes aware of a Financial Distress Event without notification and brings the event to the

attention of the Supplier), the Supplier shall have the obligations and the Authority shall have the rights and remedies as set out in Paragraphs 4.3 to 4.6.

- 4.2 In the event of a late or non-payment of a Key Sub-contractor pursuant to Paragraph 3.1.5, the Authority shall not exercise any of its rights or remedies under Paragraph 4.3 without first giving the Supplier 5 Working Days to:
- 4.2.1 rectify such late or non-payment; or
 - 4.2.2 demonstrate to the Authority's reasonable satisfaction that there is a valid reason for late or non-payment.
- 4.3 The Supplier shall (and shall procure that any Monitored Supplier, the Guarantor and/or any relevant Key Sub-contractor shall):
- 4.3.1 at the request of the Authority, meet the Authority as soon as reasonably practicable (and in any event within 3 Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Authority may permit and notify to the Supplier in writing) to review the effect of the Financial Distress Event on the continued performance and delivery of the Services in accordance with this Agreement; and
 - 4.3.2 where the Authority reasonably believes (taking into account the discussions and any representations made under Paragraph 4.3.1) that the Financial Distress Event could impact on the continued performance and delivery of the Services in accordance with this Agreement:
 - 4.3.2.1 submit to the Authority for its approval, a draft plan which sets out the nature of the Financial Distress Event, the suggested actions to remediate such event (together with timescales to implement such actions), the risks associated with such actions and the mitigations in relation to such risks ("Financial Distress Remediation Plan") as soon as reasonably practicable (and in any event, within 10 Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Authority may permit and notify to the Supplier in writing); and
 - 4.3.2.2 to the extent that it is legally permitted to do so and subject to Paragraph 4.8, provide such information relating to the Supplier, any Monitored Supplier, Key Sub-contractors and/or the Guarantor as the Authority may reasonably require in order to understand the risk to the Services, which may include forecasts in relation to cash flow, orders and profits and details of financial measures being considered to mitigate the impact of the Financial Distress Event.
- 4.4 The Authority shall not withhold its approval of a draft Financial Distress Remediation Plan unreasonably. If the Authority does not approve the draft Financial Distress Remediation Plan, it shall inform the Supplier of its reasons and the Supplier shall take those reasons into account in the preparation of a further draft Financial Distress Remediation Plan, which shall be resubmitted to the Authority within 5 Working Days of the rejection of the first draft. This process shall be repeated until the Financial Distress Remediation Plan is approved by the Authority or referred to clause I1 under Paragraph 4.5.
- 4.5 If the Authority considers that the draft Financial Distress Remediation Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not ensure the continued performance of the Supplier's obligations in accordance with the Agreement, then

it may either agree a further time period for the development and agreement of the Financial Distress Remediation Plan or escalate any issues with the draft Financial Distress Remediation Plan using clause I1.

4.6 Following approval of the Financial Distress Remediation Plan by the Authority, the Supplier shall:

4.6.1 on a regular basis (which shall not be less than fortnightly):

4.6.1.1 review and make any updates to the Financial Distress Remediation Plan as the Supplier may deem reasonably necessary and/or as may be reasonably requested by the Authority, so that the plan remains adequate, up to date and ensures the continued performance and delivery of the Services in accordance with this Agreement; and

4.6.1.2 provide a written report to the Authority setting out its progress against the Financial Distress Remediation Plan, the reasons for any changes made to the Financial Distress Remediation Plan by the Supplier and/or the reasons why the Supplier may have decided not to make any changes;

4.6.2 where updates are made to the Financial Distress Remediation Plan in accordance with Paragraph 4.6.1, submit an updated Financial Distress Remediation Plan to the Authority for its approval, and the provisions of Paragraphs 4.4 and 4.5 shall apply to the review and approval process for the updated Financial Distress Remediation Plan; and

4.6.3 comply with the Financial Distress Remediation Plan (including any updated Financial Distress Remediation Plan) and ensure that it achieves the financial and performance requirements set out in the Financial Distress Remediation Plan.

4.7 Where the Supplier reasonably believes that the relevant Financial Distress Event under Paragraph 4.1 (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Authority and the Parties may agree that the Supplier shall be relieved of its obligations under Paragraph 4.6.

4.8 The Supplier shall use reasonable endeavours to put in place the necessary measures to ensure that the information specified at paragraph 5 is available when required and on request from the Authority and within reasonable timescales. Such measures may include:

4.8.1 obtaining in advance written authority from Key Sub-contractors, the Guarantor and/or Monitored Suppliers authorising the disclosure of the information to the Authority and/or entering into confidentiality agreements which permit disclosure;

4.8.2 agreeing in advance with the Authority, Key Sub-contractors, the Guarantor and/or Monitored Suppliers a form of confidentiality agreement to be entered by the relevant parties to enable the disclosure of the information to the Authority;

4.8.3 putting in place any other reasonable arrangements to enable the information to be lawfully disclosed to the Authority (which may include making price sensitive information available to Authority nominated personnel through confidential arrangements, subject to their consent); and

4.8.4 disclosing the information to the fullest extent that it is lawfully entitled to do so, including through the use of redaction, anonymization and any other techniques to permit disclosure of the information without breaching a duty of confidentiality.

5. FINANCIAL INDICATORS

5.1 Subject to the calculation methodology set out at Annex 4 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 Table 1

Table 1 Financial Indicators

Financial Indicator	Calculation¹	Financial Target Threshold	Monitoring and Reporting Frequency [if different from the default position set out in Paragraph 2.3(b)]
1. Operating Margin or The higher of (a) the Operating Margin for the most recent 12-month period and (b) the average Operating Margin for the last two 12-month periods]	Operating Margin = Operating Profit / Revenue	> (10%)	Tested and reported yearly in arrears within 90 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting reference date.
2. (Net Debt to EBITDA Ratio)	(Net Debt to EBITDA ratio = Net Debt / EBITDA)	< (2.5x) times	Tested and reported yearly in arrears within 90 days of each accounting reference date based upon Net Debt and EBITDA, for the 12 months ending on the relevant accounting reference date.
3. Acid Ratio	Acid Ratio = (Current Assets – inventories) / Current Liabilities	> (1.0x) times	Tested and reported yearly in arrears within 90 days of each accounting reference date based upon figures at the relevant accounting reference date.
4. Gearing	Long Term Liabilities / Capital Employed (%) Or (Debt / Equity)	< (X) %	Tested and reported yearly in arrears within 90 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting reference date.

5. Turnover Ratio	Turnover Ratio = Bidder Annual Revenue / Expected Annual Contract Value	> (2 times)	Tested and reported yearly in arrears within 90 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting reference date.

Key: ¹ – See Annex 4 of this Schedule which sets out the calculation methodology to be used in the calculation of each Financial Indicator.

5.2 Monitored Supplier

Monitored Supplier	Applicable Financial Indicators (these are the Financial Indicators from the table in Paragraph 5.2 which are to apply to the Monitored Suppliers)
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6. TERMINATION RIGHTS

6.1 The Authority shall be entitled to terminate this Agreement under Clause H2 if:

- 6.1.1 the Supplier fails to notify the Authority of a Financial Distress Event in accordance with Paragraph 2.3.3;
- 6.1.2 the Parties fail to agree a Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraphs 4.3 to 4.5; and/or
- 6.1.3 the Supplier fails to comply with the terms of the Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraph 4.6.3.

