

## SCHEDULE 22

### PENSIONS

#### PART A

#### 1. DEFINITIONS AND INTERPRETATIONS

In this Schedule:

**Administering Authority** means the Tameside Metropolitan Borough Council in its capacity as administering authority of the Fund or such other body administering the fund established under the Local Government Pension Scheme in which the Eligible LGPS Employees are active members or eligible to join;

**Agreed Rate of Increase** means the rate of annual increase in pensionable pay assumed by the actuary in the latest formal actuarial valuation for the Fund, including an allowance for promotional increases;

**Authority's Statement of Recommended Discretionary Practices** means the statement of recommended discretionary practices issued to Community Rehabilitation Companies from time to time setting out the recommended approach in relation to the exercise of a Scheme employer's functions to be the subject of the written statement referred to in regulation 60 of the LGPS 2013 Regulations;

**Cessation Date** means, for the purposes of paragraph 2.8, the date on which the Contractor ceases to be an Admission Body other than as a result of the termination of this Agreement or because it ceases to employ any Eligible LGPS Employees;

**Contractor Admission Agreement** means an LGPS Admission Agreement entered into in accordance with Part 3 of Schedule 2 of the LGPS 2013 Regulations by the Administering Authority, the Authority and the Contractor;

**Contractor Scheme** has the meaning given to it in paragraph 2.9 of this Schedule;

**Contribution Liability** has the meaning given to it in paragraph 2.3(b) of this Schedule;

**Eligible LGPS Employees** means those of the Original Employees who are active members of (or eligible to join) the Local Government Pension Scheme on an Original Employee Transfer Date or prior to the Amendment Date, and who remain as active members (or eligible to join) the Local Government Pension Scheme for so long as they are wholly or mainly engaged in connection with the provision of the Services;

**Eligible PCSPS Employees** means those of the Original Employees who on an Original Employee Transfer Date or prior to the Amendment Date are: (i) in reckonable service under the PCSPS within the meaning of the rules of the PCSPS, or (ii) eligible to be in reckonable service, or (iii) would be in reckonable service but for long term absence from work or a waiting period, or (iv) who opted out of membership of the PCSPS but who retain the right to opt back into membership, and, in all cases, who remain as active members (or eligible to join) the PCSPS for so long as they are wholly or mainly engaged in connection with the provision of the Services;

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**Exit Contribution** means:

- (a) the revised contributions required by the Administering Authority from the Contractor or a Subcontractor set out in a rates and adjustment certificate arising as a result of a valuation carried out under regulation 64(2) of the LGPS 2013 Regulations upon the termination of this Agreement or a Subcontract or, if earlier, on the termination of the Contractor Admission Agreement or Subcontractor Admission Agreement; or
- (b) the revised contributions required by the Administering Authority from a Contractor or a Subcontractor set out in the actuary's certificate prepared in the circumstances set out in regulation 64(4) of the LGPS 2013 Regulations; or
- (c) the revised contributions required by the Administering Authority from a Contractor or a Subcontractor set out in a rates and adjustment certificate arising as a result of a valuation carried out under regulation 64(2) of the LGPS 2013 Regulations, or otherwise, and pursuant to paragraph 2.5(i) (or equivalent provision in a relevant Subcontract) in circumstances where the Contractor or Subcontractor is treated as an exiting employer in relation to certain Original Employees who are transferring to a Future Service Provider on a sub-contracting of part of the Services but the Contractor Admission Agreement or Subcontractor Admission Agreement is not terminating;

**Former LGPS Fund** means the pension fund of the Local Government Pension Scheme in which the Eligible LGPS Employees were active members immediately prior to the Original Employee Transfer Date or prior to the later commencement of employment with the Contractor;

**Fund** means the Greater Manchester Pension Fund of the Local Government Pension Scheme;

**Future Service Provider** means any alternative service provider or Subcontractor appointed to perform the Services or any part of the Services;

**Ill-Health** means any condition which qualifies a person for benefits under regulation 35 of the LGPS 2013 Regulations;

