

Date: 30th April 2019

A Contract for Services

Between

The Secretary of State for Justice

And

Foundation UK

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This contract is dated: 30th April 2019

PARTIES:

- (1) The Secretary of State for Justice acting as part of the Crown whose address is 102 Petty France, London, SW1H 9AJ (the “**Authority**”);

AND

- (2) Foundation UK with registered company number 01829004 whose registered office is 3 Limewood Way, Leeds, West Yorkshire, LS14 1AB (the “**Supplier**”)

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

WHEREAS

- A. The Authority placed a contract notice 2019-040496 on 06/03/2019 in the Official Journal of the European Union seeking tenders from potential suppliers for the provision of offender accommodation services.
- B. Following evaluation of the tenders received following the Light Touch Regime the Authority awarded this contract to the Supplier for the provision of the Services and the Supplier is willing and able to provide the Services in accordance with the terms and conditions of this contract.

NOW IT IS HEREBY AGREED:

A GENERAL

A1 Definitions and Interpretation

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

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

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

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

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

“**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 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.

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

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

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

“Breach of Security” means an occurrence of:

- (a) any unauthorised access to or use of the ICT Environment and/or any Information Assets and/or Authority Data (including Confidential Information) in connection with the Contract; and/or
- (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.

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

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

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

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

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

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

“Comparable Supply” means the supply of services to another Authority 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.

“Contract” means the written agreement between the Authority and the Supplier consisting of these clauses and Schedules.

“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 the GDPR.

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

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

“Data Loss Event” means any event which results, or may result, in unauthorised access to 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 2018 (subject to Royal Assent) 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 s.3A of Part 1 Chapter 1 of the Copyright, Designs and Patents Act 1988.

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

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

“DPA 2018” means the Data Protection Act 2018.

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

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

“Extension” means as defined in clause A5.2.

“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, for flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Supplier or the Staff or any other failure in the Supplier’s supply chain.

“GDPR” means the General Data Protection Regulation (Regulation (EU) 2016/679).

“General Anti-Abuse Rule” means:

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

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

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

“Government” means Her Majesty’s Government of the United Kingdom.

“Government Buying Standards” means the standards set out at:

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

“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 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.

“HMG Standards and Guidance” means the Government Digital Service’s ‘Technology Code of Practice and Service Standard’ (as amended from time to time).

“HMPPS Agency Instructions” or “AIs” means such documents as may be issued by HMPPS to convey mandatory instructions to HMPPS HQ Staff (including, where appropriate, the group or regional structures) and as amended from time to time, and a reference to ‘AI [number]’ shall be to the relevant HMPPS Agency Instruction with that number, as amended or replaced from time to time.

“ICT” means information and communication technology.

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

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

“Information Assurance” means the practice of assuring information and managing risks related to the use, processing, storage, and transmission of information or data and the systems and processes used for those purposes.

“Information Commissioner’s Office” means the UK Information Commissioner’s Office, or any successor or replacement body from time to time.

“Information Security Management System” means a set of policies and procedures for systematically managing an organisation’s sensitive data to minimise risk and ensure business continuity by pro-actively limiting the impact of a security breach.

“ISO/IEC” means a joint technical committee of the International Organization of Standardization and the International Electrotechnical Commission whose purpose is to develop, maintain and promote standards in the fields of information technology and ICT.

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

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

“ISO 14001” means the family of standards related to environmental management published by the International Organisation for Standardisation.

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

“Joint Data Controllers” means where two or more Data Controllers jointly determine the purposes and means of processing;

“Key Personnel” mean the people named in the Specification as key personnel.

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

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

“Legislation” means any one or more of the following:

- (a) any Act of Parliament, including the Offender Management Act 2007;
- (b) any subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978;
- (c) any exercise of the Royal Prerogative; and
- (d) any enforceable community right within the meaning of section 2 of the European Communities Act 1972,

in each case in the United Kingdom.

“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.

“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, D10 or H4.

“Month” means calendar month.

“National Security Framework” means the framework that provides information and guidance on the minimum requirements and assurances that must be in place to effectively manage security risks within prisons, available on the HMPPS intranet and in the electronic data room and amended from time to time.

“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.

“Originating Controller” means the Party from whom the Personal Data originates.

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

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

“Policy Frameworks” or “PF” means the documents issued to convey mandatory actions to prison establishments as may be amended from time to time and references to ‘Policy Framework [number]’ shall be to the relevant Policy Framework with that number, as amended or replaced from time to time.

“Premises” means the location where the Services are to be supplied.

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

“Prison Service Instructions” or “PSIs” means documents issued to convey mandatory actions to prison establishments as may be amended from time to time, and references to ‘PSI [number]’ shall be to the relevant PSI with that number, as amended or replaced from time to time.

“Prison Service Orders” or “PSOs” means documents issued to convey mandatory actions to prison establishments as may be amended from time to time, and references to ‘PSO [number]’ shall be to the relevant PSO with that number, as amended or replaced from time to time.

“Probation Instructions” or “PIs” means documents issued to convey mandatory actions to probation staff as may be amended from time to time, and references to ‘PI [number]’ shall be to the relevant PSI with that number, as amended or replaced from time to time.

“Process” or “Processing” means as it is defined in the GDPR

“Processor” means as it is defined in the GDPR.

“Prohibited Act” means:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:
 - i) induce that person to perform improperly a relevant function or activity; or
 - ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract;
- (c) an offence:
 - i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act;
 - ii) under legislation or common law concerning fraudulent acts; or

- iii) the defrauding, attempting to defraud or conspiring to defraud the Authority;
- (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct has been carried out in the UK.

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

“PSI 67/2011” is the Prison Service Instruction published on 1st November 2011 relating to the searching of the person as amended from time to time and 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 relating to the Conveyance and Possession of Prohibited Items and other Related Offences as amended from time to time and 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 relating to security vetting as amended from time to time and 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 relating to information assurance as amended from time to time and available at:

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

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

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

“Receipt” means the physical or electronic arrival of the invoice at the address specified in clause C1.10 or at any other address given by the Authority to the Supplier for the submission of invoices from time to time.

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

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

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

“Relevant Conviction” means a conviction that is relevant to the nature of the Services 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 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.

“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.

“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.

“Services” means the services set out in Schedule 1 (including any modified or alternative 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 Services to be supplied under the Contract as set out in Schedule 1 including, where appropriate, the Key Personnel, the Premises and the Quality 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.

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

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

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

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

“Tender” means the Supplier’s tender and any other supporting information submitted in response to the Authority’s invitation to tender.

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

(a) the End Date; or

(b) following an Extension, the end date of the Extension

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

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

“Third Party IP Claim” has the meaning given to it in clause D7.5 (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.

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

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

“TUPE Information” means the information set out in clause B17.1.

“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.

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

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

A2 Authority Obligations

- 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.

A3 Supplier’s Status

- A3.1 The Supplier is an independent contractor and nothing in the Contract creates a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and accordingly neither Party is authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the Contract.

- A3.2 The Supplier shall not (and shall ensure that any other person engaged in relation to the Contract shall not) say or do anything that might lead another person to believe that the Supplier is acting as the agent or employee of the Authority.

A4 Mistakes in Information

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 shall pay the Authority any extra costs occasioned by any discrepancies, errors or omissions therein.

A5 Term

- A5.1 The Contract starts on 01/05/2019 (the “**Commencement Date**”) and ends on 30/04/2022 (the “**End Date**”) unless it is terminated early or extended in accordance with the Contract.

- A5.2 Not Used

B. THE SERVICES

B1 Basis of the Contract

- B1.1 In consideration of the Supplier’s performance of its obligations under the Contract the Authority shall pay the Supplier the Price in accordance with clause 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 Services

- B2.1 The Supplier shall at all times comply with:

(a) the Quality Standards and, where applicable, shall maintain accreditation with the relevant Quality Standards authorisation body. To the extent that the standard of the Service has not been specified in the Contract, the Supplier shall agree the relevant standard of the Services with the Authority prior to the supply of the Services and, in any event, the Supplier shall perform its obligations under the Contract in accordance with the Law and Good Industry Practice;

(b) its obligations and the standards and requirements set out in Schedule 5; and

(c) its obligations and the requirements in respect of security and information assurance set out in Schedule 7.

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

- B2.3 The Supplier shall ensure that all Staff supplying the Services do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are

necessary for the proper supply of the Services. The Supplier shall ensure that those Staff are properly managed and supervised.

- B2.4 During the Term, the Supplier shall not, in delivering the Services, in any manner endanger the safety or convenience of the public.
- B2.5 The Authority may inspect the manner in which the Supplier supplies the Services at the Premises 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 B9, Services include planning or preliminary work in connection with the supply of the Services.
- B2.6 If reasonably requested to do so by the Authority, the Supplier shall co-ordinate its activities in supplying the Services with those of the Authority and other contractors engaged by the Authority.
- B2.7 *Timely supply of the Services is of the essence of the Contract, including in relation to commencing the supply of the Services within the time agreed or on a specified date. If the Supplier fails to supply the Services within the time promised or specified in the Specification, the Authority is released from any obligation to pay for the Services and may terminate the Contract, in either case without prejudice to any other rights and remedies of the Authority.***
- B2.8 If the Authority informs the Supplier in writing that the Authority reasonably believes that any part of the Services do not meet the requirements of the Contract or differs in any way from those requirements, and this is not as a result of a default by the Authority, the Supplier shall at its own expense re-schedule and carry out the Services in accordance with the requirements of the Contract within such reasonable time as may be specified by the Authority.
- B2.9 If, in delivering the Services, the Supplier is required to visit Authority Premises which are prisons, the Supplier shall comply with Schedule 4.

B3 Key Personnel

- B3.1 The Supplier acknowledges that Key Personnel are essential to the proper provision of the Services.
- B3.2 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.
- B3.3 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.
- B3.4 The Authority shall not unreasonably withhold approval under clauses B3.2 or B3.3. 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.

B4 Staff

B4.1 The Authority may, by notice to the Supplier, refuse to admit onto, or withdraw permission to remain on, the Authority's 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.

B4.2 The Supplier shall comply with all security requirements of the Authority while on the Authority's Premises and ensure that all Staff comply with such requirements.

B4.3 At the Authority's written request, the Supplier shall, at its own cost, provide a list of the names, addresses, national insurance numbers and immigration status of all people who may require admission to the Authority's Premises, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Authority may reasonably request.

B4.4 The Supplier shall ensure that all Staff who have access to the Authority's Premises, the Authority System or the Authority Data have been cleared in accordance with the BPSS.

B4.5 The Supplier shall co-operate with any investigation relating to security carried out by the Authority or on behalf of the Authority and, at the Authority's request:

(a) use reasonable endeavours to make available any Staff requested by the Authority to attend an interview for the purpose of an investigation; and

(b) provide documents, records or other material in whatever form which the Authority may reasonably request or which may be requested on the Authority's behalf, for the purposes of an investigation.

B5 Offers of Employment

B5.1 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.

B5.2 If either Party breaches clause B5.1, it shall pay the other Party a sum equivalent to REDACTED of the annual base salary payable by the Party in breach in respect of the first year of person's employment.

B5.3 The Parties agree that the sum specified in clause B5.2 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 B6.1

B6 Employment

- B6.1 No later than 12 Months prior to the end of the Term, the Supplier shall fully and accurately disclose to the Authority all information the Authority may reasonably request in relation to the Staff including the following:
- (a) the total number of Staff whose employment/engagement terminates at the end of the Term, save for any operation of Law;
 - (b) the age, gender, salary or other remuneration, future pay settlements and redundancy and pensions entitlement of the Staff referred to in clause B6.1 (a);
 - (c) the terms and conditions of employment/engagement of the Staff referred to in clause B6.1 (a), their job titles and qualifications;
 - (d) their immigration status;
 - (e) details of any current disciplinary or grievance proceedings ongoing or circumstances likely to give rise to such proceedings and details of any claims current or threatened; and
 - (f) details of all collective agreements with a brief summary of the current state of negotiations with any such bodies and with details of any current industrial disputes and claims for recognition by any trade union.
- B6.2 At intervals determined by the Authority (which shall not be more frequent than once every 30 days) the Supplier shall give the Authority updated TUPE Information.
- B6.3 Each time the Supplier supplies TUPE Information to the Authority it warrants its completeness and accuracy and the Authority may assign the benefit of this warranty to any Replacement Supplier.
- B6.4 The Authority may use TUPE Information it receives from the Supplier for the purposes of TUPE and/or any retendering process in order to ensure an effective handover of all work in progress at the end of the Term. The Supplier shall provide the Replacement Supplier with such assistance as it shall reasonably request.
- B6.5 If TUPE applies to the transfer of the Services on termination of the Contract, the Supplier indemnifies and keeps indemnified the Authority, the Crown and any Replacement Supplier against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority or the Crown or any Replacement Supplier may suffer or incur as a result of or in connection with:
- (a) the provision of TUPE Information;
 - (b) any claim or demand by any Returning Employee (whether in contract, tort, under statute, pursuant to EU Law or otherwise) in each case arising directly or indirectly from any act, fault or omission of the Supplier or any Sub-Contractor in respect of any Returning Employee on or before the end of the Term;
 - (c) any failure by the Supplier or any Sub-Contractor to comply with its obligations under regulations 13 or 14 of TUPE or any award of compensation under regulation 15 of TUPE save where such failure arises from the failure of the Authority or a Replacement Supplier to comply with its duties under regulation 13 of TUPE;

- (d) any claim (including any individual employee entitlement under or consequent on such a claim) by any trade union or other body or person representing any Returning Employees arising from or connected with any failure by the Supplier or any Sub-Contractor to comply with any legal obligation to such trade union, body or person; and
 - (e) any claim by any person who is transferred by the Supplier to the Authority and/or a Replacement Supplier whose name is not included in the list of Returning Employees.
- B6.6 If the Supplier is aware that TUPE Information has become inaccurate or misleading, it shall notify the Authority and provide the Authority with up to date and accurate TUPE Information.
- B6.7 This clause B6 applies during the Term and indefinitely thereafter.
- B6.8 The Supplier undertakes to the Authority that, during the 12 Months prior to the end of the Term the Supplier shall not (and shall procure that any Sub-Contractor shall not) without Approval (such Approval not to be unreasonably withheld or delayed):
- (a) amend or vary (or purport to amend or vary) the terms and conditions of employment or engagement (including, for the avoidance of doubt, pay) of any Staff (other than where such amendment or variation has previously been agreed between the Supplier and the Staff in the normal course of business and where any such amendment or variation is not in any way related to the transfer of the Services);
 - (b) terminate or give notice to terminate the employment or engagement of any Staff (other than in circumstances in which the termination is for reasons of misconduct or lack of capability);
 - (c) transfer away, remove, reduce or vary the involvement of any other Staff from or in the provision of the Services (other than where such transfer or removal: (i) was planned as part of the individual's career development; (ii) takes place in the normal course of business; and (iii) will not have any adverse impact upon the delivery of the Services by the Supplier, (provided that any such transfer, removal, reduction or variation is not in any way related to the transfer of the Services); or
 - (d) recruit or bring in any new or additional individuals to provide the Services who were not already involved in providing the Services prior to the relevant period.