7. PRIMACY OF CREDIT RATINGS

7.1 Without prejudice to the Supplier's obligations and the Authority's rights and remedies under Paragraph 2, if, following the occurrence of a Financial Distress Event pursuant to any of Paragraphs 3.1.2 to 3.1.7, the Rating Agencies review and report subsequently that the credit ratings for the FDE Group entities do not drop below the relevant Credit Rating Thresholds specified for those entities in Annex 3 of this Schedule, then:

- 7.1.1 the Supplier shall be relieved automatically of its obligations under Paragraphs 4.3 to 4.6; and
- 7.1.2 the Authority shall not be entitled to require the Supplier to provide financial information in accordance with Paragraph 4.3.2.2.

8. BOARD CONFIRMATION

- 8.1 Subject to Paragraph 8.4 of this Schedule, the Supplier shall within 120 days after each accounting reference date or within 15 months of the previous Board Confirmation (whichever is the earlier) provide a Board Confirmation to the Authority in the form set out at Annex 5 of this Schedule, confirming that to the best of the Board's knowledge and belief, it is not aware of and has no knowledge:
- 8.1.1 that a Financial Distress Event has occurred since the later of the date of this Agreement or the previous Board Confirmation or is subsisting; or
 - 8.1.2 of any matters which have occurred or are subsisting that could reasonably be expected to cause a Financial Distress Event.
- 8.2 The Supplier shall ensure that in its preparation of the Board Confirmation it exercises due care and diligence and has made reasonable enquiry of all relevant Supplier Personnel and other persons as is reasonably necessary to understand and confirm the position.
- 8.3 In respect of the first Board Confirmation to be provided under this Agreement, the Supplier shall provide the Board Confirmation within 15 months of the Effective Date if earlier than the timescale for submission set out in Paragraph 8.1 of this Schedule.
- 8.4 Where the Supplier is unable to provide a Board Confirmation in accordance with Paragraphs 8.1 to 8.3 of this Schedule due to the occurrence of a Financial Distress Event or knowledge of subsisting matters which could reasonably be expected to cause a Financial Distress Event, it will be sufficient for the Supplier to submit in place of the Board Confirmation, a statement from the Board of Directors to the Authority (and where the Supplier is a Strategic Supplier, the Supplier shall send a copy of the statement to the Cabinet Office Markets and Suppliers Team) setting out full details of any Financial Distress Events that have occurred and/or the matters which could reasonably be expected to cause a Financial Distress Event.

ANNEX 1 Rating Agencies and their Standard Rating System

(The following is an example of standard ratings used by these rating agencies).

1 Rating Agency 1 (e.g Standard and Poors)

- 1.1 Credit Rating Level 1 = AAA
- 1.2 Credit Rating Level 2 = AA+
- 1.3 Credit Rating Level 3 = AA
- 1.4 Credit Rating Level 4 = AA-
- 1.5 Credit Rating Level 5 = A+
- 1.6 Credit Rating Level 6 = A
- 1.7 Credit Rating Level 7 = A-
- 1.8 Credit Rating Level 8 = BBB+
- 1.9 Credit Rating Level 9 = BBB
- 1.10 Credit Rating Level 10 = BBB-
- 1.11 Etc.

2 Rating Agency 2 (e.g Moodys)

- 2.1 Credit Rating Level 1 = Aaa
- 2.2 Credit Rating Level 2 = Aa1
- 2.3 Credit Rating Level 3 = Aa2
- 2.4 Credit Rating Level 4 = Aa3
- 2.5 Credit Rating Level 5 = A1
- 2.6 Credit Rating Level 6 = A2
- 2.7 Credit Rating Level 7 = A3
- 2.8 Credit Rating Level 8 = Baa1
- 2.9 Credit Rating Level 9 = Baa2
- 2.10 Credit Rating Level 10 = Baa3
- 2.11 Etc.

3 Rating Agency 3 (Equifax)

- 3.1 Credit Rating Level 1 = A+, A, A- Excellent Risk

3.2	Credit Rating Level 2 = B+, B, B-	Very Good
3.3	Credit Rating Level 3 = C+, C, C-	Above Average
3.4	Credit Rating Level 4 = D+, D, D-	Average Risk
3.5	Credit Rating Level 5 = E+, E, E-	Below Risk
3.6	Credit Rating Level 6 = F+, F, F-	Very High Risk
3.7	Credit Rating Level 9 = G	Gazette Data Filed
3.8	Credit Rating Level 10 = I	Insolvent Code
3.9	Credit Rating Level 11 = O	Out of Date Accounts
3.10	Credit Rating Level 12 = N/A	No Accounts have been filed

ANNEX 2 Not Used

ANNEX 3 Credit Ratings and Credit Rating Thresholds

Entity	Credit Rating (long term) (insert credit rating issued for the entity at the Effective Date)	Credit Rating Threshold (insert the actual rating (e.g AA-) or the Credit Rating Level (e.g Credit Rating Level 3))
Supplier	Rating Agency 3 – Credit Rating - C and above	Rating Agency 3 – Credit Rating 3 -C and above
Relevant Parent Company	Rating Agency 3 – Credit Rating - C and above	Rating Agency 3 – Credit Rating 3 - C and above
Guarantor (if different from Relevant Parent Company)	Rating Agency 3 – Credit Rating - C and above	Rating Agency 3 – Credit Rating 3 - C and above
Key Sub-contractors	Rating Agency 3 – Credit Rating 3 -C and above	Rating Agency 3 – Credit Rating 3 -C and above
Monitored Suppliers		

ANNEX 4 Calculation Methodology for Financial Indicators

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

1 General methodology

- 1.1 Terminology: The terms referred to in this Annex 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).
- 1.2 Groups: Where the entity is the holding company of a group and prepares consolidated financial statements, the consolidated figures should be used.
- 1.3 Foreign currency conversion: Figures denominated in foreign currencies should be converted at the exchange rate (Bank of England Spot rate) in force at the relevant date for which the Financial Indicator is being calculated.
- 1.4 Treatment of non-underlying items: Financial Indicators should be based on the figures in the financial statements before adjusting for non-underlying items.

2 Specific Methodology

Financial Indicator	Specific Methodology
1. Operating Margin	<p>The elements used to calculate the Operating Margin should be shown on the face of the Income Statement in a standard set of financial statements.</p> <p>Figures for Operating Profit and Revenue should exclude the entity's share of the results of any joint ventures or Associates.</p> <p>Where an entity has an operating loss (that is, where the operating profit is negative), Operating Profit should be taken to be zero.</p>
2. Net Debt to EBITDA Ratio	<p>The majority of the elements used to calculate the Net Debt to EBITDA Ratio should be shown on the face of the Balance sheet, Income statement and Statement of Cash Flows in a standard set of financial statements but will otherwise be found in the notes to the financial statements.</p> <p><u>Net Debt:</u></p> <p>The elements of Net Debt may be described slightly differently and should be found either on the face of the Balance Sheet or in the relevant note to the financial statements. All interest-bearing liabilities (other than retirement benefit obligations) should be included as borrowings as should, where disclosed, any liabilities (less any assets) in respect of any hedges designated as linked to borrowings (but not non-designated hedges). Borrowings should also include balances owed to other group members.</p> <p>Deferred consideration payable should be included in Net Debt despite typically being non-interest bearing.</p>