**LGPS Admission Agreement** means an admission agreement in respect of the Local Government Pension Scheme substantially in the form attached as Appendix 1 to this Schedule;

**LGPS Admission Body** means an admission body for the purposes of paragraph 1 of Part 3 of Schedule 2 of the LGPS 2013 Regulations;

**LGPS 2013 Regulations** means the Local Government Pension Scheme Regulations 2013;

**LGPS Fund** means a pension fund within the Local Government Pension Scheme;

**Local Government Pension Scheme** means the occupational pension scheme constituted by the Local Government Pension Scheme Regulations 2013 and where the context admits, the earlier occupational pension schemes constituted under 1995, 1997 and 2008 Regulations made by the Secretary of State in exercise of powers under Sections 7 and 12 of the Superannuation Act 1972, as amended from time to time;

**Minister** means the Minister for the Civil Service;

**New Scheme** means the new public service pension scheme for civil servants established under the Public Service Pensions Act 2013 and planned to be introduced in 2015;

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**Old Scheme** means the public service pension scheme for civil servants established under the Superannuation Act 1972;

**Offender Management Regulations** means the Local Government Pension Scheme (Offender Management) Regulations 2014;

**Original Employees** means (i) those employees wholly or mainly engaged in the provision of the Services immediately before the Original Employee Transfer Date whose employments transfer from the Authority or other body engaged in the provision of probation services to the Contractor pursuant to a Relevant Transfer or a Staff Transfer Scheme prior to the Amendment Date; (ii) any new employees employed by the Contractor and engaged wholly or mainly in the provision of the Services prior to the Amendment Date; and (iii) any employees who were wholly or mainly engaged in the provision of probation services immediately before the Amendment Date and whose employments transfer from the Authority or another person engaged by the Authority to provide probation services to the Contractor on a voluntary basis within the period of one calendar year from the Amendment Date (or within the period of one calendar year from 1 August 2014 in the case of an employee who is a member of the PCSPS);

**Original Employee Transfer Date** means the date on which an Original Employee transfers on a compulsory basis into the employment of the Contractor whether by virtue of a Relevant Transfer, a deemed Relevant Transfer, a Staff Transfer Scheme or otherwise;

**PCSPS** means the Old Scheme and/or the New Scheme, whichever is relevant in the context;

**PCSPS Admission Agreement** means an admission agreement entered into between the Contractor or a relevant Subcontractor (as appropriate), the Authority and the Minister for the Cabinet Office which sets out the terms by which the Contractor or the Subcontractor may participate in the PCSPS, substantially in the form attached as Appendix 3 to this Agreement;

**PCSPS Admission Body** means a body admitted to the PCSPS under the terms of a PCSPS Admission Agreement;

**PCSPS Rules** means the provisions of the Superannuation Act 1972, The Public Service Pensions Act 2013 and all applicable regulations and statutory rules created under such Acts, the rules of the PCSPS listed in the PCSPS Admission Agreement and the EPG and EPN referred to in the PCSPS Admission Agreement;

**Pension Contribution Adjustment Amount** has the meaning given in paragraph 2.4(c);

**Pensions Related Discretionary Action** means any or all of the following acts or omissions of the Contractor (or a Subcontractor) occurring after the Amendment Date other than as a result of any reorganisation or redundancy process commenced or agreed on or before the Amendment Date:

- (a) the consent to or grant of early retirement benefits on grounds of redundancy or for reasons of business efficiency to or in respect of an Eligible LGPS Employee;
- (b) the consent to or grant of any unreduced early retirement benefits to or in respect of an Eligible LGPS Employee or former Eligible LGPS Employee, whether or not for reasons of Ill-Health;
- (c) the consent to or grant of any other type of enhanced benefit under the LGPS 2013 Regulations to or in respect of an Eligible LGPS Employee or former Eligible LGPS Employee at the discretion of the Contractor (or a Subcontractor), including, but not limited

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to, an award of additional pension and enhanced benefits in the context of flexible retirement;