C PAYMENT

C1 Payment and VAT

- C1.1 The Supplier shall submit invoices to the Authority in accordance with this clause C1 and Schedule 2.
- C1.2 A Valid Invoice is an invoice which includes the information set out in Part 2 of Schedule 2 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 Premises 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 Premises and the date on which work was undertaken;
- (e) the time spent working on the Premises by the individuals concerned;
- (f) details of the type of work undertaken by the individuals concerned;
- (g) separate identification of time spent travelling and/or meal or rest breaks; and
- (h) 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 The Supplier may claim expenses only if they are clearly identified, supported by original receipts and Approved.
- C1.6 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.
- C1.7 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.
- C1.8 The Authority shall, in addition to the Price and following Receipt of a Valid Invoice, pay the Supplier a sum equal to the VAT chargeable on the value of the Services supplied in accordance with the Contract.
- C1.9 The Supplier shall add VAT to the Price at the prevailing rate as applicable and show the amount of VAT payable separately on all invoices as an extra charge. 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.
- C1.10 The Authority shall pay all sums due to the Supplier within 30 days of Receipt of a Valid Invoice. Valid Invoices should be submitted for payment to the following address:

BASS1@justice.gov.uk (the Authority's preferred option); or David Scott, Senior Area Contract Manager, Her Majesty's Prison and Probation Service, Community

Interventions Directorate, c/o Julie White, Point 8.39, 102 Petty France, London, SW1H 4AJ.

- C1.11 Any late payment of undisputed invoices by the Authority will be subject to interest at the rate of a REDACTED above the base rate from time to time of Barclays Bank.
- C1.12 The Supplier shall ensure that a provision is included in all Sub-Contracts which requires payment to be made of all sums due to Sub-Contractors within 30 days from the receipt of a valid invoice.
- C1.13 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 C1.16 shall be paid by the Supplier to the Authority not less than 5 Working Days before the date upon which the tax or other liability is payable by the Authority.
- C1.14 The Supplier shall not suspend the Services unless the Supplier is entitled to terminate the Contract under clause G2.3 for failure to pay undisputed sums of money.

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.

C3 Price During Extension

Subject to Schedule 2 and clause E4 (Change), the Price applies for the Initial Term and until the end of any Extension or such earlier date of termination or partial termination of the Contract in accordance with the Law or the Contract.

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; and
- (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.

D1.3 If Authority Data is corrupted, lost or sufficiently degraded as a result of the Supplier's Default so as to be unusable, the Authority may:

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

D2 Data Protection and Privacy

D2.1 The Parties acknowledge that for the purposes of Data Protection Legislation, the Authority is the Controller and the Supplier is the Processor. The only processing which the Authority has authorised the Supplier to do is listed in Schedule 6 and may not be determined by the Supplier.

D2.2 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 6 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 6;
 - 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 EU unless Approved and:
 - i) the Authority or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or s.75 of the DPA 2018) as determined by the Authority;
 - ii) the Data Subject has enforceable rights and effective legal remedies;
 - iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Authority in meeting its obligations); and
 - iv) the Supplier complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the 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 D2.3, 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.

D2.3 The Supplier's obligation to notify under clause D2.2 (g) includes the provision of further information to the Authority in phases as details become available.

D2.4 Taking into account the nature of the processing, the Supplier shall provide the Authority with full assistance in relation to either Party's obligations under the Data Protection Legislation and any complaint, communication or request made under clause D2.2 (g) (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:

- (a) the Authority with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject 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.
- D2.5 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause D2. This requirement does not apply if the Supplier employs fewer than 250 people unless the Authority determines that the processing:
- (a) is not occasional;
 - (b) includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - (c) is likely to result in a risk to the rights and freedoms of Data Subjects.
- D2.6 The Supplier shall allow for audits of its Data Processing activity by the Authority or the Authority's designated auditor.
- D2.7 The Supplier shall designate a Data Protection Officer if required by the Data Protection Legislation.
- D2.8 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 written 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.
- D2.9 The Supplier remains fully liable for the acts and omissions of any Sub-processor.
- D2.10 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).

- D2.11 The Parties shall take account of any guidance published by the Information Commissioner's Office and, notwithstanding the provisions of clause E4, 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.
- D2.12 This clause D2 applies during the Term and indefinitely after its expiry.
- D2.13 Where and to the extent the Supplier is acting as a Joint Data Controller with another party (being the Authority and/or Sub-Contractor) the conditions set out in this **paragraph 2.13 (Data Sharing Obligations)** shall apply.

D2.13.1 Each Party shall:

- (1) collaboratively ensure that all fair processing notices have been given (and/or, as applicable, consents obtained), and are sufficient in scope to allow the envisaged Processing in accordance with the Data Protection Legislation and for the purposes set out in the Contract. For the purposes of this **paragraph D2.13.1(1)** the Authority shall have the final approval and oversight as to whether it or the Supplier is to provide any relevant fair processing notice and/or as applicable, obtain necessary consents, on behalf of both parties;
- (2) make due notification to the Information Commissioner's Office (or other such regulatory authority as required by Data Protection Legislation), including in relation to its use and Processing of the Personal Data and comply at all times with the Data Protection Legislation;
- (3) maintain complete and accurate records and information to demonstrate its compliance with this **paragraph D2.13.1 (Data Sharing Obligations)**. This requirement does not apply where the Party employs fewer than 250 staff, unless:
 - (a) any of the Parties determine that the Processing is not occasional;
 - (b) any of the Parties determine the Processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or

- (c) any of the Parties determine that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects;
- (4) work together (acting reasonably and in good faith) in the preparation of any Data Protection Impact Assessment prior to commencing any Processing;
- (5) where the Personal Data has been transmitted by it, or is in its possession or control, ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, having taken account of the:
 - (a) nature of the data to be protected;
 - (b) harm that might result from a Data Loss Event;
 - (c) state of technological development; and
 - (d) cost of implementing any measures;
- (6) subject to **paragraph D.2.13.2 (Data Sharing Obligations)** notify the other promptly (and in any event within twenty-four (24) hours) if it:
 - (a) receives a Data Subject Request (or purported Data Subject Request);
 - (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner's Office or any other regulatory authority (including a supervisory authority as defined in the Data Protection Legislation) in connection with Personal Data Processed under this Contract; or
 - (e) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Legislation.

D.2.13.2 Each Party's obligation to notify under **paragraph D.2.13.1(6) (Data Sharing Obligations)** shall include the provision of further information in

phases, as details become available. The Authority shall determine and confirm to the Supplier whether it or the Supplier shall be the primary point of contact and responder to the request, complaint or communication received pursuant to **paragraph D2.13.1(6) (Data Sharing Obligations)** and the parties shall ensure this is reflected within the relevant fair processing notices provided to Data Subjects. Where the Authority:

- (1) designates the Supplier as the primary point of contact, the Supplier shall provide updates and further information to the Authority, including (where directed by the Authority) allowing the Authority to have final oversight and approval of any response, prior to such response being released to the relevant party;
- (2) designates itself as the primary point of contact, the Supplier shall provide all support as necessary within the timescales directed by the Authority, including providing all Personal Data held by the Supplier in respect of the request, complaint or communication received to the Authority as soon as practicable and in any event within five (5) days, or as otherwise agreed by the parties acting reasonably and in good faith;

D2.13.3 Before further sharing the Personal Data with a third party (including using a Processor or any Sub-processor to Process any Personal Data related to this Contract), the Supplier must:

- (1) notify the Originating Controller in writing of the intended third party (including any Processor and/or Sub-processor) and Processing;
- (2) obtain the written consent of the Originating Controller;
- (3) enter into a written contract with the third party (including any Processor and/or Sub-processor) which give effect to the terms set out in this Schedule (as applicable); and
- (4) provide the Originating Controller with such information regarding the third party as the Originating Controller may reasonably require.

D.2.13.4 The Supplier shall remain fully liable for all acts or omissions of any third party to which it transfers the relevant Personal Data.

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 any 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.

D7 Intellectual Property Rights

D7.1 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.

D7.2 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.

D7.3 The Supplier shall:

- (a) waive or procure a waiver of any moral rights held by it or any third party in copyright material arising as a result of the Contract or the performance of its obligations under the Contract;
- (b) ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Services grants to the Authority a non-exclusive licence or, if itself a licensee of those rights, shall grant to the Authority an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty-free, worldwide and irrevocable and 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 D7.3, except to the extent that any such claim results directly from:

- i) items or materials based upon designs supplied by the Authority; or
- ii) the use of data supplied by the Authority which is not required to be verified by the Supplier under any provision of the Contract.

D7.4 The Authority shall notify the Supplier in writing of any claim or demand brought against the Authority or Indemnified Person for infringement or alleged infringement of any Intellectual Property Right in materials supplied and/or licensed by the Supplier to the Authority.

D7.5 The Supplier shall at its own expense conduct all negotiations and any litigation arising in connection with any claim, demand or action by any third party for infringement or alleged infringement of any third party Intellectual Property Rights (whether by the Authority, the Supplier or Indemnified Person) arising from the performance of the Supplier's obligations under the Contract ("**Third Party IP Claim**"), provided that the Supplier shall at all times:

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

D7.6 The Authority shall, at the request of the Supplier, afford to the Supplier all reasonable assistance for the purpose of contesting any Third-Party IP Claim and the Supplier shall indemnify the Authority for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Supplier shall not be required to indemnify the Authority under this clause D7.6 in relation to any costs and expenses to the extent that such arise directly from the matters referred to in clauses D7.3 (d) i) and ii).

D7.7 The Authority shall not, without the Supplier's consent, make any admissions which may be prejudicial to the defence or settlement of any Third-Party IP Claim.

D7.8 If any Third-Party IP Claim is made or in the reasonable opinion of the Supplier is likely to be made, the Supplier shall notify the Authority and any relevant Indemnified Person, at its own expense and subject to Approval (not to be unreasonably withheld or delayed), shall (without prejudice to the rights of the Authority under clauses D7.3 (b) and F2.1 (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 E7.8 (a) or (b) within 20 Working Days of receipt by the Authority of the Supplier's notification the Authority may terminate the Contract immediately by notice to the Supplier.

- D7.9 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).

D8 Audit

- D8.1 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.

D9 Tax Compliance

- D9.1 If, during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:
- (a) notify the Authority in writing of such fact within 5 Working Days of its occurrence; and
 - (b) promptly give the Authority:
 - i) details of the steps it is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors it considers relevant; and

- ii) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.

D9.2 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.

E. CONTROL OF THE CONTRACT

E1 Contract Performance

E1.1 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.

E1.2 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.

E1.3 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.

E1.4 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.

E1.5 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.

- E1.6 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.
- E1.7 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.

E2 Remedies

- E2.1 If the Authority reasonably believes the Supplier has committed a Material Breach it may, without prejudice to its rights under clause G2 (Termination on Default), do any of the following:
- (a) 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;
 - (b) 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;
 - (c) withhold or reduce payments to the Supplier in such amount as the Authority reasonably deems appropriate in each particular case; and/or
 - (d) terminate the Contract in accordance with clause G2.
- E2.2 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.
- E2.3 If the Authority reasonably believes the Supplier has failed to supply all or any part of the Services in accordance with the Contract, professional or Good Industry Practice which could reasonably be expected of a competent and suitably qualified person, or any legislative or regulatory requirement, the Authority may give the Supplier notice specifying the way in which its performance falls short of the requirements of the Contract or is otherwise unsatisfactory.
- E2.4 If the Supplier has been notified of a failure in accordance with clause E2.3 the Authority may:
- (a) direct the Supplier to identify and remedy the failure within such time as may be specified by the Authority and to apply all such additional resources as are necessary to remedy that failure at no additional charge to the Authority within the specified timescale; and/or

- (b) withhold or reduce payments to the Supplier in such amount as the Authority deems appropriate in each particular case until such failure has been remedied to the satisfaction of the Authority.

E2.5 If the Supplier has been notified of a failure in accordance with clause E2.3, it shall:

- (a) use all reasonable endeavours to immediately minimise the impact of such failure to the Authority and to prevent such failure from recurring; and
- (b) immediately give the Authority such information as the Authority may request regarding what measures are being taken to comply with the obligations in this clause E2.5 and the progress of those measures until resolved to the satisfaction of the Authority.

E2.6 If, having been notified of any failure, the Supplier does not remedy it in accordance with clause E2.5 in the time specified by the Authority, the Authority may treat the continuing failure as a Material Breach and may terminate the Contract immediately on notice to the Supplier.

E3 Transfer and Sub-Contracting

E3.1 Except where both clauses E3.9 and E3.10 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.

E3.2 The Supplier is responsible for the acts and/or omissions of its Sub-Contractors as though they are its own. If it is appropriate, the Supplier shall provide each Sub-Contractor with a copy of the Contract and obtain written confirmation from them that they will provide the Services fully in accordance with the Contract.

E3.3 The Supplier shall ensure that Sub-Contractors retain all records relating to the Services for at least 6 years from the date of their creation and make them available to the Authority on request in accordance with clause D8 (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.