	<p>Cash and cash equivalents should include short-term financial investments shown in current assets.</p> <p>Where Net debt is negative (i.e. an entity has net cash), the relevant Financial Target Threshold should be treated as having been met.</p> <p><u>EBITDA:</u></p> <p>Operating profit should be shown on the face of the Income Statement and, for the purposes of calculating this Financial Indicator, should include the entity’s share of the results of any joint ventures or Associates. The depreciation and amortisation charges for the period may be found on the face of the Statement of Cash Flows or in a Note to the Accounts. Where EBITDA is negative, the relevant Financial Target Threshold should be treated as not having been met (unless Net Debt is also negative, in which case the relevant Financial Target Threshold should be treated as having been met).</p> <p>“Net Debt” = Bank overdrafts + Loans and borrowings + Finance leases + Deferred consideration payable – Cash and cash equivalents</p> <p>“EBITDA” = Operating profit + Depreciation charge + Amortisation charge</p>
<p>3. (Acid Ratio)</p>	<p>All elements that are used to calculate the Acid Ratio are available on the face of the Balance Sheet in a standard set of financial statements.</p>
<p>4. Gearing % Also known as “leverage”</p>	<p>Gearing focuses on the capital structure of the business – that means the proportion of finance that is provided by debt relative to the finance provided by equity (or shareholders). Its focuses on the long-term financial stability of a business.</p> <p>All elements that are used to calculate Gearing % are available on the face of the Balance Sheet in a standard set of financial statements.</p> <p>Gearing % = (long term liabilities/Capital employed) * 100</p> <p>Long-term liabilities include loans due more than one year + preference shares + mortgages</p> <p>Capital employed = Share capital + retained earnings + long-term liabilities</p> <p>Or,</p> <p>Total Debt / Total Equity * 100%</p>

5. Turnover Ratio	<p>Turnover Ratio = Bidder Annual Revenue / Expected Annual Contract Value</p> <p>The Turnover Ratio is used to understand how large the contract is compared to the annual revenue of a bidder for the contract.</p>
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ANNEX 5 Board Confirmation

Supplier Name:

Contract Reference Number:

The Board of Directors acknowledge the requirements set out at paragraph 8 of Schedule 7.4 (Financial Distress) and confirm that the Supplier has exercised due care and diligence and made reasonable enquiry of all relevant Supplier Personnel and other persons as is reasonably necessary to enable the Board to prepare this statement.

The Board of Directors confirms, to the best of its knowledge and belief, that as at the date of this Board Confirmation it is not aware of and has no knowledge:

- (a) that a Financial Distress Event has occurred since the later of the previous Board Confirmation and the Effective Date or is subsisting; or
- (b) of any matters which have occurred or are subsisting that could reasonably be expected to cause a Financial Distress Event

On behalf of the Board of Directors:

Chair

Signed

Date

Director

Signed

Date

SCHEDULE 22: GUARANTEE

1. DEFINITIONS

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

- "Guarantee"** a deed of guarantee in favour of a Authority in the form set out in the Annex to this Schedule; and
- "Guarantor"** the person acceptable to a Authority to give a Guarantee.

2. GUARANTEE

- 2.1 Where the Authority has notified the Supplier that the award of the Contract by the Buyer shall be conditional upon receipt of a valid Guarantee, then, on or prior to the execution of the Contract, as a condition for the award of the Contract, the Supplier shall deliver to the Authority:
- 2.1.1 an executed Guarantee from a Guarantor; and
 - 2.1.2 a certified copy extract of the board minutes and/or resolution of the Guarantor approving the execution of the Guarantee.
- 2.2 Where the Authority has procured a Guarantee from the Supplier under 2.1 above, the Authority may terminate the Contract for Material Breach where:
- 2.2.1 the Guarantor withdraws the Guarantee for any reason whatsoever;
 - 2.2.2 the Guarantor is in breach or anticipatory breach of the Guarantee;
 - 2.2.3 an Insolvency Event occurs in respect of the Guarantor;
 - 2.2.4 the Guarantee becomes invalid or unenforceable for any reason whatsoever; or
 - 2.2.5 the Supplier fails to provide the documentation required by Paragraph 2.1 by the date so specified by the Authority; and
 - 2.2.6 and in each case the Guarantee (as applicable) is not replaced by an alternative guarantee agreement acceptable to the Authority.

ANNEX 1 - FORM OF GUARANTEE

[**INSERT** NAME OF THE GUARANTOR]

-AND -

[**INSERT** NAME OF THE BENEFICIARY]

DEED OF GUARANTEE

DEED OF GUARANTEE

THIS DEED OF GUARANTEE is made the day of 20[]

PROVIDED BY:

[Insert the name of the Guarantor] [a company incorporated in England and Wales] with number [insert company no.] whose registered office is at [insert details of the Guarantor's registered office here] [OR] [a company incorporated under the laws of [insert country], registered in [insert country] with number [insert number] at [insert place of registration], whose principal office is at [insert office details] ("Guarantor")

WHEREAS:

- (A) The Guarantor has agreed, in consideration of the Beneficiary entering into the Guaranteed Agreement with the Supplier, to guarantee all of the Supplier's obligations under the Guaranteed Agreement.
- (B) It is the intention of the Parties that this document be executed and take effect as a deed.

Now in consideration of the Beneficiary entering into the Guaranteed Agreement, the Guarantor hereby agrees for the benefit of the Beneficiary as follows:

1. DEFINITIONS AND INTERPRETATION

In this Deed of Guarantee:

- 1.1 unless defined elsewhere in this Deed of Guarantee or the context requires otherwise, defined terms shall have the same meaning as they have for the purposes of the Guaranteed Agreement;
- 1.2 the words and phrases below shall have the following meanings:

["Beneficiary(s)"] means the Authority under a Contract] **[insert name of the Authority with whom the Supplier enters into a Contract]** and "Beneficiaries" shall be construed accordingly;]

"Goods" has the meaning given to it in the Contract;

["Guaranteed Agreement(s)"] means the Contract made between the Beneficiary and the Supplier on or about the date hereof

"Guaranteed Obligations" means all obligations and liabilities of the Supplier to the Beneficiary under the Guaranteed Agreement together with all obligations owed by the

Supplier to the Beneficiary that are supplemental to, incurred under, ancillary to or calculated by reference to the Guaranteed Agreement;

"Services"

has the meaning given to it in the Contract;

- 1.3 references to this Deed of Guarantee and any provisions of this Deed of Guarantee or to any other document or agreement (including to the Guaranteed Agreement) are to be construed as references to this Deed of Guarantee, those provisions or that document or agreement in force for the time being and as amended, varied, restated, supplemented, substituted or novated from time to time;
- 1.4 unless the context otherwise requires, words importing the singular are to include the plural and vice versa;
- 1.5 references to a person are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;
- 1.6 the words "other" and "otherwise" are not to be construed as confining the meaning of any following words to the class of thing previously stated where a wider construction is possible;
- 1.7 unless the context otherwise requires, reference to a gender includes the other gender and the neuter;
- 1.8 unless the context otherwise requires, references to an Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it;
- 1.9 unless the context otherwise requires, any phrase introduced by the words "including", "includes", "in particular", "for example" or similar, shall be construed as illustrative and without limitation to the generality of the related general words;
- 1.10 references to Clauses and Schedules are, unless otherwise provided, references to Clauses of and Schedules to this Deed of Guarantee; and
- 1.11 references to liability are to include any liability whether actual, contingent, present or future.