- (d) the grant of increases in pensionable pay (as defined in the LGPS Regulations) to Eligible LGPS Employees in excess of the Agreed Rate of Increase, calculated as the average increase over all Eligible LGPS Employees;
- (e) the employment of an Eligible LGPS Employee in relation to whom there is an inward transfer of pension rights under regulation 100 of the LGPS 2013 Regulations (other than in relation to a transfer of liabilities pursuant to the Local Government Pension Scheme (Offender Management) Regulations 2014 or in relation to any compulsory transfers of employments to the Contractor (or a Subcontractor) under TUPE or a Staff Transfer Scheme in the context of which it has been agreed by the Secretary of State for Justice that such liabilities are to be treated as fully funded on the Scheme's ongoing basis for the purpose of the Contractor's (or Subcontractor's) liability to fund those liabilities) or who exercises the option to aggregate a past period of membership with the current period of membership as an employee of the Contractor (or a Subcontractor) giving rise to a net additional liability for the Administering Authority; and/or
- (f) any act or omission which gives rise to any costs other than minimum employer contributions payable under any rates or adjustment certificate issued by the Administering Authority's Actuary in relation to the Contractor (or Subcontractor) from time to time, including but not limited to costs arising from any breach of the Contractor Admission Agreement (or Subcontractor Admission Agreement);

**Previous Employer** means the entity employing the Original Employees immediately prior to the transfer of their employments to the Contractor;

**Relevant Transfer** means a relevant transfer for the purposes of TUPE;

**Retirement Benefit Scheme** means a pension scheme registered under Chapter 2 of Part 4 of the Finance Act 2004;

**SSJ Pensions Guarantee** means a guarantee to be provided by the Authority referred to in paragraph 2.7;

**Staff Transfer Scheme** means a staff transfer made pursuant to Schedule 2, paragraph 5 of the Offender Management Act 2007;

**Subcontract** has the meaning set out in Schedule 1 but also includes a contract entered into between a Subcontractor and its subcontractor and between any subcontractor and its subcontractors, as permitted by this Agreement;

**Subcontractor** for the purposes of this Schedule has the meaning set out in Schedule 1 but shall also include any subcontractor of a Subcontractor and any subcontractor of a subcontractor from time to time, as may be permitted by this Agreement;

**Subcontractor Admission Agreement** means an LGPS Admission Agreement entered into in accordance with Part 3 of Schedule 2 of the LGPS 2013 Regulations by the Administering Authority and a Subcontractor; and

**TUPE** means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or modified from time to time;

All other capitalised terms shall have the meanings given to them in Schedule 1 to this Agreement.

## **2. LOCAL GOVERNMENT PENSION SCHEME**

### **2.1 Contractor and Subcontractors to be LGPS Admission Bodies under the Local Government Pension Scheme**

- (a) The Contractor shall use its best endeavours to procure that it and/or any relevant Subcontractor remains or shall become (as appropriate) an LGPS Admission Body for the purpose of the Eligible LGPS Employees earning benefits under the Local Government Pension Scheme and shall remain an LGPS Admission Body for the duration of this Agreement (or the relevant Subcontract as the case may be).
- (b) The Contractor shall, before the Original Employee Transfer Date, execute, and shall (at the appropriate time) use best endeavours to procure that each relevant Subcontractor executes an LGPS Admission Agreement in relation to the participation of the Eligible LGPS Employees in the Local Government Pension Scheme during their employment with the Contractor or Subcontractor. The LGPS Admission Agreement will have effect from and including the Original Employee Transfer Date or such later date (in the case of a Subcontractor) upon which the Services or a part of the Services are subcontracted to, and Eligible LGPS Employees are employed by the Subcontractor.
- (c) The Contractor shall, and shall procure that any Subcontractor that is an LGPS Admission Body shall, comply with the provisions of the LGPS Admission Agreement to which it is a party in all respects, for as long as it employs Eligible LGPS Employees.