E3.4 If the Authority has consented to the award of a Sub-Contract, the Supplier shall ensure that:

- (a) the Sub-Contract contains:
 - i) a right for the Supplier to terminate the if the Sub-Contractor does not comply with its legal obligations in connection with Data Protection Legislation, environmental, social or labour law; and
 - ii) obligations no less onerous on the Sub-Contractor than those on the Supplier under the Contract in respect of data protection in clauses D1 and D2
- (b) the Sub-Contractor includes a provision having the same effect as set out in clause E3.4 (a) in any Sub-Contract which it awards; and

- (c) copies of each Sub-Contract are sent to the Authority immediately after their execution.
- E3.5 Unless Approved otherwise, if the total value of the Contract over the Term is, or is likely to be, in excess of £5,000,000, the Supplier shall, in respect of Sub-Contract opportunities arising during the Term from or in connection with the provision of the Services:
 - (a) advertise on Contracts Finder those that have a value in excess of £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 E3.5 (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 E3.5 (a) includes a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder.
- E3.6 The Supplier shall, at its own cost, supply to the Authority by the end of April each year, for the previous Financial Year:
 - (a) the total revenue received from the Authority pursuant to 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.
- E3.7 The Authority may from time to time change the format and the content of the information required pursuant to clause E3.6.
- E3.8 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.
- E3.9 Notwithstanding clause E3.1, 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 E3.9 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 E3.10 and E3.11.

E3.10 If the Supplier assigns the right to receive the Price under clause F3.9, the Supplier or the Assignee shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.

E3.11 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.

E3.12 Clause C1 continues to apply in all other respects after the assignment and shall not be amended without Approval.

E3.13 Subject to clause E3.14, 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.

E3.14 Any change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not, subject to clause E3.15, affect the validity of the Contract and the Contract shall bind and inure to the benefit of any successor body to the Authority.

E3.15 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to clause E3.13 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 G1 and G2 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.

- E3.16 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.
- E3.17 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.

E4 Change

- E4.1 After the Commencement Date, either Party may request a Change subject to the terms of this clause E4.
- E4.2 Either Party may request a Change by notifying the other Party in writing of the Change by completing the Change Request Form set out in Schedule 3. The Party requesting the Change shall give the other Party sufficient information and time to assess the extent and effect of the requested Change. If the receiving Party accepts the Change it shall confirm it in writing to the other Party.
- E4.3 If the Supplier is unable to accept a Change requested by the Authority or if the Parties are unable to agree a change to the Price, the Authority may:
- (a) allow the Supplier to fulfil its obligations under the Contract without the Change; or
 - (b) terminate the Contract immediately except where the Supplier has already delivered all or part of the Services or where the Supplier can show evidence of substantial work being carried out to fulfil the requirements of the Specification; and in such case the Parties shall attempt to agree upon a resolution to the matter. If a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution procedure detailed in clause I2 (Dispute Resolution).
- E4.4 A Change takes effect only when it is recorded in a CCN validly executed by both Parties.
- E4.5 The Supplier is deemed to warrant and represent that the CNN has been executed by a duly authorised representative of the Supplier in addition to the warranties and representations set out in clause F2.
- E4.6 Clauses E4.4 and E4.5 may be varied in an emergency if it is not practicable to obtain the Authorised Representative's approval within the time necessary to make the Change in order to address the emergency. In an emergency, Changes may be approved by a different representative of the Authority. However, the Authorised Representative may review such a Change and require a CCN to be entered into on a retrospective basis which may itself vary the emergency Change.

F LIABILITIES

F1 Liability, Indemnity and Insurance

F1.1 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 or 8; or
- (e) any liability to the extent it cannot be limited or excluded by Law.

F1.2 Subject to clauses F1.3 and F1.5, 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 Premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Supplier, or any other loss which is caused directly by any act or omission of the Supplier.

F1.3 Subject to clause F1.1 the Supplier's aggregate liability in respect of the Contract does not exceed REDACTED

F1.4 Subject to clause F1.1 the Authority's aggregate liability in respect of the Contract does not exceed the Price payable in the previous calendar year of the Contract.

F1.5 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.

F1.6 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.

F1.7 Subject to clauses F1.1 and F1.6, 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.

F1.8 Unless otherwise specified by the Authority, the Supplier shall, with effect from the Commencement Date for such period as necessary to enable the Supplier to comply with its obligations herein, take out and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Supplier, arising out of the Supplier's performance of its obligations under the Contract including:

- (a) if required by the Authority, appropriate, professional indemnity insurance in the sum of not less than REDACTED for any advice given by the Supplier to the Authority;
- (b) cover for death or personal injury, loss of or damage to property or any other loss; and
- (c) employer's liability insurance in respect of Staff.

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

F1.9 The Supplier shall give the Authority, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

F1.10 If the Supplier does not have and maintain the insurances required by the Contract, the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Supplier.

F1.11 The provisions of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under the Contract.

F1.12 The Supplier shall not take any action or fail to take any reasonable action, or (to the extent that it is reasonably within its power) permit anything to occur in relation to the Supplier, which would entitle any insurer to refuse to pay any claim under any insurance policy in which the Supplier is an insured, a co-insured or additional insured person.

F2 Warranties and Representations

F2.1 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 IP Materials;
- (i) in the 3 years (or period of existence if the Supplier has not been in existence for 3 years) prior to the date of the Contract:
 - i) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
 - ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
 - iii) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract;
- (j) it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform its obligations under the Contract; and
- (k) it has notified the Authority in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance.

F2.2 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.

G DEFAULT, DISRUPTION AND TERMINATION

G1 Insolvency and Change of Control

G1.1 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Supplier if in respect of the Supplier:

- (a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors;
- (b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation);
- (c) a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986;
- (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;
- (e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given;
- (f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;
- (g) being a "small company" within the meaning of section 247(3) of the Companies Act 1985, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
- (h) any event similar to those listed in G1.1 (a)-(g) occurs under the law of any other jurisdiction.

G1.2 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Supplier if the Supplier is an individual and:

- (a) an application for an interim order is made pursuant to sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, the Supplier's creditors;
- (b) a petition is presented and not dismissed within 14 days or order made for the Supplier's bankruptcy;

- (c) a receiver, or similar officer is appointed over the whole or any part of the Supplier's assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets;
- (d) he is unable to pay his debts or has no reasonable prospect of doing so, in either case within the meaning of section 268 of the Insolvency Act 1986;
- (e) a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Supplier's assets and such attachment or process is not discharged within 14 days;
- (f) he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Capacity Act 2005;
- (g) he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business; or
- (h) any event similar to those listed in clauses G1.2(a) to (g) occurs under the law of any other jurisdiction.

G1.3 The Supplier shall notify the Authority immediately following a merger, take-over, change of control, change of name or status including where the Supplier undergoes a change of control within the meaning of section 1124 of the Corporation Taxes Act 2010 ("**Change of Control**"). The Authority may terminate the Contract with immediate effect by notice and without compensation to the Supplier within 6 Months of:

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

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

G2 Default

G2.1 The Authority may terminate the Contract with immediate effect by notice if the Supplier commits a Default and:

- (a) the Supplier has not remedied the Default to the satisfaction of the Authority within 20 Working Days or such other period as may be specified by the Authority, after issue of a notice specifying the Default and requesting it to be remedied;
- (b) the Default is not, in the opinion of the Authority, capable of remedy; or
- (c) the Default is a Material Breach.

G2.2 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.

- G2.3 If the Authority fails to pay the Supplier undisputed sums of money when due, the Supplier shall give notice to the Authority of its failure to pay. If the Authority fails to pay such undisputed sums within 90 Working Days of the date of such notice, the Supplier may terminate the Contract with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the Authority exercising its rights under clause C2.1 or to a Force Majeure Event.

G3 Termination on Notice

The Authority may terminate the Contract at any time by giving 180 days' notice to the Supplier.

G4 Other Grounds

- G4.1 The Authority may terminate the Contract if:
- (a) the Contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;
 - (b) the Supplier was, at the time the Contract was awarded, in one of the situations specified in regulation 57(1) of the Regulations, including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure which resulted in its award of the Contract;
 - (c) the Contract should not have been awarded to the Supplier in view of a serious infringement of the obligations under the Treaties and the Regulations that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU; or
 - (d) the Supplier has not, in performing the Services, complied with its legal obligations in respect of environmental, social or labour law.

G5 Consequences of Expiry or Termination

- G5.1 If the Authority terminates the Contract under clause G2 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.
- G5.2 If the Contract is terminated under clause G2 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 G5.
- G5.3 If the Authority terminates the Contract under clauses G3 or G4 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.

G5.4 Save as otherwise expressly provided in the Contract:

- (a) termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract prejudices the right of either Party to recover any amount outstanding at such termination or expiry; and
- (b) termination of the Contract does not affect the continuing rights, remedies or obligations of the Authority or the Supplier under clauses C2 (Payment and VAT), C3 (Recovery of Sums Due), D1 (Data Protection and Privacy), D3 (Official Secrets Acts and Finance Act), D4 (Confidential Information), D5 (Freedom of Information), D8 (Intellectual Property Rights), D9 (Audit), F1 (Liability, Indemnity and Insurance), G5 (Consequences of Expiry or Termination), G7 (Recovery), G8 (Retendering and Handover), G9 (Exit Management), G10 (Knowledge Retention), H6 (Remedies Cumulative), H12 (Governing Law and Jurisdiction) and paragraph 8 of Schedule 5.

G6 Disruption

- G6.1 The Supplier shall take reasonable care to ensure that in the performance of its obligations under the Contract it does not disrupt the operations of the Authority, its employees or any other contractor employed by the Authority.
- G6.2 The Supplier shall immediately inform the Authority of any actual or potential industrial action, whether such action be by its own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- G6.3 If there is industrial action by Staff, the Supplier shall seek Approval for its proposals to continue to perform its obligations under the Contract.
- G6.4 If the Supplier's proposals referred to in clause G6.3 are considered insufficient or unacceptable by the Authority acting reasonably, the Contract may be terminated with immediate effect by the Authority.
- G6.5 If the Supplier is unable to deliver the Services owing to disruption of the Authority's normal business, the Supplier may request a reasonable allowance of time, and, in addition, the Authority will reimburse any additional expense reasonably incurred by the Supplier as a direct result of such disruption.

G7 Recovery

- G7.1 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 Services;
 - (b) immediately deliver to the Authority all property (including materials, documents, information and access keys) provided to the Supplier in good working order;
 - (c) 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.

G7.2 If the Supplier does not comply with clauses G7.1 (a) and (b), the Authority may recover possession thereof and the Supplier grants a licence to the Authority or its appointed agents to enter (for the purposes of such recovery) any premises of the Supplier or its suppliers or Sub-Contractors where any such items may be held.

G8 Retendering and Handover

G8.1 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.

G8.2 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.

G8.3 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.

G8.4 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 G8.1.

G8.5 The Supplier shall allow access to the Premises in the presence of an authorised representative, to any person representing any potential provider whom the Authority has selected to tender for the future provision of the Services.

G8.6 If access is required to the Supplier's Premises for the purposes of clause G8.5, the Authority shall give the Supplier 7 days' notice of a proposed visit together with a list showing the names of all persons who will be visiting. Their attendance shall be subject to compliance with the Supplier's security procedures, subject to such compliance not being in conflict with the objectives of the visit.

G8.7 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.

G8.8 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 digital package identical to that used by the Authority.

G9 Exit Management

- G9.1 On termination of the Contract the Supplier shall render reasonable assistance to the Authority to the extent necessary to effect an orderly assumption by a Replacement Supplier in accordance with the procedure set out in clauses G9.2 to G9.5.
- G9.2 If the Authority requires a continuation of all or any of the Services on expiry or termination of the Contract, either by performing them itself or by engaging a third party to perform them, the Supplier shall co-operate fully with the Authority and any such third party and shall take all reasonable steps to ensure the timely and effective transfer of the Services without disruption to routine operational requirements.
- G9.3 The following commercial approach shall apply to the transfer of the Services if the Supplier:
- (a) does not have to use resources in addition to those normally used to deliver the Services prior to termination or expiry, there shall be no change to the Price; or
 - (b) reasonably incurs additional costs, the Parties shall agree a Change to the Price based on the Supplier's rates either set out in Schedule 2 or forming the basis for the Price.

G10 Knowledge Retention

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

H GENERAL

H1 Dispute Resolution

- H1.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the finance director of the Supplier and the commercial director of the Authority.
- H1.2 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.
- H1.3 If the dispute cannot be resolved by the Parties pursuant to clause H1.1 either Party may refer it to mediation pursuant to the procedure set out in clause H1.5.

- H1.4 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.
- H1.5 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 H1.6.
- H1.6 Subject to clause H1.2, the Parties shall not institute court proceedings until the procedures set out in clauses H1.1 and H1.3 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 H1.7;
 - (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 H1.7; and

- (c) the Supplier may request by notice to the Authority that any dispute be referred and resolved by arbitration in accordance with clause H1.7, to which the Authority may consent as it sees fit.

H1.7 If any arbitration proceedings are commenced pursuant to clause H1.6:

- (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 H1.7 (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 H1.7 (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.

H2 Force Majeure

H2.1 Subject to this clause H2, a Party may claim relief under this clause H2 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.

H2.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.

H2.3 If the Supplier is the Affected Party, it is not entitled to claim relief under this clause H2 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.
- H2.4 Subject to clause H2.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.
- H2.5 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.
- H2.6 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 G2.1 or G2.3; 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.
- H2.7 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.
- H2.8 Relief from liability for the Affected Party under this clause H2 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 H2.7.

H3 Notices and Communications

- H3.1 Subject to clause H3.3, where the Contract states that a notice or communication between the Parties must be “written” or “in writing” it is not valid unless it is made by letter (sent by hand, first class post, recorded delivery or special delivery) or by email or by communication via Bravo.
- H3.2 If it is not returned as undelivered a notice served in:
 - (a) a letter is deemed to have been received 2 Working Days after the day it was sent; and

- (b) an email is deemed to have been received 4 hours after the time it was sent provided it was sent on a Working Day

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

H3.3 Notices pursuant to clauses H2 (Force Majeure), H1 (Dispute Resolution) or H7 (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.

H3.4 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:

REDACTED

- (b) For the Supplier:

REDACTED

H4 Conflicts of Interest

H4.1 The Supplier shall take appropriate steps to ensure that neither the Supplier nor any Staff is placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the Contract. The Supplier will notify the Authority immediately giving full particulars of any such conflict of interest which may arise.