2. GUARANTEE AND INDEMNITY

- 2.1 The Guarantor irrevocably and unconditionally guarantees and undertakes to the Beneficiary to procure that the Supplier duly and punctually performs all of the Guaranteed Obligations now or hereafter due, owing or incurred by the Supplier to the Beneficiary.
- 2.2 The Guarantor irrevocably and unconditionally undertakes upon demand to pay to the Beneficiary all monies and liabilities which are now or at any time hereafter shall have become payable by the Supplier to the Beneficiary under or in connection with the Guaranteed Agreement or in respect of the Guaranteed Obligations as if it were a primary obligor.

If at any time the Supplier shall fail to perform any of the Guaranteed Obligations, the Guarantor, as primary obligor, irrevocably and unconditionally undertakes to the Beneficiary that, upon first demand by the Beneficiary it shall, at the cost and expense of the Guarantor:

2.2.1 fully, punctually and specifically perform such Guaranteed Obligations as if it were itself a direct and primary obligor to the Beneficiary in respect of the Guaranteed Obligations and liable as if the Guaranteed Agreement had been entered into directly by the Guarantor and the Beneficiary; and

2.2.2 as a separate and independent obligation and liability, indemnify and keep the Beneficiary indemnified against all losses, damages, costs and expenses (including VAT thereon, and including, without limitation, all court costs and all legal fees on a solicitor and own client basis, together with any disbursements,) of whatever nature which may result or which such Beneficiary may suffer, incur or sustain arising in any way whatsoever out of a failure by the Supplier to perform the Guaranteed Obligations save that, subject to the other provisions of this Deed of Guarantee, this shall not be construed as imposing greater obligations or liabilities on the Guarantor than are purported to be imposed on the Supplier under the Guaranteed Agreement.

2.3 As a separate and independent obligation and liability from its obligations and liabilities under Clauses 2.1 to 2.3 above, the Guarantor as a primary obligor irrevocably and unconditionally undertakes to indemnify and keep the Beneficiary indemnified on demand against all losses, damages, costs and expenses (including VAT thereon, and including, without limitation, all legal costs and expenses), of whatever nature, whether arising under statute, contract or at common law, which such Beneficiary may suffer or incur if any obligation guaranteed by the Guarantor is or becomes unenforceable, invalid or illegal as if the obligation guaranteed had not become unenforceable, invalid or illegal provided that the Guarantor's liability shall be no greater than the Supplier's liability would have been if the obligation guaranteed had not become unenforceable, invalid or illegal.

3. OBLIGATION TO ENTER INTO A NEW CONTRACT

If the Guaranteed Agreement is terminated for any reason, whether by the Beneficiary or the Supplier, or if the Guaranteed Agreement is disclaimed by a liquidator of the Supplier or the obligations of the Supplier are declared to be void or voidable for any reason, then the Guarantor will, at the request of the Beneficiary enter into a contract with the Beneficiary in terms mutatis mutandis the same as the Guaranteed Agreement and the obligations of the Guarantor under such substitute agreement shall be the same as if the Guarantor had been original obligor under the Guaranteed Agreement or under an agreement entered into on the same terms and at the same time as the Guaranteed Agreement with the Beneficiary.

4. DEMANDS AND NOTICES

4.1 Any demand or notice served by the Beneficiary on the Guarantor under this Deed of Guarantee shall be in writing, addressed to:

[Insert] Address of the Guarantor in England and Wales]

[Insert] Facsimile Number]

For the Attention of **[Insert]** details]

or such other address in England and Wales or facsimile number as the Guarantor has from time to time notified to the Beneficiary in writing in accordance with the terms of this Deed of

Guarantee as being an address or facsimile number for the receipt of such demands or notices.

- 4.2 Any notice or demand served on the Guarantor or the Beneficiary under this Deed of Guarantee shall be deemed to have been served:
- 4.2.1 if delivered by hand, at the time of delivery; or
 - 4.2.2 if posted, at 10.00 a.m. on the second Working Day after it was put into the post; or
 - 4.2.3 if sent by facsimile, at the time of despatch, if despatched before 5.00 p.m. on any Working Day, and in any other case at 10.00 a.m. on the next Working Day.
- 4.3 In proving service of a notice or demand on the Guarantor or the Beneficiary it shall be sufficient to prove that delivery was made, or that the envelope containing the notice or demand was properly addressed and posted as a prepaid first class recorded delivery letter, or that the facsimile message was properly addressed and despatched, as the case may be.
- 4.4 Any notice purported to be served on the Beneficiary under this Deed of Guarantee shall only be valid when received in writing by the Beneficiary.

5. BENEFICIARY'S PROTECTIONS

- 5.1 The Guarantor shall not be discharged or released from this Deed of Guarantee by any arrangement made between the Supplier and the Beneficiary (whether or not such arrangement is made with or without the assent of the Guarantor) or by any amendment to or termination of the Guaranteed Agreement or by any forbearance or indulgence whether as to payment, time, performance or otherwise granted by the Beneficiary in relation thereto (whether or not such amendment, termination, forbearance or indulgence is made with or without the assent of the Guarantor) or by the Beneficiary doing (or omitting to do) any other matter or thing which but for this provision might exonerate the Guarantor.
- 5.2 This Deed of Guarantee shall be a continuing security for the Guaranteed Obligations and accordingly:
- 5.2.1 it shall not be discharged, reduced or otherwise affected by any partial performance (except to the extent of such partial performance) by the Supplier of the Guaranteed Obligations or by any omission or delay on the part of the Beneficiary in exercising its rights under this Deed of Guarantee;
 - 5.2.2 it shall not be affected by any dissolution, amalgamation, reconstruction, reorganisation, change in status, function, control or ownership, insolvency, liquidation, administration, appointment of a receiver, voluntary arrangement, any legal limitation or other incapacity, of the Supplier, the Beneficiary, the Guarantor or any other person;
 - 5.2.3 if, for any reason, any of the Guaranteed Obligations shall prove to have been or shall become void or unenforceable against the Supplier for any reason whatsoever, the Guarantor shall nevertheless be liable in respect of that purported obligation or liability as if the same were fully valid and enforceable and the Guarantor were principal debtor in respect thereof; and
 - 5.2.4 the rights of the Beneficiary against the Guarantor under this Deed of Guarantee are in addition to, shall not be affected by and shall not prejudice, any other security, guarantee, indemnity or other rights or remedies available to the Beneficiary.

- 5.3 The Beneficiary shall be entitled to exercise its rights and to make demands on the Guarantor under this Deed of Guarantee as often as it wishes and the making of a demand (whether effective, partial or defective) in respect of the breach or non performance by the Supplier of any Guaranteed Obligation shall not preclude the Beneficiary from making a further demand in respect of the same or some other default in respect of the same Guaranteed Obligation.
- 5.4 The Beneficiary shall not be obliged before taking steps to enforce this Deed of Guarantee against the Guarantor to obtain judgment against the Supplier or the Guarantor or any third party in any court, or to make or file any claim in a bankruptcy or liquidation of the Supplier or any third party, or to take any action whatsoever against the Supplier or the Guarantor or any third party or to resort to any other security or guarantee or other means of payment. No action (or inaction) by the Beneficiary in respect of any such security, guarantee or other means of payment shall prejudice or affect the liability of the Guarantor hereunder.
- 5.5 The Beneficiary's rights under this Deed of Guarantee are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the Beneficiary deems expedient.
- 5.6 Any waiver by the Beneficiary of any terms of this Deed of Guarantee, or of any Guaranteed Obligations shall only be effective if given in writing and then only for the purpose and upon the terms and conditions, if any, on which it is given.
- 5.7 Any release, discharge or settlement between the Guarantor and the Beneficiary shall be conditional upon no security, disposition or payment to the Beneficiary by the Guarantor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to liquidation, administration or insolvency or for any other reason whatsoever and if such condition shall not be fulfilled the Beneficiary shall be entitled to enforce this Deed of Guarantee subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made. The Beneficiary shall be entitled to retain this security after as well as before the payment, discharge or satisfaction of all monies, obligations and liabilities that are or may become due owing or incurred to the Beneficiary from the Guarantor for such period as the Beneficiary may determine.
- 5.8 The Guarantor shall afford any auditor of the Beneficiary appointed under the Guaranteed Agreement access to such records and accounts at the Guarantor's premises and/or provide such records and accounts or copies of the same, as may be required and agreed with any of the Beneficiary's auditors from time to time, in order that the Auditor may identify or investigate any circumstances which may impact upon the financial stability of the Guarantor.