### **2.2 Local Government Pension Scheme admission**

The Authority and the Contractor shall execute such agreements, and shall use best endeavours to ensure that the Administering Authority executes such agreements as are required for the Contractor and its Subcontractors to maintain their status as LGPS Admission Bodies in relation to the Eligible LGPS Employees for the duration of this Agreement and any Subcontract for the provision of the Services.

### **2.3 Funding position of the Fund at start of this Agreement and Subcontract**

- (a) The Offender Management Regulations prescribe the basis on which assets will transfer from a Former LGPS Fund to the Fund on the transfer of Eligible LGPS Employees to the Contractor in respect of the benefits they have earned under the Local Government Pension Scheme as at the Original Employee Transfer Date.
- (b) The Authority shall procure that for the purposes of the Contractor Admission Agreement and any Subcontractor Admission Agreement, the Contractor's or Subcontractor's liability to contribute to the Fund in respect of the Eligible LGPS Employees (**Contribution Liability**) will be evaluated by the Administering Authority's actuary on the basis that the assets in the Fund attributable to the liabilities in respect of the benefits payable to or in respect of the Eligible LGPS Employees at the Original Employee Transfer Date or such later date (in the case of a Subcontractor) upon which the Services or a part of the Services are subcontracted to and Eligible LGPS Employees are employed by the Subcontractor were equal to the value of those liabilities, calculated using the actuarial bases, methods and assumptions adopted by the Administering Authority's actuary for the purpose of determining the Contribution Liability.

**2.4 Contractor contribution rate**

- (a) Subject to the provisions of paragraph 2.9 below, on and from the Original Employee Transfer Date the Contractor shall pay to the Administering Authority on or before each relevant due date for payment such employer and employee contributions and other payments as are required from time to time under the LGPS 2013 Regulations and the Contractor Admission Agreement, to be credited to the Fund in respect of the Contractor's participation in the Local Government Pension Scheme for the Eligible LGPS Employees.
- (b) For the purpose of any adjustments to the Fixed FFS Adjustment Amount (as defined in Schedule 11) referred to in paragraph 2.4(c) below an initial minimum employer contribution rate of 14% of pensionable pay or assumed pensionable pay (as calculated for the purpose of regulation 67(4) of the LGPS 2013 Regulations) in respect of all Eligible LGPS Employees to be employed by the Contractor or any relevant Subcontractor has been assumed.
- (c) There will be an adjustment to the Fixed FFS Adjustment Amount (as defined in Schedule 11) where the employer contribution rate payable by the Contractor exceeds or is less than the assumed contribution rate of 14%, excluding any additional contributions for the Applicable Contract Year (as defined in Schedule 11) arising as a result of any Pensions Related Discretionary Actions on the part of the Contractor or Subcontractor. The amount by which the Fixed FFS Adjustment Amount is required to be adjusted in accordance with this paragraph shall be referred to as the **Pension Contribution Adjustment Amount**. Any adjustment to the Fixed FFS Adjustment Amount made under this paragraph 2.4(c) will be carried out in accordance with paragraph 5 of Schedule 11. The adjustment will be calculated as follows:

$$\text{Pension Contribution Adjustment Amount} = (A - B) * C$$

where:

**A** = the employer contribution rate payable by the Contractor, excluding any additional contributions for the Applicable Contract Year arising as a result of any Pensions Related Discretionary Actions on the part of the Contractor or Subcontractor.

**B** = 14%.

**C** = the relevant actual total pensionable pay and assumed pensionable pay amounts (as applicable) in relation to those Eligible LGPS Employees who are active members of the Local Government Pension Scheme and employed by the Contractor or a Subcontractor at the relevant time.

and pensionable pay and assumed pensionable pay have the meanings set out in regulations 20 and 21 of the LGPS 2013 Regulations.

- (d) No other changes in the employer contribution rate will give rise to an adjustment in the Fixed FFS Adjustment Amount for any Applicable Contract Year.
- (e) The contribution rate referred to in paragraph 2.4(b) above will include a provision for the costs of administration of the Fund chargeable under regulation 69(1)(c) of the LGPS 2013 Regulations. The Contractor shall pay to the Administering Authority any additional costs of administration properly charged to the Contractor under the LGPS 2013 Regulations and notified to it, by the due date for payment.