H4.2 The Authority may terminate the Contract immediately by notice and/or take or require the Supplier to take such other steps it deems necessary if, in the Authority's reasonable opinion, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the Contract. The actions of the Authority pursuant to this clause H4 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

H5 Rights of Third Parties

H5.1 Clauses B17.5 and D8.3 confer benefits on persons named in them (together "**Third Party Provisions**") and each person a "**Third Party Beneficiary**") other than the Parties and are intended to be enforceable by Third Party Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act 1999 ("**CRTPA**").

H5.2 Subject to clause H5.1, 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.

H5.3 No Third Party Beneficiary may enforce or take steps to enforce any Third Party Provision without Approval.

H5.4 Any amendments to the Contract may be made by the Parties without the consent of any Third Party Beneficiary.

H6 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.

H7 Waiver

- H7.1 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.
- H7.2 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 H3 (Notices and Communications).
- H7.3 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.

H8 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.

H9 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.

H10 Change in Law

- H10.1 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.
- H10.2 If a Specific Change in Law occurs or will occur during the Term (other than as referred to in clause H10.1(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.

H10.3 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 H10.1 (b)) shall be implemented in accordance with clause E4.

H11 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.

H12 Governing Law and Jurisdiction

Subject to clause H1 (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.

SCHEDULE 1 – Tender Documentation and Response

1. SPECIFICATION

ROUGH SLEEPING STRATEGY: PRISON ACCOMMODATION PILOTS - SERVICE SPECIFICATION

A – Eligibility

Service Group	Service
A1	<p>Those eligible for the Service are adult offenders serving in the male prison estate (1) who are aged eighteen years, or above and meet the following criteria:</p> <ol style="list-style-type: none">1. Sentenced to 24 months, or less custody (not including as part of a Suspended Sentence Order).2. Will be released from HMP Leeds, HMP Bristol or HMP Pentonville, during the first 12 months of the pilot, into one of the geographical areas covered by the pilot. (2)3. Will be homeless, or at risk of homelessness on release (3). This includes those: rough sleeping, staying in a hostel, night shelter or B&B, squatting (because you have no legal right to stay), staying temporarily with friends or family – for example 'sofa surfing', and other unsuitable accommodation.4. Are not likely to be assessed as having 'priority need' for accommodation if homeless, or entitled to be provided with accommodation by a Local Authority, for example people with significant health needs or disability, care leavers aged between 18 – 20 or people who would have access to supported housing suitable for their needs.5. Are not eligible for accommodation to be provided by mental health services.6. Are able to meet the rental costs of one-bedroom accommodation provided through the service; having entitlement to the housing cost element of Universal Credit when unemployed, or in low paid work, and would not be able to access accommodation that is affordable to them without the support of the service.7. Given their consent. <p>And provided the individual does not meet the ineligibility criteria set out in A2 of this Schedule.</p> <p>Through the delivery of all of services the Supplier will comply with the Equality Act, 2010.</p> <p>(1) This includes trans-women and non-binary individuals who are serving in the pilot prisons.</p>

Service Group	Service
	<p>(2) Accommodation shall be provided in the geographical areas, which receive the highest number of releases from the following prisons; HMP Bristol – Bristol, Gloucester, Somerset and Wiltshire, HMP Leeds - West Yorkshire, HMP Pentonville – London.</p> <p>(3) It is expected that those offenders who are considered at risk of homelessness under the Homelessness Reduction Act, will be referred to the relevant Local Authority, by the prison/ probation services in accordance with the statutory duty to refer and relevant Ministry of Housing, Communities and Local Government guidance. https://www.gov.uk/government/publications/homelessness-duty-to-refer/a-guide-to-the-duty-to-refer. The Supplier needs to be made aware of when this has happened, and to be in contact with the Responsible Officer from the Community Rehabilitation Company, or National Probation Service and responsible Local Authority to agree the best accommodation pathway for the Service User.</p>
A2	<p>The following persons are not eligible to receive the Services:</p> <ol style="list-style-type: none"> 1. Female offenders. <ul style="list-style-type: none"> - Female Offenders Strategy (published June 2018) proposes an alternative whole systems approach to supporting female offenders, including diversion from custody. While the pilot focusses on male offenders, there may be lessons learnt that are applicable for all offenders. 2. Individuals released without having been sentenced after being on remand. <ul style="list-style-type: none"> - It has been decided that to prove that the proposed approach is beneficial at reducing reoffending and homelessness, the pilot should focus upon those on those who have been sentenced to a custodial sentence and will be in receipt of community-based supervision, through Probation providers. 3. Foreign National Offenders (FNOs) held in custody by HMPPS who are ‘of interest’ to the Home Office Immigration Enforcement and are subject to deportation proceedings. <ul style="list-style-type: none"> - The assumption would be that these individuals would be deported.

Service Group	Service
	<p>4. Offenders who receive a custodial sentence of more than 24 months.</p> <ul style="list-style-type: none"> - MoJ analysis highlighted that those who serve short periods in custody, i.e. 12 months or less, are more likely to end up homeless and to reoffend and need enhanced levels of support. <p>5. Offenders that require accommodation in an Approved Premise, run by the National Probation Service (NPS).</p> <ul style="list-style-type: none"> - The pilot is focussing on those individuals who are at risk of being released homeless, and do not have access to alternative forms of short-term accommodation, delivered through Probation Providers. <p>6. Individuals assessed by the Supplier as posing an unacceptable specific risk to:</p> <ul style="list-style-type: none"> a) the accommodation, b) staff; c) themselves; d) neighbours; - Based upon information gleaned through engagement with Prisons, Probation Providers and others, if a Supplier deems that as a result of the Service Users offending and rehabilitative needs, the risk in managing that Service User would be too high and that they require a higher level of support than can be provided by the pilot. <p>7. Any case where there is insufficient information available to the Supplier on which to make an adequate assessment of risk of serious harm.</p> <ul style="list-style-type: none"> - Similar to the above, save that Prisons, Probation Providers and Others are unable to provide relevant information required to enable the Supplier to make a reasoned decision on the risk of harm of the Service User.

Service Group	Service
	<p>8. Any offender subject to Multi Agency Public Protection Arrangements (MAPPA).</p> <ul style="list-style-type: none"> - MAPPA offenders may require significant handling and oversight, especially around where to accommodate them. Those who are at risk of homelessness, may have alternative routes into accommodation, e.g. Approved Premises. They are supported by multiple agencies in tried and tested partnerships (police, probation, LAs etc).
A3	<p>Offenders who have either been convicted of arson, or charged with arson should not be automatically excluded. The Supplier should consider the information provided by the Prison and Probation Provider and Others and make a case by case assessment on whether an individual should be enrolled onto the pilot.</p>

B – Referral Process

Service Group	Service
B1	<p>The Supplier to establish a referral process which:</p> <ol style="list-style-type: none"> 1. enables them to receive referrals for potential Service Users from the Community Rehabilitation Company (CRC) Resettlement workers, Offender Management Unit (OMU), prison staff, prisoners and community based: CRC, NPS and Local Authority, 2. which is both electronic and paper based, 3. sets out the eligibility criteria, 4. makes it clear to who, and where referrals should be sent to. a. As a minimum the referral form will include: the name of the prisoner,

Service Group	Service
	<ul style="list-style-type: none"> b. the name and contact details of the referrer and the organisation they work for, c. reasons to support the Service User's eligibility for the pilot, d. Referrals from the prison should include the location of the prisoner. <p>The Supplier will be expected to work with the Authority to collect and share any additional information required for evaluation purposes.</p>
B2	<p>Assessment of eligibility</p> <p>When requested by the Referrer, the Supplier shall complete an assessment of the suitability of any proposed Service User within one week following receipt of referral. The paper-based assessment shall include:</p> <ol style="list-style-type: none"> 1. Considering eligibility. See A. This will include: current offence details and sentence length, accommodation prior to prison/plans for release. That they are not eligible for accommodation from another means. 2. Able to meet the rental costs of one-bedroom accommodation provided through the service; having entitlement to the housing cost element of Universal Credit when unemployed, or in low paid work, and would not be able to access accommodation that is affordable to them without the support of the service. 3. Identifying their support needs e.g. substance misuse, mental health, access to benefits, education, training. 4. What they require to be ready to take up an offer of accommodation e.g. life skills or tenancy readiness course. 5. That they consent to being involved in the pilot. 6. Risk assessment information, including risk of re-offending, risk of serious harm to public, known adults, children, staff (including risk to self), 7. Confirmation a proposed Service User is not subject to Multi-Agency Public Protection Arrangements (MAPPA) arrangements. <p>The following information whilst not required to determine eligibility is required by the Supplier:</p> <ul style="list-style-type: none"> a. Probation provider (CRC or NPS), b. Nationality, c. Any disabilities. d. Integrated Offender Management, or Prolific and other Priority Offender (PPO) status. e. Food allergies

Service Group	Service
	There is no minimum time which the Service User must be in prison for to be accepted onto the scheme. The minimum requirement is that eligibility for the pilot has been assessed.
B3	The Service User, prison CRC resettlement provider and responsible officer from the NPS or CRC will be informed of the outcome. The Local Authority should be informed if a Homelessness Reduction Act, Duty To Refer referral had been made.

C – Service

Service Group	Service
C1	<p>In Prison</p> <p>After an assessment which confirms eligibility for the service, the Supplier shall ensure the following takes place, prior to release:</p> <ol style="list-style-type: none"> 1. To have contact with the Service User's probation responsible officer and relevant prison and community services to: <ol style="list-style-type: none"> a) understand factors contributing to the Service Users offending behaviour and b) that the Service User is receiving support to tackle these, c) the Supplier is undertaking work as required for the Service User to be ready to take up an offer of accommodation. <p>The services they must contact include; Probation Services, Prison CRC Resettlement worker, Local Authority, prison key worker.</p> <p>Depending on the prisoner's circumstances they may also need to contact: substance misuse team, mental health and other health providers, Prison Offender Management team, Personal Adviser Children's Services (Care leavers, 21 plus), adult social care, other agencies.</p> 2. To contact the DWP Prison Work Coach (PWC) if the Service User needs support in claiming benefits upon release.

	<ol style="list-style-type: none"> 3. Engage with individual eligible Service Users for 1½ hours a week, for up to 12 weeks prior to release. This totals 18 hrs. 4. Keeping a record of contact of work with and on behalf of Service Users. 5. To start the Service User's Support Plan which sets out the work the Service User and Supplier will undertake both inside prison and, in the community, regarding, preparing to take up accommodation, the support to maintain their accommodation and the support to the Service User to address offending behaviour needs. It will be informed by and inform the Sentence Plan prepared by the Responsible Officer from the CRC or NPS and the Personal Housing Plan prepared by the Local Authority. The plan will identify objectives, actions, who is responsible, and timescales. 6. Identify suitable accommodation. <p>In determining the suitability of accommodation consideration must be given to:</p> <ol style="list-style-type: none"> a) The probation area that is responsible for the Service User. b) The local authority that they have a local connection to. c) Area(s) where the Service User would like to live upon release; d) Risk information including, licence conditions to protect victim(s), gang information. e) Affordability to the Service User after the pilot. f) Other Service Users that are living in the same building. <p>It is required that this is discussed with the Service User's Responsible Officer.</p> <p>Once accepted onto the pilot it is expected that the Supplier shall provide accommodation for the Service User, directly upon release from custody.</p> <p>The Supplier must be aware of the responsibilities of the CRC for delivering resettlement services in prison to ensure there is no duplication of services.</p>
C2	<p>Post-release</p> <p>The following assistance shall be provided to the Service User:</p> <ol style="list-style-type: none"> 1. The Supplier shall ensure the Service User is met on release and taken to the accommodation; 2. The Supplier shall provide accommodation for a maximum of 2 years from entry into the accommodation. The entry into the accommodation must take place during the first year of the pilot being operational; 3. Work with individuals on the scheme to identify their specific housing related support needs which will feed into their support plan; 4. Work with the Probation Responsible Officer, attend relevant multi-agency meetings, liaise with key staff from other agencies, (including Electronic Monitoring providers), contribute to ensuring the Service User accesses

	<p>the support they need to tackle the reasons for their offending, including training, employment and education, mental health, substance misuse;</p> <ol style="list-style-type: none"> 5. To provide practical support in helping Service Users engage with services, including accompanying a Service User to key appointments. 6. Advise and assist individuals to manage and retain their tenancies, including support with budgeting, payment of bills and managing relationships with the neighbours and with the Landlord. 7. Motivate offenders to change their attitudes and behaviour to help reintegrate into society. 8. In applying for benefits from the relevant authorities, including Universal Credit or an equivalent social security benefit; 9. To support the Service User to request an Alternative Payment Arrangement from the DWP for the Universal Credit housing cost payments to be made direct to the Supplier, where relevant. 10. To support Service Users to participate in social activities, use local services/ facilities, maintain family and community relationships. 11. To prepare the Service User to manage the tenancy without further support or to move on to other suitable settled accommodation. This work shall start no later than six months prior to the end of the 2 years of support. 12. The support shall include weekly one to one meetings and regular home visits to the accommodation to check how the Service User is getting on in taking care of the property and following the accommodation agreement. 13. To review the Support Plan with the Service User every quarter starting 3 months post release, then 6 months post release and so on. To send a copy of the Support Plan to the responsible probation officer. 14. To provide an accommodation reference to the Service User to use with future Landlords.
C3	<p>Other accommodation, and housing support services for offenders</p> <p>The Supplier to be aware that there are existing prison and community accommodation support services available to Service Users in the pilot areas. The Supplier should ensure that in the delivery of their services they work collaboratively with other providers delivering similar roles to avoid duplication. Notably, a Rough Sleeping Initiative funded prison In Reach worker in Bristol and Leeds. They should ensure that the work of the Rough Sleeping Initiative (RSI) funded posts are linked into the delivery of services.</p>
C4	<p>Local Governance</p> <p>The Supplier to attend the local area governance board meetings with key partners, including prison, Local Authorities and probation providers (CRC and NPS) to provide updates on the pilot.</p>
C5	<p>End of the pilot</p> <p>The aim of the pilot is to help the Service User manage the tenancy without further support, or move on to other suitable settled accommodation. This work shall start no later than six months prior to the end of the 2 years of support. However, if this has not happened and there is a concern that the Service User may be at risk of homelessness at the end of the</p>

	pilot the Supplier shall liaise closely with the relevant local authority on move on arrangements, and in the absence of a plan that will prevent homelessness make a referral to the Local Authority under the Homelessness Reduction Act, 56 days prior to the end of the pilot and be involved (e.g. make representations, attend meetings) with the Local Authority in their plans to provide support.
C6	<p>The total hours of support in the community will equate to approximately 130 hours during the first 6 months, 78 hours for the next 6 months and 52 hrs for the second year of support. The following minimum face to face contacts between the Supplier and Service User will take place. During the:</p> <ul style="list-style-type: none"> - First 6 months, twice per week, - Second 6 months, once per week - Second year, once per fortnight. <p>The hours include only activities directly related to working with the Service User such as:</p> <ol style="list-style-type: none"> 1. attending appointments with them and with partnership organisations 2. directly related administrative tasks (e.g. emails, phone calls, writing up contact etc) <p>It does not include travel time to meet the Service User.</p>

D – Accommodation

Service Group	Service
D1	Accommodation shall be provided in the following geographical areas, which receive the highest number of releases from the prisons; HMP Bristol – Bristol, Gloucester, Somerset and Wiltshire, HMP Leeds - West Yorkshire, HMP Pentonville – London.
D2	The Supplier shall provide accommodation for the following minimum number of offenders: HMP Bristol 80, approximately 6 per month; HMP Pentonville 185, approximately 15 per month; HMP Leeds 155; approximately 13 per month.