6. GUARANTOR INTENT

Without prejudice to the generality of Clause 5 (Beneficiary's protections), the Guarantor expressly confirms that it intends that this Deed of Guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the Guaranteed Agreement and any associated fees, costs and/or expenses.

7. RIGHTS OF SUBROGATION

- 7.1 The Guarantor shall, at any time when there is any default in the performance of any of the Guaranteed Obligations by the Supplier and/or any default by the Guarantor in the performance of any of its obligations under this Deed of Guarantee, exercise any rights it may have:

7.1.1 of subrogation and indemnity;

7.1.2 to take the benefit of, share in or enforce any security or other guarantee or indemnity for the Suppliers obligations; and

7.1.3 to prove in the liquidation or insolvency of the Supplier,

only in accordance with the Beneficiary's written instructions and shall hold any amount recovered as a result of the exercise of such rights on trust for the Beneficiary and pay the same to the Beneficiary on first demand. The Guarantor hereby acknowledges that it has not taken any security from the Supplier and agrees not to do so until Beneficiary receives all moneys payable hereunder and will hold any security taken in breach of this Clause on trust for the Beneficiary.

8. DEFERRAL OF RIGHTS

8.1 Until all amounts which may be or become payable by the Supplier under or in connection with the Guaranteed Agreement have been irrevocably paid in full, the Guarantor agrees that, without the prior written consent of the Beneficiary, it will not:

8.1.1 exercise any rights it may have to be indemnified by the Supplier;

8.1.2 claim any contribution from any other guarantor of the Supplier's obligations under the Guaranteed Agreement;

8.1.3 take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Beneficiary under the Guaranteed Agreement or of any other guarantee or security taken pursuant to, or in connection with, the Guaranteed Agreement;

8.1.4 demand or accept repayment in whole or in part of any indebtedness now or hereafter due from the Supplier; or

8.1.5 claim any set-off or counterclaim against the Supplier;

8.2 If the Guarantor receives any payment or other benefit or exercises any set off or counterclaim or otherwise acts in breach of this Clause 8, anything so received and any benefit derived directly or indirectly by the Guarantor therefrom shall be held on trust for the Beneficiary and applied in or towards discharge of its obligations to the Beneficiary under this Deed of Guarantee.

9. REPRESENTATIONS AND WARRANTIES

9.1 The Guarantor hereby represents and warrants to the Beneficiary that:

9.1.1 the Guarantor is duly incorporated and is a validly existing company under the laws of its place of incorporation, has the capacity to sue or be sued in its own name and has power to carry on its business as now being conducted and to own its property and other assets;

9.1.2 the Guarantor has full power and authority to execute, deliver and perform its obligations under this Deed of Guarantee and no limitation on the powers of the Guarantor will be exceeded as a result of the Guarantor entering into this Deed of Guarantee;

9.1.3 the execution and delivery by the Guarantor of this Deed of Guarantee and the performance by the Guarantor of its obligations under this Deed of Guarantee including, without limitation entry into and performance of a contract pursuant to

Clause 3, have been duly authorised by all necessary corporate action and do not contravene or conflict with:

- 9.1.3.1 the Guarantors memorandum and articles of association or other equivalent constitutional documents;
 - 9.1.3.2 any existing law, statute, rule or regulation or any judgment, decree or permit to which the Guarantor is subject; or
 - 9.1.3.3 the terms of any agreement or other document to which the Guarantor is a Party or which is binding upon it or any of its assets;
- 9.1.4 all governmental and other authorisations, approvals, licences and consents, required or desirable, to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed of Guarantee, and to make this Deed of Guarantee admissible in evidence in its jurisdiction of incorporation, have been obtained or effected and are in full force and effect; and
- 9.1.5 this Deed of Guarantee is the legal, valid and binding obligation of the Guarantor and is enforceable against the Guarantor in accordance with its terms.

10. PAYMENTS AND SET-OFF

- 10.1 All sums payable by the Guarantor under this Deed of Guarantee shall be paid without any set-off, lien or counterclaim, deduction or withholding, howsoever arising, except for those required by law, and if any deduction or withholding must be made by law, the Guarantor will pay that additional amount which is necessary to ensure that the Beneficiary receives a net amount equal to the full amount which it would have received if the payment had been made without the deduction or withholding.
- 10.2 The Guarantor shall pay interest on any amount due under this Deed of Guarantee at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.
- 10.3 The Guarantor will reimburse the Beneficiary for all legal and other costs (including VAT) incurred by the Beneficiary in connection with the enforcement of this Deed of Guarantee.

11. GUARANTOR'S ACKNOWLEDGEMENT

The Guarantor warrants, acknowledges and confirms to the Beneficiary that it has not entered into this Deed of Guarantee in reliance upon, nor has it been induced to enter into this Deed of Guarantee by any representation, warranty or undertaking made by or on behalf of the Beneficiary (whether express or implied and whether pursuant to statute or otherwise) which is not set out in this Deed of Guarantee.

12. ASSIGNMENT

- 12.1 The Beneficiary shall be entitled to assign or transfer the benefit of this Deed of Guarantee at any time to any person without the consent of the Guarantor being required and any such assignment or transfer shall not release the Guarantor from its liability under this Guarantee.
- 12.2 The Guarantor may not assign or transfer any of its rights and/or obligations under this Deed of Guarantee.

13. SEVERANCE

If any provision of this Deed of Guarantee is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Deed of Guarantee had been executed with the invalid, illegal or unenforceable provision eliminated.

14. THIRD PARTY RIGHTS

Other than the Beneficiary, a person who is not a Party to this Deed of Guarantee shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed of Guarantee. This Clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

15. SURVIVAL

This Deed of Guarantee shall survive termination or expiry of the Guaranteed Agreement.

16. GOVERNING LAW

16.1 This Deed of Guarantee and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in all respects in accordance with English law.

16.2 The Guarantor irrevocably agrees for the benefit of the Beneficiary that the courts of England shall have jurisdiction to hear and determine any suit, action or proceedings and to settle any dispute which may arise out of or in connection with this Deed of Guarantee and for such purposes hereby irrevocably submits to the jurisdiction of such courts.

16.3 Nothing contained in this Clause shall limit the rights of the Beneficiary to take proceedings against the Guarantor in any other court of competent jurisdiction, nor shall the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable law).

16.4 The Guarantor irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for the purpose of this Clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum.