**2.5 Funding position of the Fund on, or in contemplation of, termination of the Contractor Admission Agreement**

- (a) When the Contractor or any relevant Subcontractor ceases to participate in the Local Government Pension Scheme on the termination of this Agreement or Subcontract or, if earlier, on the termination of the Contractor Admission Agreement or Subcontractor Admission Agreement, the Authority will liaise with the Administering Authority as soon as reasonably practicable to determine whether any liabilities will be transferring to a Future Service Provider or to the Authority for on-going funding before any Exit Contribution payable by the Contractor or Subcontractor is calculated.
- (b) Any transfer of liabilities to the Future Service Provider or to the Authority will be taken into account in the calculation of the Exit Contribution in the manner agreed between the Authority and Administering Authority (and the parties will use reasonable endeavours to ensure that no Exit Contribution is due where liabilities have been transferred to a Future Service Provider or to the Authority other than in relation to Pensions Related Discretionary Actions), but the Contractor's or Subcontractor's liability to pay an Exit Contribution will be as set out in this paragraph 2.5 (and the equivalent provision in the Subcontract) and the Contractor Admission Agreement (or Subcontractor Admission Agreement).
- (c) The Contractor shall notify the Authority immediately that it becomes aware that such an Exit Contribution is likely to fall due.
- (d) Where an Exit Contribution is determined by the Administering Authority as being due from the Contractor, the Administering Authority shall notify the Contractor and the Authority of the amount due and the Contractor shall pay the Exit Contribution to the Administering Authority in accordance with this paragraph 2.5 and the terms of the Contractor Admission Agreement and the LGPS 2013 Regulations on or before the due date for payment notwithstanding any other provision of this Schedule.
- (e) Upon notification that an Exit Contribution is likely to fall due in accordance with paragraph 2.5(d) (or under the equivalent provision in a relevant Subcontract), the Authority and the Contractor (and, where applicable, the relevant Subcontractor) shall each use all reasonable endeavours to procure that the Administering Authority notifies the Authority and the Contractor (and, where applicable, the relevant Subcontractor) of the portion of such Exit Contribution which can be attributed to Pensions Related Discretionary Actions (the **PRA Value**) at the same time as it notifies the Contractor (and, where applicable, the relevant Subcontractor) of the Exit Contribution due.
- (f) Upon being notified of the Exit Contribution and the PRA Value by the Administering Authority in accordance with paragraphs 2.5(d) (or the equivalent provision in the relevant Subcontract) and 2.5(e) above, the Authority shall:
  - (i) deduct the PRA Value from the Exit Contribution to produce the sum being the **Adjusted Exit Contribution**; and
  - (ii) pay an amount equal to the Adjusted Exit Contribution to the Contractor within 30 days of receiving a written demand from the Contractor for payment of the Adjusted Exit Contribution.
- (g) Subject to paragraph 2.5(d) above, within seven (7) days of receipt of the Adjusted Exit Contribution, the Contractor shall pay an amount equal to the Exit Contribution to the Administering Authority in full and final settlement of all amounts due from the Contractor to the Fund under the Contractor Admission Agreement and the LGPS 2013 Regulations (unless payment has already been

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made in accordance with paragraph 2.5(d)) (or, where applicable, shall procure that the relevant Subcontractor pays an amount equal to any Exit Contribution falling due from that Subcontractor under the relevant Subcontract).

- (h) In the event that the Contractor or relevant Subcontractor fails to pay the Exit Contribution to the Administering Authority in accordance with paragraph 2.5(g) (or the equivalent provision in the relevant Subcontract), the Authority shall demand in writing the immediate repayment of the Adjusted Exit Contribution by the Contractor and the Contractor shall make the repayment within seven (7) days of such demand.
- (i) The Contractor or relevant Subcontractor will be treated as an exiting employer for the purposes of regulation 64 of the LGPS 2013 Regulations and this paragraph 2.5, and an Exit Contribution and Adjusted Exit Contribution may become payable, in relation to any liabilities in respect of Original Employees transferring to a Future Service Provider on a subcontracting of part of the Services to the Future Service Provider in circumstances where the Contractor Admission Agreement or Subcontractor Admission Agreement is not terminating.
- (j) For the avoidance of doubt this paragraph 2.5 shall survive the termination of this Agreement.