Service Group	Service								
	<p>The below table sets out the funding per pilot area.</p> <table border="1" data-bbox="479 395 1935 663"> <tr> <td>HMP Bristol</td><td>£1.3m</td></tr> <tr> <td>HMP Leeds</td><td>£1.8m</td></tr> <tr> <td>HMP Pentonville</td><td>£3.0m</td></tr> <tr> <td>Total</td><td>£6.1m</td></tr> </table> <p>Suppliers need to have arrangements in place to cope with an increase or decrease in numbers per month.</p>	HMP Bristol	£1.3m	HMP Leeds	£1.8m	HMP Pentonville	£3.0m	Total	£6.1m
HMP Bristol	£1.3m								
HMP Leeds	£1.8m								
HMP Pentonville	£3.0m								
Total	£6.1m								
D3	The Supplier shall undertake all activities involved in sourcing suitable accommodation and maintaining Landlord relations.								
D4	<p>It is expected that most of the accommodation will be one bed self-contained units. However, some may be one bedroom in a shared building of no more than 4 people.</p> <p>Suppliers need to be mindful of the number of Service Users in the same road/area and ensure that there is not a high density in the same locality.</p>								

Service Group	Service
D5	The Supplier shall ensure that, wherever possible, the property that is provided is of a rental cost that is realistically affordable should the Service User gain full-time employment and to the Service User at the end of the pilot.
D6	Wherever possible the Service User should be the tenant. Where this is not possible arrangements should be in place for the Service User to take up the tenancy if and when they are in a position to do so, and prior to the end of the 2 years support from the pilot. This is in line with the aim of the pilot to help the Service User manage the tenancy without further support, or move on to other suitable settled accommodation.
D7	The supplier should have access to accommodation suitable for those with additional needs (for example, accessible accommodation for those with disabilities) and provide this where needed.
D8	The provider should have access to some properties which are willing to take pets.
D9	If the Landlord requires the property back, the Supplier shall accommodate the Service User in an alternative property.
D10	Induction meeting at accommodation The Supplier shall undertake a face-to-face induction meeting with the Service User on arrival at the Accommodation.
D11	At the induction meeting held between the Supplier and Service User, the Supplier shall provide the Service User with the facilities and information required to use the Accommodation including as a minimum: <ol style="list-style-type: none"> 1. A full tour of the Accommodation. 2. Keys to access the Accommodation. 3. A copy of the Accommodation rules and conditions of residence including payment of charges. The Service User is liable for any malicious damage costs. The Service User's understanding shall be confirmed, and the Supplier shall ensure an Accommodation Agreement prepared by the Supplier shall be signed by the Service User at that meeting and the Supplier shall retain a copy in the Supplier's records. 4. If required, arrangements are in place for the Service User to claim Universal Credit – housing element, or Housing Benefit or an equivalent social security benefit. 5. Utilities information. 6. How to use key fixtures e.g. boiler. 7. Essential contact points and local information. 8. A welcome food pack. The Service User needs to consider whether the Service User has any food allergies.
D12	Cause for concern visits to accommodation

Service Group	Service
	<p>The Supplier shall make and maintain a record of each visit to a property, when there is any Cause for Concern. "Causes for Concern" include:</p> <ol style="list-style-type: none"> 1. Concerns regarding the behaviour of a Service User, including damage to the property. 2. Complaints from neighbours, or local representative e.g. MP / Councillor. <p>Any instances of non-compliance and anti-social behaviour must be discussed with the Service Users community based responsible Probation Officer.</p>
D13	<p>Deposit</p> <p>A deposit equivalent to six weeks rent is available to the Supplier, from the Authority, should it be required.</p> <p>A cash deposit must be placed in a Deposit Protection Scheme (DPS).</p>
D14	<p>Rent Top Up</p> <p>A rent top up is available if required to the Supplier from the Authority to bridge the gap between the Housing Benefit payment and the market rent. In the payment of this to the Landlord the Supplier must ensure that it does not have a detrimental impact on the Service User's benefit entitlement.</p> <p>The Supplier must ensure that the Service User is aware of the top up and provide support to help the Service User to be able to cover this cost by the end of the 2 years through access to employment or effective budgeting support.</p>

E – Accommodation Quality

Service Group	Service
E1	<p>As a minimum, the Supplier shall ensure that the Accommodation complies with the respective Local Authority housing standards and with the Housing, Health and Safety Rating System published by the Ministry of Housing, Communities and Local Government. https://www.gov.uk/government/publications/housing-health-and-safety-rating-system-guidance-for-landlords-and-property-related-professionals.</p>

Service Group	Service
	<p>The Supplier must ensure:</p> <ul style="list-style-type: none"> - Energy Performance Certificate, - Smoke alarms and carbon monoxide alarms fitted and tested. <p>A check needs to be completed by the Supplier of the standard of the property before it is approved for use by a Service User, in accordance with the standards. The Supplier should use a pro forma, that they devise. Thereafter, there should be quarterly checks of the standard of the property and at the end of the tenancy, again using a standardised template, that they devise. The proforma and standardised templates need to be available to the Authority on request.</p>
E2	An inventory needs to be agreed with the Landlord and Service User at the start of the tenancy and checked at the end of the tenancy.
E3	<p>The Supplier shall ensure that all properties are furnished. This will include:</p> <ul style="list-style-type: none"> - Adequate seating in the living area - Table and chairs in dining area, if one has been provided - A bed and clothing storage in each bedroom - Floor coverings throughout the dwelling; not bare floorboards. - Curtains or blinds on the windows - A cooker and fridge <p>Furnishings shall be maintained in a good condition. The Supplier shall ensure any repairs and maintenance to furnishings, including replacements are made, as required.</p>

F – Behaviour and Risk Management

Service Group	Service
F1	<p>The Supplier shall comply with a risk management approach to manage effectively events that increase a Service User's risk of re-offending and/or Serious Harm and set these out to the Authority in the form of a Risk Framework.</p> <p>The Risk Framework shall include as a minimum:</p>

Service Group	Service
	<ol style="list-style-type: none"> 1. Mitigation action to decrease risk to neighbours arising from Service Users and their known and unknown visitors. 2. Appropriate arrangements for liaison with the Service User's probation Responsible Officer, who will take appropriate action where a Service User's risk of re-offending and/or serious harm may be escalating. 3. The Service User's expected standard of behaviour including in relation to, the public, Supplier's Personnel and any other third party. See Unacceptable behaviour/ withdrawal of Accommodation section below. 4. Expected standards of treatment of the Accommodation. 5. Plans to mitigate the risks associated with drug and alcohol use. 6. Reporting and recording mechanisms of incidents to the Authority including the action taken, resolution and response to incidents through the involvement of the appropriate relevant authorities including the police, emergency services and/or other relevant authorities. 7. Out of hours policy. 8. Safeguarding children and Safeguarding adult's policy. 9. Resolution of Minor and Major Incidents. The Supplier to use their discretion regarding what constitutes a minor incident. It is expected that repeated minor incidents are reported to the Authority. <p>Major Incidents</p> <p>To include the following:</p> <ol style="list-style-type: none"> a. Death of a Service User while in receipt of the Services (or within seven (7) days of the end of the receipt of the Accommodation if the Service User dies within this period upon leaving the Accommodation). ** b. Unexpected death, deliberate or accidental injury of anyone present in any Accommodation or any person involved in the provision of the Services. ** c. Sexual assault and/or abuse. ** d. Indecent exposure. ** e. Physical assault requiring emergency medical intervention. ** f. Racially aggravated assault and/or abuse. ** g. Serious threats of violence where a child is involved or implicated.

Service Group	Service
	<ul style="list-style-type: none"> h. Other physical assault and/or abuse where a child is involved or implicated. i. Serious accidental injury to any person whilst at any Accommodation or any person involved in the provision of the Services and emergency medical intervention. j. Service User self-harm needing emergency medical intervention. k. Fire, flood, structural damage resulting in full and/or partial evacuation of the Accommodation. ** l. Other incidents resulting in evacuation or closure of Accommodation. ** m. Attack on the Accommodation. n. Bomb threat. o. Police raid. p. Discovery of firearms and/or other weapons (including swords and knives). q. Discovery of drugs, or drug related activity including the supply and/or manufacture of drugs. r. Arrest on criminal charges in relation to an incident involving Service Users, the Supplier's Personnel or the Accommodation. ** s. Serious anti-social behaviour involving Service User(s) at or close to any Accommodation. t. Attempted suicide. u. Arrest of a member of the Supplier's Personnel on duty or in relation to work issues. <p>For those marked with ** the Supplier shall ensure a case review will be undertaken and reported to the Authority within twenty-eight (28) days of the incident occurring provided that the Supplier shall in any event comply also with the following notification requirements. The Supplier shall within one (1) Working Day record in writing, and notify the Authority in writing, of the occurrence of any of the incidents, except for death and/or injury of a Service User at any Accommodation (where the obligation shall be immediate).</p> <p>The Supplier shall inform the police immediately where the Service User's behaviour poses an immediate threat.</p>

Service Group	Service
	<p>Other Reportable Incidents:</p> <ul style="list-style-type: none"> v. Serious threats of violence. w. Other physical assault and/or abuse. x. Verbal assault and/or abuse. y. Other abuse including bullying, neglect and/or financial abuse. z. Minor injuries (not cuts and bruises) in the Accommodation or in the provision of the Services. aa. Other fire, floor and/or structural damage to the Accommodation. bb. Vandalism and/or criminal damage to the Accommodation. cc. Alleged theft, including of property of another Service User or the Supplier. dd. Arrest on criminal charges other than as described above. <p>Unacceptable behaviour/ withdrawal of Accommodation</p> <p>This will include the following:</p> <ul style="list-style-type: none"> i. If problems arise with the behaviour of the Service User, including non-payment of rent, the Supplier shall raise these with the Service User, wherever possible, to discuss openly and seek a resolution. ii. It is expected that there will be instances when some Service Users will behave in a way which will undermine their involvement in the pilot. The Supplier should ensure that the reasons for any concerns are investigated. That the Service User is provided with appropriate support to resolve the issue. They should continue to receive support and be retained in the pilot, wherever possible. For example, this may include being returned to custody for a short period, no longer than 2 months. iii. The Supplier shall ensure that the Probation Responsible Officer or relevant Responsible Local Authority shall be informed of any concerns, warnings and reports of breach relating to or received by a Service User immediately upon becoming aware of the same by phone, or if unavailable by email. Any contact must be followed up to check it has been received and to confirm what action is taken.

Service Group	Service
F2	A Service User shall not be asked to leave a property, or permanently excluded from the pilot without consultation with the Authority.
F3	<p>Complaints</p> <p>In accordance with the terms of this Contract, the Supplier shall report to the Authority:</p> <ol style="list-style-type: none"> 1. Timeliness of response of each complaint by a Service User. 2. Status of each complaint by a Service User. <p>The Supplier shall provide promptly to the Authority on request full details in writing of any complaints made by a Service User in respect of the Services and the Supplier's response.</p>
F4	<p>Out of Hours Support</p> <p>The Supplier shall have in place outside its normal business hours (9am – 5pm, Mon-Fri)) on each day of the year, arrangements to deal with any event or circumstance arising out of or relating to the Services or this Contract which requires an immediate action or response:</p> <ol style="list-style-type: none"> 1. To offer support to Service Users who require it. 2. To respond effectively to an emergency or contingency event.

G – Case Recording and Data Handling

Service Group	Service
G1	The Supplier shall collect relevant management information data and keep records, as detailed within Section J.

Service Group	Service
G2	<p>In the collection, handling and storing of data the Supplier shall ensure it complies with GDPR requirements and the following legislation; Human Rights Act, 1998, Crime and Disorder Act, 1998. Minimum security requirements will be required to protect personal data.</p> <p>Suppliers will need to adhere to cyber essentials in line with the National Cyber Security Centre guidance https://www.ncsc.gov.uk/guidance.</p>
G3	<p>Personal data that will be processed and maybe where relevant is set out below:</p> <p>Required</p> <ul style="list-style-type: none"> - Age - Date of birth - Nationality - Address history - Index offence - Risk of re-offending - Family circumstances <p>Required, where relevant</p> <ul style="list-style-type: none"> - Risk of serious harm assessment and details - Previous offending history - Protected characteristics (e.g. disability) - Substance misuse - Mental health and other health information - MAPPA category/ level

Service Group	Service
	- Integrated Offender Management (IOM) /Prolific and other Priority Offender (PPO) status
G4	Email correspondence will need to be secure, as a minimum this is to be in line with the National Cyber Security Centre guidance https://www.ncsc.gov.uk/guidance .
G5	<p>The Supplier shall ensure that it's personnel share and receive relevant information about referred Service Users to inform their assessments, and arrangements are in place, including Information Sharing Agreements to enable this to happen, with the Probation Responsible Officer (CRC or NPS), prison, Local Authority, Prison Work Coaches.</p> <p>The Information Sharing Agreements should be in place prior to service go live.</p> <p>The information shall include: accommodation circumstances, offending related factors, risk of harm information. It is likely to be contained in the Basic Custody Screening Tool assessments, OASys, or Pre-Sentence Report.</p>

H- Communication and Marketing

Service Group	Service
H1	<p>The Supplier shall design and distribute promotional material throughout the first year of the pilot, and particularly during the first three months of operation, to bring the Services to the attention of probation and prison staff, who may refer Service Users, and other identified stakeholders (including those identified by the Authority) in order to maximise appropriate referrals including:</p> <ol style="list-style-type: none"> 1. HM Prisons 2. National Probation Service; and 3. Community Rehabilitation Companies. 4. Local Authorities.