[Guidance Note: Include the above provision when dealing with the appointment of English process agent by a non English incorporated Guarantor]

16.5 [The Guarantor hereby irrevocably designates, appoints and empowers [the Supplier] [a suitable alternative to be agreed if the Supplier's registered office is not in England or Wales] either at its registered office or on facsimile number [insert fax no.] from time to time to act as its authorised agent to receive notices, demands, service of process and any other legal summons in England and Wales for the purposes of any legal action or proceeding brought or to be brought by the Beneficiary in respect of this Deed of Guarantee. The Guarantor hereby irrevocably consents to the service of notices and demands, service of process or any other legal summons served in such way.]

IN WITNESS whereof the Guarantor has caused this instrument to be executed and delivered as a Deed the day and year first before written.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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

[Redacted signature block]

SCHEDULE 23 - APPROVED SUB-CONTRACTORS

APPROVED SUB-CONTRACTORS

Name of Organisation / Location	Description of Services Provided	Longevity of Contract (To and From)	Value per annum (£)	[Key Sub-Contractor Y/N]
██████████	████ █████ █████ ████████████████████ ████████████████	████████ █████ ███ ████████████	██████	█
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SCHEDULE 24 – OPTIONAL SERVICES AND ADDITIONAL SERVICES

1. GENERAL PRINCIPLES

- 1.1 The Authority has set out details of:
 - 1.1.1 Optional Services that it may elect to purchase in Annex 1 of this Schedule; and
 - 1.1.2 Additional Services that it may request to purchase in Annex 2 of this Schedule.
- 1.2 This Schedule sets out the procedure which applies to the election or request (as applicable) to purchase Optional Services and Additional Services.
- 1.3 For the avoidance of doubt, Optional Services and Additional Services shall in no way be binding on the Authority unless and until purchased in accordance with this Schedule 24 and the Authority reserves the right not to elect to purchase any Optional Services or Additional Services or any combination of them. Nothing in this Contract shall prevent the Authority from receiving services that are the same as or similar to the Additional Services and/or the Optional Services from any third party.
- 1.4 If the Authority elects, in accordance with the provisions of this Schedule, to purchase:
 - 1.4.1 Optional Services then, subject to the provisions of this Schedule, the Supplier shall provide such Optional Services.
 - 1.4.2 Additional Services then, subject to agreement between the Parties of the terms applicable to such purchase, the Supplier shall provide such Additional Services.

2. ELECTION TO PURCHASE OPTIONAL SERVICES

- 2.1 If the Authority elects to purchase the Optional Services then it will give notice to the Supplier in writing.
- 2.2 If the Supplier considers that the provision of the Optional Services may impact on the Services then it will provide an Impact Assessment to the Authority.
- 2.3 Following receipt of the Authority's notice pursuant to paragraph 2.1:
 - 2.3.1 the Parties shall document the inclusion of the relevant Optional Services using the procedure set out in clause F4 (Changes) reflecting that such Optional Services shall be provided under the terms of the Contract at the price set out in respect of such Optional Services at Schedule 2 (Price and Invoicing);
 - 2.3.2 the Supplier shall implement and test the relevant Optional Services in accordance with the implementation plan relating to such Optional Services where agreed; and
 - 2.3.3 the Supplier shall, from the date agreed between the Parties, provide the relevant Optional Services in accordance with the details agreed between the Parties.

3. REQUEST TO PURCHASE ADDITIONAL SERVICES

If the Authority requires the supply of any Additional Services, it shall issue a written request to the Supplier ("**Additional Services Request**") which shall include a further detailed description of the Additional Services ("**Additional Services Specification**") which shall be

based upon the details included for those Additional Services in the Annex 2 of this Schedule and shall set a date (which date shall be reasonable taking into account the nature of the Additional Services) by which the Supplier must respond with a proposal in accordance with paragraph 4.

4. RESPONSE TO ADDITIONAL SERVICES REQUEST

Upon receipt of an Additional Services Request, the Supplier will provide all information and assistance reasonably necessary to enable the Authority to assess the likely impact (if any) upon the Services and the provisions of the Contract. The Supplier will act in good faith in considering any Additional Services Request and use all reasonable endeavours to meet the requirements of the Authority as set out in the Additional Services Request.

4.1 Within the period specified in the Additional Services Request, the Supplier will respond with a proposal ("**Additional Services Proposal**") to supply the Additional Services, which proposal shall be prepared in accordance with Good Industry Practice and shall:

4.1.1 set out details of how it will supply the Additional Services;

4.1.2 contain a plan to supply the Additional Services ("**Additional Services Plan**"); and

4.1.3 set out the impact on the Prices of the purchase of the Additional Services.

4.2 The Additional Services Proposal will (unless the Authority requests otherwise):

4.2.1 offer a level of service which is commensurate with Good Industry Practice, and which in any event shall:

4.2.1.1 be reasonable having regard to the nature of the Additional Services and the associated need for overall high quality services;

4.2.1.2 meet or exceed the Additional Services Specification;

4.2.1.3 include a full analysis and demonstration of how it would meet or exceed the Additional Services Specification and any proposed new or amended KPIs; and

4.2.1.4 meet any other requirements set out in the Additional Services Request,

in each case to the reasonable satisfaction of the Authority.

4.2.2 include details of the procedures and criteria that will relate to the Additional Services Plan and any consequence of failure to achieve such Additional Services Plan which procedures, criteria and consequences shall follow the principles and be no less onerous than those set out in this Contract that relate to any agreed tests for the Additional Services; and

4.2.3 include full details of how the relevant Additional Service will be implemented.

5. DECISION TO PURCHASE ADDITIONAL SERVICES

5.1 The Authority will then evaluate the Additional Services Proposal according to its own criteria which will include affordability, performance, value for money and any other factors which it considers relevant.

- 5.2 If any of the Authority's evaluation criteria are not met by the Supplier's proposal the Authority shall be entitled to either:
- 5.2.1 request the Supplier to alter its proposal and provide such reasonable further information, documentation and assistance to enable the Authority to carry out a further evaluation exercise; or
 - 5.2.2 carry out its own market testing exercise.
- 5.3 If the further information, documentation and assistance provided by the Supplier does not alter the Supplier's proposal so that the Authority's evaluation criteria are met, or the results of any market-testing exercise carried out by the Authority demonstrate that the Additional Services Specification can be met and the Authority's evaluation criteria satisfied by a third party, the Authority will be entitled to:
- 5.3.1 request the Supplier to match the charges or other relevant features of the third party's proposal (but the Supplier shall not be obliged to match them);
 - 5.3.2 request the Supplier to adopt the third party's proposal and if requested by the Authority use the third party as a sub-contractor (but the Supplier shall not be obliged to adopt the third party's proposal and/or (if requested by the Authority) the Supplier shall not be obliged to use the third party as a sub-contractor); or
 - 5.3.3 purchase the Additional Services direct from the third party, in which case the Supplier shall co-operate fully and in good faith with that third party including by making available documents, materials, know-how and information that may assist such third party.
- 5.4 If the Supplier has failed to provide an Additional Services Proposal or the Authority considers that the Supplier has acted unreasonably in preparing its Additional Services Proposal then the Authority shall be entitled to terminate the Contract by notice in writing to the Supplier with effect from the date set out in the Termination Notice and without liability.
- 5.5 Subject to this Schedule, if the Authority approves the Supplier's proposal to purchase Additional Services then it shall notify the Supplier in writing and the Supplier shall supply the Additional Services in accordance with the agreed proposal.
- 5.6 Until such notice in writing has been issued, then the Supplier shall continue to supply the Services in accordance with the existing terms of the Contract as if the request for the implementation had not been issued and any discussions, negotiations or other communications which may take place between the Authority and the Supplier in connection with the supply of the Additional Services shall be without prejudice to each Party's other rights under the Contract.