**2.6 Right of set-off and direct payment to the Fund**

The Authority shall have the right to:

- (a) set off against any payments due to the Contractor under this Agreement an amount equal to:
  - (i) any overdue employer or employee contributions and any other overdue payments (including interest payable) due from the Contractor to the Fund under the Contractor Admission Agreement and the LGPS 2013 Regulations (including but not limited to the Exit Contribution) and to pay the overdue sums to the Fund;
  - (ii) any overdue employer or employee contributions and any other payments (including interest payable) due from any Subcontractor to the Fund under a Subcontractor Admission Agreement, and the LGPS 2013 Regulations (including but not limited to the Exit Contribution) and to pay the overdue sums to the Fund; and
  - (iii) subject to the Contractor not already having paid such amount to the Secretary of State for Justice in accordance with paragraph 2.7(b) below, any payments made by the Authority to the Administering Authority under the SSJ Pensions Guarantee or under a similar guarantee in favour of the Administering Authority in respect of certain of a Subcontractor's obligations under a Subcontractor Admission Agreement together with all reasonable costs and expenses incurred by the Authority relating to the same; and
- (b) pay the Adjusted Exit Contribution referred to in paragraph 2.5(f) direct to the Fund if the Authority determines, in its absolute discretion, that the circumstances are such that the Contractor or Subcontractor may not be able or willing to pay the Exit Contribution to the Fund for any reason.

**2.7 Authority guarantee, indemnities and bonds**

- (a) The Authority will provide a guarantee in favour of the Administering Authority in the form attached at Appendix 2 in relation to any contributions payable by the Contractor and any Subcontractor to the Local Government Pension Scheme in respect of the Eligible LGPS Employees.

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- (b) Subject to the Authority not already having set off such amount from any payments due to the Contractor under paragraph 2.6 above the Contractor must pay to the Secretary of State for Justice on demand an amount equal to any sum paid or that becomes payable by the Authority pursuant to the SSJ Pensions Guarantee together with all reasonable costs and expenses incurred by the Authority relating to the same.

**2.8 Contractor or Subcontractor ceases to be an LGPS Admission Body**

If the Contractor employs any Eligible LGPS Employees from an Original Employee Transfer Date and:

- (a) due to exceptional circumstances beyond the control of the Authority and the Contractor it is not possible to operate the provisions of paragraphs 2.1 to 2.6 inclusive meaning that continued access to the Local Government Pension Scheme for the Eligible LGPS Employees is not possible; or
- (b) if for any reason beyond the control of the Authority and the Contractor after the Original Employee Transfer Date the Contractor or any relevant Subcontractor ceases to be an LGPS Admission Body (other than on the date of termination or expiry of this Agreement or because it ceases to employ any Eligible LGPS Employees), the date of such cessation being the **Cessation Date**, and there are exceptional circumstances beyond the control of the Authority and the Contractor which mean that continued access to the Local Government Pension Scheme for the Eligible LGPS Employees is no longer possible,

then the provisions of paragraphs 2.1 to 2.7 inclusive shall not apply (without prejudice to any rights of the Authority under those paragraphs) and the provisions of paragraph 2.9 shall apply.