Service Group	Service
	<p>All promotional materials will reference both government departments (Ministry of Justice and Ministry of Housing, Communities and Local Government) and require Authority Approval prior to use.</p> <p>The Supplier should analyse monthly the referrals it receives, noting from which organisations. If it notices no referrals, or a low number from one of the key organisations listed above it should investigate why and ensure this is resolved.</p>
H2	<p>Media enquiries and communication:</p> <p>The Supplier will not make any media statements related to the pilot without agreement of the Authority. The Supplier shall refer any media enquiries and press releases to the Senior Contract Manager, for the Authority for Approval.</p>

I - Service User Engagement

Service Group	Service
I1	The Supplier shall have arrangements in place to obtain feedback from Service Users on the delivery of services that affect them and to use this to improve the service that they provide. As a minimum this should be undertaken bi-annually.

J – Monitoring and Evaluation

Service Group	Service

J1	<p>The Supplier shall collect management information data and keep records to be able to effectively monitor the operation of the pilot and to demonstrate the quality of the delivered service and ensure that its services are achieving the intended outcomes.</p> <p>The Supplier will work with the Authority to agree the data that will be collected. At a minimum, this shall include per month;</p> <ol style="list-style-type: none"> 1. Progress on mobilisation (for example, numbers of staff in post), 2. Numbers of accommodation units available, 3. Number of referrals received and from which organisations, 4. Number of offenders assessed, 5. Number of Service Users accepted onto the pilot, 6. Reasons why referred offenders not accepted onto the pilot, 7. Number of Service Users placed in accommodation (during the month), 8. Total number of Service Users in accommodation, 9. Service Users exiting the pilot, 10. Case studies of Service Users who have been supported, in prison and post-release, 11. Staff hours worked.
J2	The Supplier shall implement processes to ensure the consistency and quality of the management data captured.
J3	The Supplier shall facilitate and encourage the sharing of best practice and lessons learnt across the pilot areas to drive improvements in outcomes for the Service Users. This shall take the form of reports to the Local Assurance Group.
J4	The Supplier must ensure that the records and management information data collected is of enough quality to enable the Authority to reconcile the services delivered against the intended outcomes, allowing for the payment against invoice submitted by the Supplier.
J5	The Supplier shall have arrangements in place to share Monitoring and Evaluation data securely with the Authority
J6	The Supplier shall ensure that the pilot status on placement outcomes is shared with the relevant Local Authority.

K – Staff

Service Group	Service
K1	<p>The Supplier will establish a dedicated team that will deliver the housing-related support service, ready for the 'go live' date.</p> <p>Staff will be recruited according to the Suppliers Recruitment and Selection Policy, including the requirement for satisfactory references.</p> <p>The Supplier will ensure a DBS check is completed. Offending history should not automatically exclude the applicant from employment (in fact it may be beneficial) but should be part of a suitability / staff risk assessment process.</p> <p>The Supplier shall ensure that, during the mobilisation period, and as necessary where after, that prison security checks are completed for all staff who will be working in the prison, in accordance with PSI 7/ 2014.</p> <p>https://www.justice.gov.uk/downloads/offenders/psipso/psi-2014/psi-07-2014-security-vetting.pdf</p> <p>The management structure will be organised appropriately to ensure the service is run safely and effectively. Arrangements will always be in place to cover staff absence and for the level of service to be maintained. In the event of a significant disruption that would limit or prevent the service being provided the Supplier will inform the Authority.</p>

K2	<p>All staff will have the appropriate skills and experience to fulfil their role, have a clear understanding of their roles and responsibilities, know to whom they are accountable, receive an induction and have access to appropriate training and specialist training as appropriate to enable them to undertake their responsibilities effectively.</p> <p>The service structure should include roles that have: skills and experience in working with vulnerable people, knowledge of the criminal justice system, knowledge of the private rented sector and Landlord and tenant law. The support roles should have knowledge of the wider support services available in area and understanding of how to access welfare benefits, employment and training services, health services and substance misuse services.</p> <p>Staff who line manage staff should receive all relevant training to enable them to support front line staff. Staff management should include regular one to one supervision session and the identification and delivery against the training and support needs within the staff structure.</p>
K3	The Supplier should ensure those with lived experience (ex-offenders and/or homeless) are encouraged to apply for the staff positions required for the pilot.
K4	The Supplier shall during the mobilisation period work with the Governor to have access to office space, computer, and a telephone within the prison.
K5	The Supplier shall have an office base in the community where they can work from, having use of a computer, telephone, storage space for paper records and interview Service Users.

APPENDIX 1

PERFORMANCE MEASURES

As part of the Contract award the Authority wishes to work with the successful Supplier(s) on the performance measures for the Offender Accommodation Pilot, these include, but are not be limited to the following, where an X is stated, this is to be defined:

REDACTED

2. Evaluation Scoring Descriptors

REDACTED

3. Qualification Envelope

3.1 Qualification Envelope Response.

Exported on: 01/04/2019 13:58 GMT + 0:00						
Project Code	prj_3026					
Project Title	Offender Accommodation Pilot					
Reference						
ITT Code	ITT_2724					
ITT Title	Offender Accommodation Pilot ITT - Qualification					
ITT Status	Qualification Evaluation					
				Foundation		
Displayed in Event Currency (GBP)				Response Date : 30/03/2019 07:47:19		
1 Qualification Envelope				Questions Answered		
				34 (out of 39)		
1.1 Potential supplier information				14 (out of 18)		
	Question	Description		Response		
1.1.1	1.1a)	(*) Full name of the Supplier completing the ITT		Foundation UK		
1.1.2	Company Address	(*) Registered company address		3 Limewood Way, Leeds, West Yorkshire, LS14 1AB		
1.1.3	Trading status	(*) Please select from the options to indicate your trading status		A limited company		
1.1.4	Year of incorporation	Year of incorporation		29/06/1984		
1.1.5	Company Number	(*) Registered company number		01829004		

1.1.6	Charity Number	(*) Registered charity number		515517
1.1.7	DUNS Number	<p>Please provide your DUNS Number.</p> <p>For more information about DUNS number please refer to the Dun and Bradstreet website http://www.dnb.co.uk</p> <p>You can request a DUNS number by going to: http://www.dnb.co.uk/myduns</p>		769215666
1.1.8	VAT Number	(*) Registered VAT number		100 1451 93
1.1.9	Please select your type of organisation:	(*) Please select your type of organisation:		Public Limited Company
1.1.10	Company Classifications	(*) Company Classifications - Please select from the options to indicate whether any of the following classifications apply to you - See EU definition of SME: http://ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/sme-definition/		(VCSE)
1.1.11	Are you a Non-UK Business?	(*) Are you a Non-UK Business?		No
1.1.12	Are you a SME?	(*) Small Medium Enterprise (SME)		No

1.1.1 3	If you selected SME, please state your SME classification	<p>Small Medium Enterprise (SME) definition:</p> <p>Micro classification: Headcount ≤ 10, Annual Turnover and/or Annual Balance Sheet Total does not exceed EUR 2 million</p> <p>Small classification: Headcount ≤ 50, Annual Turnover and/or Annual Balance Sheet Total does not exceed EUR 10 million</p> <p>Medium classification: Headcount ≤ 250 Annual Turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million</p>		
1.1.1 4	Parent Company	Parent Company		
1.1.1 5	Parent Company Address	Parent Company Address		
1.1.1 6	Parent Company Registration Number	Parent Company Registration Number		
1.1.1 7	Immediate Parent Company	(*) Name of immediate parent company		N/A
1.1.1 8	Ultimate Parent Company	(*) Name of ultimate parent company		Inspire North
1.2 Bidding model				5 (out of 5)
	Question	Description		Response
1.2.1	Bidding model	(*) Are you bidding as the lead contact for a group of economic operators?		No
1.2.2	Bidding model	Name of group of economic operators (if applicable)		n/a

1.2.3	Bidding model	Proposed legal structure if the group of economic operators intends to form a named single legal entity prior to signing a contract, if awarded. If you do not propose to form a single legal entity, please explain the legal structure.		n/a
1.2.4	Bidding model	Are you or, if applicable, the group of economic operators proposing to use sub-contractors?		Yes
1.2.5	Bidding model	<p>If you have responded yes to the use of sub-contractors, please provide additional details for each sub-contractor as an attachment to this question.</p> <p>Please provide:</p> <p>Name Registered address Trading status Company registration number Head Office DUNS number (if applicable) Registered VAT number Type of organisation SME (Yes/No) The role each sub-contractor will take in providing the works and /or supplies e.g. key deliverables The approximate % of contractual obligations assigned to each sub-contractor</p>		REDACTED
1.3 Exclusion Grounds				10 (out of 10)
	Question	Description		Response
1.3.1	Grounds for mandatory exclusion 16	(*) Within the past five years, has your organisation (or any member of your proposed consortium, if applicable), Directors or partner or any other person who has powers of representation, decision or control, been convicted of any offence under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by		No

		Grounds for Mandatory Exclusion 14 and 15?		
1.3.2	Grounds for mandatory exclusion 1	(*) Within the past five years, has your organisation (or any member of your proposed consortium, if applicable), Directors or partner or any other person who has powers of representation, decision or control been convicted of conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/ JHA on the fight against organised crime?		No
1.3.3	Grounds for mandatory exclusion 2	(*) Within the past five years, has your organisation (or any member of your proposed consortium, if applicable), Directors or partner or any other person who has powers of representation, decision or control been convicted of corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906?		No
1.3.4	Grounds for mandatory exclusion 3	(*) Within the past five years, has your organisation (or any member of your proposed consortium, if applicable), Directors or partner or any other person who has powers of representation, decision or control been convicted of the common law offence of bribery?		No

1.3.5	Grounds for mandatory exclusion 14	(*) Within the past five years, has your organisation (or any member of your proposed consortium, if applicable), Directors or partner or any other person who has powers of representation, decision or control been convicted of any offence listed - (i) in section 41 of the Counter Terrorism Act 2008?		No
1.3.6	Grounds for mandatory exclusion 6	(*) Within the past five years, has your organisation (or any member of your proposed consortium, if applicable), Directors or partner or any other person who has powers of representation, decision or control been convicted of the following offences, where the offence relates to fraud affecting the European Communities' financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities: (ii) The offence of conspiracy to defraud?		No
1.3.7	Grounds for mandatory exclusion 17	(*) Within the past five years, has your organisation (or any member of your proposed consortium, if applicable), Directors or partner or any other person who has powers of representation, decision or control been convicted of (h) Money laundering within the meaning of sections 340(11) and 415 of the Proceeds of Crime Act 2002?		No
1.3.8	Grounds for discretionary exclusion	(*) Do you make checks to verify all workers are entitled to work in the UK? If 'yes', please provide details.		Yes - prior to any offer of employment we obtain original versions of one or more acceptable documents (e.g. UK Passport; Permanent Residence Card; current Immigration Status Document), check the document's validity in the presence of the holder, and make and retain a copy of the document

1.3.9	Grounds for discretionary exclusion	(*) Do you have a criminal record checking procedure in place for your employees and sub contractors?		Yes - all employees and sub contractors must undertake a criminal records check carried out by the Disclosure & Barring Service (DBS)
1.3.10	Grounds for discretionary exclusion 3	(*) Within the past three years, please indicate if any of the following situations have applied, or currently apply, to your organisation: Your organisation is guilty of grave professional misconduct, which renders its integrity questionable?		No
1.4 Selection Questions				1 (out of 2)
	Question	Description		Response
1.4.1	Economic and Financial Standing	Are you able to provide a copy of your audited accounts for the last two years, if requested?		Yes
1.4.2	Economic and Financial Standing	<p>If you have answered no to question 1.4.1, are you able to provide either a statement of turnover, Profit and Loss Account/Income Statement, Balance Sheet/Statement of Financial Position and Statement of Cash Flow for the most recent year of trading for this organisation.</p> <p>or</p> <p>A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position.</p>		
1.5 Modern Slavery Act 2015				2 (out of 2)
	Question	Description		Response
1.5.1	Modern Slavery Act 2015	(*) Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")?		N/A

1.5.2	Modern Slavery Act 2015	(*) If you have answered yes, are you compliant with the annual reporting requirements contained within Section 54 of the Act 2015? If yes, please provide relevant URL if no, please provide an explanation		No
1.6 Insurance				1 (out of 1)
	Question	Description		Response
1.6.1	Insurance	(*) Please self-certify whether you already have, or can commit to obtain, prior to the commencement of the contract, the levels of insurance cover indicated below: Y/N Employer's (Compulsory) Liability Insurance = REDACTED Public Liability Insurance = REDACTED Professional Indemnity Insurance = REDACTED *It is a legal requirement that all companies hold Employer's (Compulsory) Liability Insurance of REDACTED as a minimum. Please note this requirement is not applicable to Sole Traders.		Yes
1.7 Other questions				1 (out of 1)
	Question	Description		Response

1.7.1	Providing service	(*) Do you have experience of providing accommodation services? Please provide details,		REDACTED
1.8 Additional Attachments Area				Attachments: 0
Reject on Qualification Response				No
Official Reject/Accept Notes				

3.2 Response to Additional Qualification Questions.

Question Number	Question	Answer	Answer required
A1			
A1.1	Is it a legal requirement in the state where you are established for you to possess a particular authorisation, or be a member of a particular organisation in order to provide the services specified in this procurement?	No	Yes/No
A1.2	If you responded 'Yes' to 1.1(j) - (i), please provide additional details of what is required and confirmation that you have complied with this.		Text
A1.3	Trading name(s) that will be used if successful in this procurement	Foundation UK	Yes/No
A1.4	<p>Details of Persons of Significant Control (PSC), where appropriate:</p> <ul style="list-style-type: none"> - Name; - Date of birth; - Nationality; - Country, state or part of the UK where the PSC usually lives; - Service address; - The date he or she became a PSC in relation to the company (for existing companies the 6 April 2016 should be used); - Which conditions for being a PSC are met; <ul style="list-style-type: none"> - Over 25% up to (and including) 50%, - More than 50% and less than 75%, - 75% or more. <p>(Please enter N/A if not applicable)</p>	N/A	Yes/No
A2			

A2.1	<p>I declare that to the best of my knowledge the answers submitted and information contained in this document are correct and accurate.</p> <p>I declare that, upon request and without delay I will provide the certificates or documentary evidence referred to in this document.</p> <p>I understand that the information will be used in the selection process to assess my organisation's suitability to be invited to participate further in this procurement.</p> <p>I understand that the authority may reject this submission in its entirety if there is a failure to answer all the relevant questions fully, or if false/misleading information or content is provided in any section.</p> <p>I am aware of the consequences of serious misrepresentation.</p>	Yes	Yes/No
A2.2	Please confirm that you have read and that you accept your legal requirements under the Certificate of Bona Fide Tendering attached and that you have uploaded a signed copy to this question.	Yes	Yes/No
A2.3	Please confirm that you have read, and would be willing to contract, on the terms set out in the Security Policy within the Offender Accommodation Pilot contract (Schedule 7).	Yes	Yes/No
A3			

The detailed grounds for mandatory exclusion of an organisation are set out on the below web page, which should be referred to before completing these questions.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit all parts of the self-declaration.