6. COSTS

- 6.1 Each Party shall bear its own costs in relation to the operation of this Schedule including the request for, response to and preparation and finalisation of documents recording the purchase of Additional Services and/or Optional Services.
- 6.2 Each Party's costs incurred in respect of any use of the process described in this Schedule as a result of any error or any Default by the Supplier shall be paid for by the Supplier.

7. VARIATION

- 7.1 For the avoidance of doubt, where Additional Services and/or Optional Services are being provided by the Supplier, the Authority will consider the scope and requirements of the same when considering the content of each Annual Delivery Plan.

Annex 1 – Optional Services Lot 2 – Feltham

Library Services

Requirements

This specification is for Feltham A's new build PortaKabin which will offer library services specifically for children. There will be a maximum of 150 children being cared for at Feltham, although the roll is currently significantly below this figure due to a refurbishment programme.

It is envisaged that Children will attend the Library aligned with the Education timetable Monday to Thursday AM and PM and Friday AM on a weekly rota.

Children will attend the Library within the education core day and have time tabled slots. The Alpha list will be used to allocate each Child a library time. Library staff will have access to the Alpha list and know which child will visit the Library at individual times.

An outreach service will be offered to those children unable to attend the main library. One of the periods (to be identified) in the table below will be allocated to facilitate this provision. In addition to this, a comprehensive mobile service is required to all units as well as the three specialist units, Falcon, Alpine and Wren. Children who are unable to access the services for any reason will be visited at least once each week.

Library managers and staff will develop good working relationship with the Feltham Education provider and work collaboratively to ensure the service fits around the education timetable and children's needs. Children with SEND, autism, ADHD and specific learning difficulties are included in this provision.

Stock will be replenished and ordered on the basis of a range of criteria including the ethnic backgrounds represented in the prison's population, the age of the population, the educational and personal interests identified in the populations, the Basic Skills needs of the populations and the language needs of those whose first language is not English.

The Library will hold a wide range of magazines and newspapers in various languages, an extensive DVD's catalogue, a tutors' reference section and a student reference section covering both educational and legal stock. Requests for legal information is actioned and provided within a forty-eight hour time frame and facilities are provided for requesting books and other authorised items that are available in the public libraries located across the Borough.

The library will regularly promote competitions and facilitate a variety of special events such as LGBT history month, Black History Month and visits by published authors. All annual literature events should be published, promoted with Children encouraged to participate in such events and competition delivered by the Library team.

The library is also expected to support the delivery of Family Days and related events where the Children are encouraged to further develop and maintain positive family relationships.

Data around Library usage should be available monthly and feed into the Quality Improvement Group (QIG) and Reducing Reoffending meetings. The Library manager will be required to complete a service user survey every six months. The Library should have a child friendly application form and provide input to the community and peer council meetings. The library service will sit as a standing agenda on both meetings.

The Library manager will be required to communicate to children & staff using "community updates".

Radio Training, Raising the Alarm	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
Risk Assessments	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
Incident Reporting Processes	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
Personal Protection and Any Other National or Local Training as Required	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
Fire	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
Health & Safety	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
Suicide and Self Harm Awareness	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM

Mental Health Awareness	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
Corruption Prevention Awareness	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
MI, Secure Stairs & Cusp training	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM

Library supplier training

Schedule for library staff training	Name:		Name:		Name:	
	Date Planned:	Date Completed:	Date Planned:	Date Completed:	Date Planned:	Date Completed:
Library Management System	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
Library processes	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
Stock management	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM

Reader Development	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
Any other relevant training that will benefit the service as opportunities arise including delivering and running events and activities	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM

The Supplier will be responsible for delivering library training. Supplier Staff should complete a Personal Development Review with their line managers to identify any further training requirements. Time off site for training purposes should be agreed with the nominated HMPPS manager.

Library stock

The Supplier will be responsible for delivering library training. Supplier Staff should complete a Personal Development Review with their line managers to identify any further training requirements. Time off site for training purposes should be agreed with the nominated HMPPS manager.

Stock inherited	Detail
Specify the number of books and other resources that have been purchased utilising HMPPS funding and therefore classed as owned by the establishment and so will form the HMPPS library stock at the start of this new agreement.	<p>Initial assessment for books is estimated at 10K</p> <p>All equipment, furniture and sundries are paid for by HMPPS funding.</p> <p>A bi-annual stock check will be carried out by the Supplier.</p>

Library stock refresh/replacement	%
Percentage of Stock losses expected agreed by both Parties (i.e. the percentage of the library stock you expect the library provider to have to replace each year).	5%

Stock replacement/refreshment rate agreed by both Parties (i.e. the percentage of the library stock the addition to replacing losses).	5% - 10%
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List of subscriptions to be maintained
Softlink - £500
Newspapers - £500
SCHEDULE 1: Magazines ordered weekly: Heat / Start / OK
Periodicals ordered monthly: Men's Health / Men's Fitness / 442 / Rugby World / Match / Top Gear / Car / Bike / What Car / Total film / Gadget / Stuff / BBC Good Food / World of Animals / French Magazine / Vietnamese Magazine

Number of Items to be loaned	Duration of loan	Restricted Items
4 books,1 dictionary, 1 language / audio cassette 1 x DVD	14 days	Adhered to Belmarsh banned book list. Age appropriate 15 – 18 year old Books held within the Reference section are necessarily not made available for loan due to their replacement costs.

Quantity of items to be loaned per prisoner and duration of each loan should be a joint decision based on prisoner need. Where it is felt that a requested item may contain information that should be restricted on the grounds of public safety or to maintain order, Library staff should have a clear process and a point of contact to seek prompt advice from relevant prison staff.

Process for External Book Donations	Detail
Specify the process for accepting or refusing external book donations	Due to security issues external donations are not accepted unless from a registered company that has been 'vetted' by the security department and the LSM in liaison with the library service provider.

IT equipment in library	Detail
Specify what (if any) IT equipment is currently in the library, and by whom it is owned and should be refreshed/maintained.	1 Stand-alone PCs owned by the prison (The ALICE library system is held on one of the PCs, is formally owned by the prison and maintained by Softlink under licence.)

Prisoner library assistants

Number of prisoners with a library assistant role	Days worked	Hours worked
Nil	Nil	Nil

Attendance at partnership meetings

Meeting	When	Provider Attendance
Regional Quality Improvement Group (QIG)	As and when required – by invitation	Service Development Manager
Establishment QIG	Monthly	Prison Library Manager
Reducing Re-offending meeting	Monthly	Prison Library Manager
Quality Review Meeting	6 Monthly	Prison Library Supervisor
Budget Reviews	6 Monthly	Provider Service Development Manager and Establishment Head of Finance

Information sharing

The Supplier shall notify the LSM and HoRR as soon as possible [and in any case within [two (2)] Working Days] if any library user borrows or requests to borrow a book or other item which:

- is about, or reasonably appears to be about, terrorism;
- otherwise reasonably raises suspicion about a potential threat to the security of the prison;
or
- corresponds to any other category or description which may be notified by the Customer to the Supplier from time to time.

The Customer may from time to time provide the Supplier with further information or training to help the Supplier to identify relevant information which would be subject to the notification requirement set out above.