**2.9 Alternative to the Local Government Pension Scheme**

Where this paragraph 2.9 applies pursuant to paragraph 2.8 the following shall apply:

- (a) The Contractor shall, or shall procure that the relevant Subcontractor shall, not later than the Original Employee Transfer Date or the Cessation Date (as the case may be), nominate to the Authority in writing the occupational pension scheme or schemes which are to be the **Contractor Scheme** for the purposes of this paragraph 2.9. The Contractor Scheme must be:
- (i) established within three (3) months prior to the Original Employee Transfer Date or Cessation Date (as the case may be), where reasonably practicable, and capable of receiving a bulk transfer payment from the Local Government Pension Scheme on terms described in Part B to this Schedule (Bulk Transfer Terms);
- (ii) acceptable to the Authority as a scheme replacing the Local Government Pension Scheme for the Eligible LGPS Employees (such acceptance not to be unreasonably withheld or delayed);
- (iii) a registered pension scheme for the purposes of Part 4 of the Finance Act 2004; and
- (iv) broadly comparable to the Local Government Pension Scheme in accordance with the Fair Deal Policy published by HM Treasury in June 1999 (“Staff Transfers from Central Government: A Fair Deal for Staff Pensions”) and the Fair Deal guidance note issued by HM Treasury in June 2004 (“Fair Deal for Staff Pensions: Procurement of Bulk Transfer Agreements and Related Issues”), or, if any of the

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Original Employees were not active members of the Local Government Pension Scheme immediately before the Original Employee Transfer Date or Cessation Date benefits, which are the same as, broadly comparable to or better than those provided under the pension scheme of which they were active members immediately before the Original Employee Transfer Date or Cessation Date (as the case may be);

- (b) The Contractor shall procure that:
- (i) the Original Employees shall, where reasonably practicable, not later than three (3) months before the Original Employee Transfer Date or the Cessation Date (as the case may be) be offered membership of the Contractor Scheme with effect on and from the Original Employee Transfer Date or the Cessation Date (as the case may be);
  - (ii) the Contractor Scheme shall provide benefits in respect of the Original Employees' periods of service on and after the Original Employee Transfer Date or Cessation Date (as the case may be) which an actuary appointed by the Authority or the Contractor shall certify to be the same as, broadly comparable to or better than the benefits to which the Original Employees were entitled under the Local Government Pension Scheme or the pension scheme of which they were active members immediately before the Original Employee Transfer Date or the Cessation Date (if this is not the Local Government Pension Scheme);
  - (iii) where, for whatever reason, the Contractor Scheme has not been established at the Original Employee Transfer Date or Cessation Date (as the case may be) the Original Employees shall be provided with benefits in respect of death in service which are no less favourable than the death in service benefits provided by the Local Government Pension Scheme immediately before the Original Employee Transfer Date or Cessation Date (as the case may be). Such benefits will continue to be provided until appropriate death in service benefits are provided by the Contractor Scheme;
  - (iv) if the Contractor Scheme is terminated for whatever reason and benefits can no longer accrue under its terms for the benefit of the Original Employees who are members of it, a replacement pension scheme shall be provided by the Contractor (or the relevant Subcontractor) with immediate effect for those Original Employees who are still employed by the Contractor (or the relevant Subcontractor). The replacement pension scheme must comply with this paragraph 2.9 (Alternative to the Local Government Pension Scheme);
  - (v) all necessary information is provided to the staff, recognised unions and/or other appropriate representative bodies and, where applicable, consultation takes place, in relation to any proposals to offer membership of the Contractor's Scheme as an alternative to the Local Government Pension Scheme;
- (c) Part B (Bulk Transfer Terms) to this Schedule shall apply in relation to the terms for bulk transfers from the Local Government Pension Scheme to a Contractor Scheme following the Original Employee Transfer Date or Cessation Date (as the case may be) and any subsequent bulk transfers on termination or expiry of this Agreement or any sub-contracting of the Services where a Future Service Provider or Subcontractor is unable to gain admission to the Local Government Pension Scheme for whatever reason.