Please Note: The authority reserves the right to use its discretion to exclude a potential supplier where it can demonstrate by any appropriate means that the potential supplier is in breach of its obligations relating to the non-payment of taxes or social security contributions.

Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation has been convicted anywhere in the world of any of the offences within the summary below and listed at the web page above.

A3.1	Conviction for Participation in a criminal organisation.	No	Yes/No
A3.2	Conviction for Corruption.	No	Yes/No
A3.3	Conviction for Fraud.	No	Yes/No
A3.4	Conviction for Terrorist offences or offences linked to terrorist activities	No	Yes/No
A3.5	Conviction for Money laundering or terrorist financing	No	Yes/No
A3.6	Conviction for Child labour and other forms of trafficking in human beings	No	Yes/No
A3.7	Conviction for any other offence within the meaning of article 57(1) of the Directives as defined by the law of any jurisdiction outside England, Wales and Northern Ireland	No	Yes/No
A3.8	Convicted of any other offence within the meaning of article 57(1) of the Directive created after 26th February 2015 in England, Wales and Northern Ireland	No	Yes/No

A3.9	<p>If you have answered 'Yes' to questions A3.1 - A3.8, please provide further details.</p> <p>Date of conviction, specify which of the grounds listed the conviction was for, and the reasons for conviction, Identity of who has been convicted</p> <p>If the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents.</p>		Text
A3.10	<p>If you have answered 'Yes' to any of the points above have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion ?</p>		Text
A3.11	<p>Regulation 57(3)</p> <p>Has it been established, for your organisation by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which the organisation is established (if outside the UK), that the organisation is in breach of obligations related to the payment of tax or social security contributions?</p>	No	Yes/No
A3.12	<p>If you have answered 'Yes' to question A3.11, please provide further details. Please also confirm you have paid, or have entered into a binding arrangement with a view to paying, the outstanding sum including where applicable any accrued interest and/or fines.</p>		Text
A4			

The detailed grounds for discretionary exclusion of an organisation are set out on the below web page, which should be referred to before completing these questions.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf

Please indicate if, within the past three years, anywhere in the world any of the following situations have applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation.

A4.1	Breach of environmental obligations?	No	Yes/No
A4.2	Breach of social obligations?	No	Yes/No
A4.3	Breach of labour law obligations?	No	Yes/No
A4.4	Bankrupt or is the subject of insolvency or winding-up proceedings, where the organisation's assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State?	No	Yes/No
A4.5	Guilty of grave professional misconduct?	No	Yes/No
A4.6	Entered into agreements with other economic operators aimed at distorting competition?	No	Yes/No
A4.7	Aware of any conflict of interest within the meaning of regulation 24 of PCR 2015 due to the participation in the procurement procedure?	No	Yes/No
A4.8	Been involved in the preparation of the procurement procedure?	No	Yes/No
A4.9	Shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior	No	Yes/No

	concession contract, which led to early termination of that prior contract, damages or other comparable sanctions?		
A4.10	The organisation is guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria.	No	Yes/No
A4.11	The organisation has withheld such information.	No	Yes/No
A4.12	The organisation is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015.	No	Yes/No
A4.13	The organisation has influenced the decision-making process of the contracting authority to obtain confidential information that may confer upon the organisation undue advantages in the procurement procedure, or has negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.	No	Yes/No
A4.14	If you have answered 'Yes' to any of the above, explain what measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion?		Text
A5			
A5.1	Please self certify that your organisation has a Health and Safety Policy that complies with current legislative requirements.	Yes	Yes/No

A5.2	Has your organisation or any of its Directors or Executive Officers been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years?	No	Yes/No
A5.3	<p>If your answer to question A5.2 was 'Yes' please confirm that you have provided details in a separate Appendix of any enforcement /remedial orders served and given details of any remedial action or changes to procedure you have made as a result.</p> <p>The Authority will exclude bidder(s) that have been in receipt of enforcement/remedial action orders unless the bidder(s) can demonstrate to the Authority's satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches.</p>		Text
A5.4	If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?	Yes	Yes/No

A5.5	<p>In line with Ministry of Justice (MoJ) Inclusion & Diversity Strategy and its commercial Equality, Diversity and Inclusion Policy, the MoJ is committed to promoting and advancing social inclusion and mobility. In addition to consideration of the nine protected characteristics under the Equality Act (2010), MoJ has extended its consideration of equality, diversity and inclusion to include socio-economic background. To fully promote a fair society and create a truly representative workforce, we must also remove the barriers that disproportionately affect those from lower socio-economic backgrounds. MoJ believes that for any level of skill & ambition, regardless of an individual's background, everyone should have an equal chance of getting the job they want or reaching a higher income bracket.</p> <p>All MoJ suppliers are expected to endorse and support our approach by considering how they will promote social mobility when recruiting new staff and/or ensure equal opportunities to individuals from a range of socio-economic backgrounds (SEBs) as well as other groups.</p> <p>N.B This question is to encourage the promotion of social inclusion only and will not be scored for evaluation purposes.</p> <p>Where the answer is no, this should be, for example, because you are a one-man band, very small enterprise (maximum of 25-30 employees) or in a niche market where the application of social mobility policy is not practicable.</p> <p>Will you consider social inclusion and work with MoJ by encouraging the offering of opportunities to</p>	Yes	Yes/No
------	---	-----	--------

	people from a range of social backgrounds?		
A6			
A6.1	Please confirm that you have read and understood the attached background and overview of the Cyber Security Essentials Scheme.	Yes	Yes/No
A6.2	Please confirm that you have read and understood the requirements for 10 Steps to Cyber Security and are willing to bid on these terms.	Yes	Yes/No

3.3 Certificate of Bona Fide Tendering



Ministry
of Justice

Certificate of Bona Fide Tendering

LEGAL RESPONSE REQUIREMENTS: CERTIFICATE OF BONA FIDE TENDERING

Title of contract to be awarded: Offender Accommodation Pilot (“the Contract”) Reference:

In this Certificate:

“the Authority” is the Secretary of State for Justice.

“the Authority’s Personnel” means employees, agents, consultants and sub-contractors of the Authority.

“Person” includes any legal persons, body or association, corporate or incorporate.

“Tender” is the offer by us to provide goods or services in response to the relevant contract notice published by the Authority.

“Agreement” or “Arrangement” includes any transaction private or open, or collusion, formal or informal, and whether or not legally binding.

In exchange for the Authority considering our Tender in good faith, we agree to act in good faith throughout the process in which our Tender is considered by the Authority up to the date of the full execution of the contract(s) awarded.

- We declare that our Tender is a bona fide tender, intended to be competitive, and that we have not fixed or adjusted the amount of the Tender by or under or in accordance with any Agreement or Arrangement with any other Person.
- We declare that we are not aware of any connection with a member of the Authority’s Personnel which could affect the outcome of the bidding process.

- We declare that neither we nor our employees or agents have done and we undertake that neither we nor our employees or agents will do at any time any of the following in connection with the procurement of this Contract:
 - a) communicate to any Person, other than those employees and agents of the Authority responsible for procuring the Contract, the amount or approximate amount of our proposed Tender (other than in confidence in order to obtain quotations necessary for the preparation of the Tender for insurance or a contract guarantee bond);
 - b) enter into any Agreement or Arrangement with any other Person to refrain from tendering or as to the amount of any Tender or the conditions on which any Tender is made;
 - c) enter into any Agreement or Arrangement with any other Person that we will refrain from tendering on a future occasion;
 - d) participate in or undertake behaviour which is or is apparently intended to or has the consequence of significantly restricting competition;
 - e) obtain from, or share with, any other Persons commercially confidential material of any sort with the aim of deriving an unfair advantage or restricting competition;
 - f) or agree to pay any sum of money or valuable consideration directly or indirectly to any Person for doing or causing to be done in relation to any other Tender for the services any act of the kind described above.
- We hereby certify that we have not canvassed any other Person in connection with the procurement of the Contract or this Tender or any Tender or proposed Tender for the Contract, and that no Person employed by us or acting on our behalf has done or will do any such act.
- We confirm that we have not, and shall not at any time before the award of the Contract act in a manner that may undermine the tender process, compromise or prejudice the Authority's ability to comply with its legal duties with regard to the bidding process or the Contract, including (without limitation) its duties to treat all tenders equally, with transparency and in accordance with the tender documents.
- We shall indemnify and keep indemnified and hold the Authority harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority may suffer or incur as a result of or in connection with (a) the failure by us to comply with the terms of this Certificate; (b) misstatements (whether made with or without intent to be misstatements) by us within this Certificate on which the Authority has relied to its detriment.

- We understand that any instances or suspected instances of illegal cartels or market sharing Arrangements will be referred to the Competition and Markets Authority for investigation and may be subject to action under the Competition Act 1998 or any replacement or similar legislation.
- We agree that the Authority may disclose our information/documentation (submitted to the Authority during this Procurement) more widely within Government for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes.
- We understand that any misrepresentation may also be the subject of criminal investigation or used as a basis for civil action.

I warrant and represent that I have all the requisite authority to sign this Certificate of Bona Fide Tendering on behalf of *Foundation UK*

Signed:	REDACTED
Name:	REDACTED
Title:	REDACTED
Date:	REDACTED

4. Technical Envelope

Question 1.1.1 Procurement Approach

Provide an action plan for the following:

- How will you ensure that the appropriate quantity of ready to use accommodation is provided in the right location?
 - What contingencies will be put in place if lease agreements are not finalised by the Service Commencement Date (SCD)?
 - How will you deliver affordable accommodation in areas of high demand, which are historically more expensive to purchase or lease property in?
 - How will you respond to any increases/decreases in Service User numbers?
-

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

Question 1.1.2 Transition at End of Pilot

Please outline your approach to creating and maintaining relationships with landlords and other key stakeholders to ensure accommodation is secured and/or maintained following the transition from participation in the pilot to independent living.

REDACTED

Question 1.1.3

How will you ensure the accommodation provided meets the standards set out in the specification, both at the beginning of the tenancy and maintained throughout.

REDACTED

Question 1.2.1 Service Provision:

Provide details around how you will engage and support Service Users (homeless ex-offenders) who may have complex needs, for example, substance misuse, mental health issues, and disability. Taking this into account, please provide details:

- a) Of identified Key Stakeholders/organisations you will work with under this pilot, please provide information around how you will work together to deliver the Service and ensure that continuous improvement is maintained during the Pilot.
- b) Around how Service User's will be supported by you and the key stakeholders/organisations identified in (a) to tackle re-offending related needs throughout the Pilot.

REDACTED

Question 1.2.2 End of Pilot

An aim of the pilot is to help Service User's live independently after the Pilot ends.

- a) How would you go about preparing the Service User for this?
 - b) How would you mitigate the risk of homelessness if the Service User is not at a stage where this would be achievable?
-

REDACTED

Question 1.2.3 Support Plan

Demonstrate how:

- The support plan will contribute towards delivering the aims of the Pilot.
 - The support plan intersects with other existing support services and/or plans, both in and out of Prison.
 - The Bidder proposes to make sure the Service User is effectively engaged with their support plan.
-

REDACTED

Question 1.2.3 Support Plan

Demonstrate how:

- The support plan will contribute towards delivering the aims of the Pilot.
- The support plan intersects with other existing support services and/or plans, both in and out of Prison.
- The Bidder proposes to make sure the Service User is effectively engaged with their support plan.

REDACTED

Question 1.2.4 Sustaining Tenancies

Provide details around how you will work together with your identified key stakeholders/organisations to provide support to Service Users throughout the pilot to sustain the tenancy, and ensure that continuous improvement is maintained during the pilot.

Please demonstrate what type of support you will offer the service user to sustain tenancies.

REDACTED

Question 1.2.6 Referral Process

The bidder is required to demonstrate:

- a) Their proposed referral process to bring Service User's onto the pilot.
- b) How Service User's and other relevant parties will be made aware of this i.e. distribution of Pilot publicity.
- c) What do you identify to be the main challenges in this referral process and how do you propose to overcome them.
- d) Who do you deem to be the key points of contact for the referral process.

REDACTED

Question 1.2.7 Assessment of Homelessness

How do you propose to assess whether the offender;

- a) is homeless or at risk of homelessness as defined in section A1 part 3 of the specification
 - b) meets all other Pilot eligibility criteria
-

REDACTED

Question 1.2.8 Service User Feedback

How do you propose to obtain Service User feedback, and how will you implement feedback received to improve the service?

REDACTED a

Question 1.3.1 Risk Framework Management

Do you have experience in undertaking risk framework management?

Yes, provide an example of a risk framework previously used.

REDACTED

Question 1.3.2 Out of Hours Support

Confirm that you would be willing to work with the Authority, if required, to provide a bespoke out of hours service for this pilot.