Youth Work

Requirements

Activities

The Provider is required to develop and deliver a programme of youth work activity to include (but not be limited to) the following activities:

- Youth club - to include topical issue--based activities, during evening association
- Special projects (for example newsletters, Department of Education accreditation) during weekend association
- Other work as directed by the prison (for example weekly induction, Release on Temporary Licence work, one-to-one support)
- Enrichment service during evening association, to support young people and officers to work together
- Orderly and Peer Mentoring programme
- Youth Participation Scheme (Youth Council, Focus Groups)
- Specialist work with those on the progression landing/struggling with engagement

- Development and delivery of one-to-one support for isolated Children and Young Adults as part of morning and weekend delivery

- A scheme of recorded and accredited outcomes for the young men (including Driving Theory, First Aid, independent living skills)
- Production of monthly curriculum planning identifying opportunities available to young people through engagement to be displayed for all staff and young people to see

- Delivery of an enhanced breakfast club

- Create and deliver an enhanced youth club

- Create a DVD club for enhanced young people.

- Offer support and guidance to those young people in transition from and to Feltham

- Help to create a radio production programme to be broadcast around Feltham, celebrating positive work from within the establishment.

- Increase positive engagement on enhanced wing
 - Increase delivery of youth work during evening association
 - Develop a curriculum-based delivery to encourage positive behaviour and engagement in regime.
 - Support young people in a six-week participation skills programme with the focus of becoming a youth council member.

- Provide learning opportunities for young people to gain skills, knowledge and information as required by their current circumstances
 - Create a curriculum of delivery that would explore:
 - Suicide and self-harm
 - Homophobia

- Bank accounts
 - Gangs
 - Mental health
 - Any other issues arising during delivery
- Improve young people and staff relationships
 - Enable prison staff to engage with young people in the purposeful activities
 - Create a social environment on Enhanced Support Unit where staff and young people can explore a variety of topics and activities.
 - Increase sporting interactions between young people and prison staff through delivery of community competitions.

Staffing

Staffed delivery 82 hours a week for a maximum of 84 Children and Young Adults. Delivery will need to be accommodated outside of education delivery hours.

The breakdown of delivery hours per week should be structured as follows:

- 6 hours on the induction unit – maximum 6 Children or Young Adults at once
- 22 hours on the Enhanced Support Unit – maximum 6 Children or Young Adults at once
- 22 hours on Curlew unit – maximum 20 Children or Young Adults at once
- 3 hours on Youth Council sessions – maximum 2 groups of 6 Children or Young Adults at once
- 15 hours of one-to-one support – maximum 14 Children or Young Adults per week
- 6 hours of peer support – maximum 6 Children or Young Adults at once
- 8 hours of breakfast club – maximum 20 Children or Young Adults at once

MI and information

The provider will be required to carry out a survey to be completed by all young people they work with. Feedback should be submitted monthly. In such instance 10% or more of the reported overall satisfaction, on a scale of 1-5 (5 being high), is less than 3, the supplier must submit an improvement plan to HMYOI Feltham.

The provider should produce a monthly report for the Authority and HMYOI covering:

- Retention
- Attendance
- Achievement
- Withdrawal
- Non-run due to staffing issues

Monthly reports should specifically include:

- Number of delivery hours planned
- Number of hours delivered (including reasons for any non-runs i.e. due to provider staffing issues or operational regime issues)
- Number of accredited and non-accredited outcomes (achievement rates)

- Number of young people expected to be seen
- Number of young people seen and reasons for non-attendance (attendance rates)
- Number of young people withdrawn from provision and reasons (retention rate)
- Results of satisfaction survey
- Staffing vacancies
- Improvement plan updates (if applicable)

Monthly reports should additionally include details of:

- Pre-agreed 'early notifications' for any gaps in the provision (eg due to long term sick/ staffing gaps etc)
- Mitigation for any gaps in provision
- Any relevant performance data
- Post-release updates on previous participants in youth work services

Authority Assets

The Authority will provide an office space which will include two Quantum computers, fridge and a lockable filing cabinet.

Supplier Assets

The supplier may need to provide their own standalone computer (eg laptop) to assist delivery. These must be cleared by Security prior to entering the prison.

TUPE

4 staff would be eligible for TUPE:

- 1 full time Senior Youth Work Coordinator
- 1 full time Youth Work Coordinators
- 1 part time Youth Work Supervisor
- 1 full time Youth Support Workers

Local policies and procedures

- The Supplier will need to adhere to all relevant national and local policies. These will be made available upon successful bid.
- The Supplier must attend relevant prison training at HMYOI Feltham i.e. key talk, radio training and Assessment and Care in Custody Team (ACCT) training:

Schedule of mandatory prison training	Name: Library supervisor		Name: Library assistant 1		Name: Library assistant 2	
	Date Planned:	Date Completed:	Date Planned:	Date Completed:	Date Planned:	Date Completed:
Security	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM

Keys	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
Radio Training, Raising the Alarm	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
Risk Assessments	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
Incident Reporting Processes	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
Personal Protection and Any Other National or Local Training as Required	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
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Health & Safety	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM

Suicide and Self Harm Awareness	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
Mental Health Awareness	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
Corruption Prevention Awareness	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM
MI, Secure Stairs & Cusp training	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM	Record of planned date is unavailable	Completed as confirmed by LSM

- The Supplier must undergo HMPPS Vetting, upon successful bidding.
- The supplier must attend weekly Behaviour Management Meetings, bi-monthly Quality Improvement Group & bi-monthly Reducing Reoffending meetings.
- The Supplier is responsible for promoting and recruiting for their courses and working alongside the Activities department.
- The Supplier must work in collaboration with the Activities allocations team to fill all spaces.
- The Supplier must provide cover for any absences to meet the required number of hours per week and weeks per year delivery. The only exceptions will be in the case of prior agreement with the LSM, HoRR or Authority.
- The Authority retains the right to undertake observations of teaching and learning on the Supplier's staff delivering learning courses. If any of the Suppliers' staff are graded as 'Inadequate' by any person, the staff member must not teach alone in the classroom until performance has been reviewed and is deemed at least 'Good'. All staff graded less than 'Good' must have an Improvement Plan. HMYOI Feltham must be notified in these cases. The Improvement Plan must be shared.
- HMYOI Feltham reserves the right to undertake learning walks and audits at any time. The Supplier must appropriately share information with HMYOI Feltham and any relevant departments/ providers at HMYOI Feltham: including Maths/ English assessment levels, learning and disability information, all course data, observations of teaching profile, learner feedback, start/mid/ end course evaluation, observations of all teacher profile, attendance, retention, self-assessment reports, quality assurance visits and staffing vacancies.
- The Supplier may have to answer complaints via the internal process.
- The Supplier must liaise with Key Workers on learner progress and share any relevant information.

Key performance indicator(s)

90% of learners reporting satisfaction. If 10% or more of Children and Young Adults report a score less than 3 (on a scale of 1-5 with 1 being very dissatisfied and 5 being very satisfied) then the Supplier will be required to submit an Improvement Plan to the Authority.

Annex 2 – Additional Services Lot 2 – Feltham

SCHEDULE 25 – DRAFT ANNUAL DELIVERY PLAN

The Parties acknowledge and agree that this Schedule 25 is made up of the following file(s) which were sent by [REDACTED] to [REDACTED] on 24 August 2022 at 16:20 :

Copy of ADP Feltham DRAFT 8 Aug 2022.V3.xlsx