Please provide details of what out of hours support will be available to Service User's and how you will ensure that immediate action is undertaken.

This is in relation to Personal and Accommodation issues.

REDACTED

Question 1.3.3 Data Protection

Bidder uploaded a copy of their data protection policy.

Question 1.3.4 Management Information

Provide information around how you undertake collection and verification of data to satisfy management information reporting requirements.

Please provide examples of management information reporting currently undertaken for a similar contract.

Please confirm that you are willing to work with the Authority to create meaningful reporting areas.

REDACTED

Question 1.3.5 Data Analysis

Over the course of the pilot, the authority will require quality assured data to be provided to analyse the success of the pilot. Please confirm that you will be happy to work with the Authority to facilitate this.

REDACTED

Question 1.3.6 Incident Management

Demonstrate the steps that you will undertake to respond to the following Major Incidents (As defined in section F1):

- Death of Service User
- Racially aggravated assault
- Attempted suicide
- Police raid
- Fire/flood or structural damage

and the following reportable incidents:

- Verbal assault
- Vandalism
- Other abuse
- Alleged theft

REDACTED

Question 1.3.7 Case Recording and Data Management

Demonstrate your approach to case recording and data handling when communicating with Key Stakeholders such as Prisons, Probation Service, Local Authorities, etc.

REDACTED

Question 1.4.1 Recruitment Process

Provide details of your recruitment processes including what checks will be undertaken around criminal records and rights to work in the UK.

Please provide details of your proposed staffing structure for this contract including job titles and names, if applicable.

REDACTED

Question 1.4.2 Training

How will you ensure your staff have the needed skills to fulfil their role, what training will be undertaken?

REDACTED

SCHEDULE 2 – PRICES

Part 1

Commercial Submission

REDACTED

Sheet 1. Master Summary.

REDACTED

Sheet 2. Accommodation.

REDACTED

REDACTED

Sheet 3. Support Service.

REDACTED

Sheet 4. Staff.

REDACTED

Sheet 5. Mobilisation.

REDACTED

Sheet 6. Overhead Costs.

REDACTED

Sheet 7. Other.

REDACTED

2.1.1 Foundation UK – Additional Financial Information

General Comment

REDACTED

Salary Details

REDACTED

Part 2

1 Invoice requirements

1.1 All invoices submitted to the Authority must clearly state the word 'invoice' and contain the following information:

- i) a unique identification number (invoice number);
- ii) the Supplier's name, address and contact information;
- iii) the name and address of the department/agency in the Authority with which the Supplier is working;
- iv) a clear description of the services being invoiced for;
- v) the date the services were provided;
- vi) the date of the invoice;
- vii) the amount being charged;
- viii) VAT amount if applicable;
- ix) the total amount owed;
- x) a cost centre code (available from the Authority's business contact) or a valid Purchase Order number; and
- xi) the amount of the invoice in sterling or any other currency which is Approved.

1.2 All invoices submitted by email must meet the following criteria:

- i) email size must not exceed 4mb;

- ii) one invoice per file attachment (PDF). Multiple invoices can be attached as separate files; and
- iii) any supporting information, backing data etc. must be contained within the invoice PDF file.

1.3 Invoices relating to a Purchase Order shall:

- i) not contain any lines for items which are not on the Purchase Order; and
- ii) replicate, as far as possible, the structure of and the information contained in the Purchase Order in respect of the number of lines, line descriptions, price and quantity.

1.4 If required by the Authority, the Supplier shall:

- i) register and comply with any reasonable eMarketplace solution adopted for invoicing and procurement catalogues by the Authority; and
- ii) submit a structured electronic invoice in an Electronic Data Interchange format.

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: [xxx] 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 [xxx]		Signed for and on behalf of [insert name of Supplier]	
Signature		Signature	
Name		Name	
Title		Title	
Date		Date	

SCHEDULE 4 - PRISONS

ACCESS TO PRISONS

- 1 If Staff are required to have a pass for admission to Premises which is a prison, (a "**Prison**") the Authority shall, subject to satisfactory completion of approval procedures, arrange for passes to be issued. Any member of the 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.
- 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.
- 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.
- 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.

SECURITY

- 5 Whilst at a Prison 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.
- 6 The Authority may search vehicles used by the Supplier or Staff at Prisons.
- 7 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:
 - 7.1 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

- 7.2 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.

OFFENCES AND AUTHORISATION

- 8 In providing the Services the Supplier shall comply with PSI 10/2012.
- 9 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 5 – 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/646497/2017-09-3_Official_Sensitive_Supplier_Code_of_Conduct_September_2017.pdf

- 1.2 The Authority expects the Supplier and its Sub-Contractors to comply with their legal obligations, in particular those in Part 1 of this Schedule 5, and to meet the standards set out in the Code as a minimum. The Authority also expects the Supplier and its Sub-Contractors to use reasonable endeavours to comply with the standards in Part 2 of this Schedule 8.

PART 1 Statutory Obligations

2 Equality and Accessibility

- 2.1 The Supplier shall:

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

3 Modern Slavery

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

- (a) the Modern Slavery Act 2015 ("**Slavery Act**"); and
- (b) the Authority's anti-slavery policy as provided to the Supplier from time to time ("**Anti-slavery Policy**").

3.2 The Supplier shall:

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

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

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

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

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

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

3.6 If the Supplier is in Default under paragraphs 3.2 or 3.3 of this Schedule 5 the Authority may by notice:

- (a) require the Supplier to remove from performance of the Contract any Sub-Contractor, Staff or other persons associated with it whose acts or omissions have caused the Default; or
- (b) immediately terminate the Contract.

4 Income Security

4.1 The Supplier shall:

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

5 Working Hours

5.1 The Supplier shall ensure that:

- (a) the working hours of Staff comply with the Law, and any collective agreements;
- (b) the working hours of Staff, excluding overtime, is defined by contract, do not exceed 48 hours per week unless the individual has agreed in writing, and that any such agreement is in accordance with the Law;
- (c) overtime is used responsibly, considering:
 - (i) the extent;
 - (ii) frequency; and
 - (iii) hours worked;
- (d) the total hours worked in any seven-day period shall not exceed 60 hours, except where covered by paragraph 5.3 of this Schedule 5;

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

6 Right to Work

6.1 The Supplier shall:

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

7 Health and Safety

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

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

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

8 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:

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

8.2 The Supplier shall not during the Term:

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

8.3 The Supplier shall, during the Term:

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

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:

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

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:

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

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

PART 2 Corporate Social Responsibility

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

10 Sustainability

- 10.1 The Supplier shall:
- (a) comply with the applicable Government Buying Standards;
 - (b) provide, from time to time, in a format reasonably required by the Authority, reports on the environmental effects of providing the Services;
 - (c) maintain ISO 14001 or BS 8555 or an equivalent standard intended to manage its environmental responsibilities; and
 - (b) perform its obligations under the Contract in a way that:
 - (i) supports the Authority's achievement of the Greening Government Commitments;
 - (ii) conserves energy, water, wood, paper and other resources;
 - (iii) reduces waste and avoids the use of ozone depleting substances; and
 - (iv) minimises the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

SCHEDULE 6 – DATA PROCESSING

1. The contact details of the Authority's Data Protection Officer are: REDACTED
2. The contact details of the Supplier's Data Protection Officer are: REDACTED
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 6.

Description	Details
Subject matter of the processing	<p><i>[This should be a high level, short description of what the processing is about i.e. its subject matter of the contract.</i></p> <p><i>Example: The processing is needed in order to ensure that the Supplier can effectively deliver the contract to provide a service to members of the public]</i></p>
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), Authoritys/ 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>

SCHEDULE 7 – GOVERNANCE AND ASSURANCE

For the purposes of this Schedule, Authority Policy means:

1. AUTHORITY POLICIES

- 1.1. Prisons are subject to rules, regulations and guidelines. These are outlined in Prison Service Instructions (PSIs), Prison Service Orders (PSOs) and Policy Frameworks (PF). In 2018, a programme of work to renew and replace all previous policy documentation with Policy Frameworks was commenced. From September 2018, all new instructions have been issued in one or more of the following formats:
 - 1.1.1. **Policy Frameworks** convey mandatory actions to prison establishments and will supersede PSIs and PSOs over time;
 - 1.1.2. **Prison Service Instructions** and **Prison Service Orders** convey mandatory actions to prison establishments which may be updated or issued until such time superseded by Policy Frameworks;
 - 1.1.3. **Probation Instructions** convey mandatory actions to probation services; and
 - 1.1.4. **HMPPS Agency Instructions** convey instructions to HMPPS HQ Staff (including where appropriate the regional structures). Where an AI is of interest or relevance outside of the originating unit in HMPPS headquarters there will be a corresponding PF, PSI, PSO or PI which will contain any mandatory actions.
- 1.2. Policy Frameworks do not have an expiry date. Although Prison Service Instructions, Prison Service Orders and HMPPS Agency Instructions have an expiry date, the Supplier shall comply with all PSIs, PSOs and AIs during the Contract Period until they have been specifically cancelled and removed from the Authority's intranet (PSI 29/2012). Cancellations and removals will also be published through the 'Senior Leaders Bulletin' which will be distributed electronically to the Director or other person nominated by the Supplier.
- 1.3. The Supplier shall comply with all HMPPS Standards, HMPPS Agency Instructions, Prison Service Instructions, Prison Service Orders, Policy Frameworks and all applicable Legislation that applies to the Services.
- 1.4. The Supplier shall adhere to all Authority Policies where they meet the following criteria:
 - 1.4.1. the policy has been published by HMPPS;
 - 1.4.2. the policy is valid and within the expiration date (except those described in

paragraph 1.2;

- 1.4.3. the policy applies to prisons operated by the private sector or to 'all prisons'; and
- 1.4.4. the policy has not been superseded, varied or cancelled by another policy document.

2. CANCELLED/AMENDED POLICIES AND PUBLICATION OF POLICY FRAMEWORKS

- 2.1 The Supplier shall have access to the HMPPS intranet and 'Senior Leaders Bulletin' where information of cancelled/amended policies and publication of new Policy Frameworks will be available.
- 2.2 The Supplier shall ensure that notifications of policy updates as described in **paragraph 1.2** or other methods from the Authority are adhered to.

3. THE NATIONAL SECURITY FRAMEWORK

- 3.1 The Supplier shall adhere to the National Security Framework and the associated policies including all PSIs, PSOs and PFs. Information and changes to the National Security Framework policies shall be issued under separate cover due to additional security restrictions.

4. MOJ PRIVACY MARKING HANDLING POLICY

- 4.1 The Supplier shall adhere to the Information Assurance Policy (AI 18/2014 and PSI 18/2014) as documented at <https://www.justice.gov.uk/downloads/offenders/probation-instructions/pi-18-information-assurance-policy.doc> and other Government policies and standards relating to ICT security.
- 4.2 The Supplier shall adhere to the principles as detailed in the Government Security Classifications, May 2018 in relation to the handling, storing and retention of all information.
- 4.3 The Supplier shall ensure it has available for the purposes of this Contract an Information Security Management System compliant to ISO/IEC 27001, as amended and updated from time to time, to cover the Information Assurance objectives set out in this Contract throughout the Term, and will develop a plan of work to meet ISO/IEC 27001 certification within twelve (12) Months of the Commencement Date. This plan to ensure compliance with ISO/IEC 27001, as amended and updated from time to time, shall include the scope, statement of applicability, risk management plans, risk treatment plans and other artefacts all of which shall be agreed with the Authority.
- 4.4 The Supplier shall provide, no later than three (3) Months before the Commencement Date, the name and contact details of a person from the Supplier, who shall be accountable for the

provision of technical, personnel, procedural and physical security aspects under the Contract, including but not limited to security clearances.

- 4.5 The Supplier shall provide the Authority with such access to and information on the Supplier's Systems as the Authority requires in order to audit and assess technical, personnel, procedural and physical security controls at any sites used for the purpose of meeting the Supplier's obligations under this Contract.
- 4.6 The Supplier shall ensure that cyber security is embedded in all service management (in compliance with ISO/IEC 20000, as amended and updated from time to time), including, but not limited to:
 - 4.6.1 Change management;
 - 4.6.2 incident management; and
 - 4.6.3 other service management artefacts aligned with ISO/IEC 20000.
- 4.7 The Supplier shall ensure that all development and test environments in Supplier's Systems shall have assured separation from the live/production systems, and shall not use live/production information without Approval.
- 4.8 The Supplier shall ensure that the Supplier's System shall be compliant with Legislation and Authority Policies, as amended from time to time,
- 4.9 The Supplier shall ensure that the Supplier's System, including source code, shall be developed and reviewed against good commercial practices and in accordance with Good Industry Practice, taking into account the environment of the sites in which it will be situated for the purpose of meeting the Supplier's obligations under this Contract. The Supplier shall undertake regular review of the Supplier's System to include security and cyber threat testing of the infrastructure and applications, and outcomes will be shared with the Authority, in line with HMG Standards and Guidance including an annual ICT health check in line with Good Industry Practice. The results of all reviews or health checks must be provided to the Authority as soon as practicable upon completion.
- 4.10 The Supplier shall ensure that the Supplier's System notifies the users of the Supplier's System to read and accept the terms and conditions of use, at least annually.
- 4.11 Without prejudice to its other obligations in relation to protecting Authority Data, the Supplier shall adequately protect all information processed or retained on Supplier's systems (including personal information) and ensure that their systems deliver security management of all Authority Data in accordance with the Government Classification Scheme at 'OFFICIAL'.

- 4.12 The Supplier shall provide to the Authority the Supplier's plans to deliver appropriate cyber security engagement prior to the Commencement Date.
- 4.13 The Supplier shall ensure that the Supplier's System's design and operation follows Authority Policy and Good Industry Practice for cyber security, minimising access to those with a need to know, minimising the data that is held, and which is security tested (at a minimum Monthly vulnerability scans and more in-depth security testing based on how any changes affect risk posture) for robustness against vulnerabilities.
- 4.14 The Supplier shall comply to the extent within its control with UK Government's Open Standards Principles as documented at <https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles>, as they relate to the specification of standards for software interoperability, data and document formats in the Supplier's System.

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

SIGNED for and on behalf of the [insert
name of Authority]

REDACTED

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

REDACTED