## **2.10 Undertaking from the Contractor**

The Contractor undertakes to the Authority (for the benefit of the Authority itself and for the Authority as agent and trustee for the benefit of the Original Employees) that:

- (a) all information which the Authority or the Administering Authority or their respective professional advisers may reasonably request from the Contractor or any relevant Subcontractor for the administration of the Local Government Pension Scheme or concerning any other matters raised in paragraph 2.9, paragraph 2.10 or in Part B shall be supplied to them as expeditiously as possible;
- (b) it shall not and shall procure that any relevant Subcontractor shall not, without the consent in writing of the Authority (which shall only be given subject to the payment by the Contractor or the relevant Subcontractor of such reasonable costs as the Authority or the Administering Authority may require) consent to, instigate, encourage or assist any event (other than any act or omission falling within the meaning of paragraphs (a) to (e) of the definition of Pensions Related Discretionary Action) which could impose on the Local Government Pension Scheme or on the Authority a cost in respect of any Eligible LGPS Employee greater than the cost which would have been payable in respect of that Eligible LGPS Employee had that consent, instigation, encouragement or assistance not been given;
- (c) until the Amendment Date, it shall not and shall procure that any relevant Subcontractor shall not issue any announcements (whether in writing or not) to the Eligible LGPS Employees concerning the matters stated in this Schedule without the consent in writing of the Authority and the Administering Authority (not to be unreasonably withheld or delayed); and
- (d) it shall not and shall procure that any relevant Subcontractor shall not take or omit to take any action which would materially affect the benefits under the Local Government Pension Scheme or under the Contractor Scheme of any Eligible LGPS Employees who are or will be employed wholly or mainly in connection with the Services without the prior written agreement of the Authority (such agreement not to be unreasonably withheld or delayed), provided that the Contractor and/or any relevant Subcontractor will be so entitled without the requirement of consent to give effect to any pre-existing contractual obligations to any Eligible LGPS Employees.

## **2.11 Discretionary Benefits**

The Contractor shall comply with its obligations under regulation 60 of the LGPS 2013 Regulations in relation to the exercise of discretionary functions and where practicable and without prejudice to the discretionary nature of such functions adopt practices that are consistent with the Authority's Statement of Recommended Discretionary Practices to achieve consistency across employers engaged in the provision of probation services.

## **3. PRINCIPAL CIVIL SERVICE PENSION SCHEME**

### **3.1 Contractor to be an Admitted Body under the PCSPS**

- (a) The Contractor shall use its reasonable endeavours to procure that it and/or any relevant Subcontractor shall become a PCSPS Admission Body for the purpose of the Eligible PCSPS Employees earning benefits under the PCSPS and shall remain a PCSPS Admission Body for the duration of this Agreement (or the relevant Subcontract as the case may be).

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- (b) The Contractor shall, before the Original Employee Transfer Date, execute, and procure that each relevant Subcontractor executes, a PCSPS Admission Agreement in order to allow participation by the Eligible PCSPS Employees in the PCSPS during their employment by the Contractor or a Subcontractor. The PCSPS Admission Agreement will have effect from and including the Original Employee Transfer Date or such later date (in the case of a Subcontractor) upon which the Services or part of the Services are subcontracted to and Eligible PCSPS Employees are employed by the Subcontractor.
- (c) The Contractor shall, and shall procure that any Subcontractor that is a PCSPS Admission Body shall, comply with the provisions of the PCSPS Admission Agreement to which it is a party in all respects, for as long as it employs Eligible PCSPS Employees.

### **3.2 PCSPS admission**

The Authority and the Contractor shall execute such agreements, and shall use reasonable endeavours to ensure that the Minister executes such agreements as are required for the Contractor and its Subcontractors to maintain their status as PCSPS Admission Bodies in relation to the Eligible PCSPS Employees for the duration of this Agreement and any Subcontract for the provision of the Services.

### **3.3 PCSPS Contributions**

The Contractor shall, and shall procure that each relevant Subcontractor that is a PCSPS Admission Body shall, pay to the PCSPS such amounts as are required of an employer participating in the relevant parts of the PCSPS under the terms of the relevant PCSPS Admission Agreement and PCSPS Rules, including employee contributions.

### **3.4 Right of Set-Off**

The Authority shall have a right to set off against any payments due to the Contractor under this Agreement:

- (a) an amount equal to any overdue employer and employee contributions and other overdue payments (including interest payable) due from the Contractor or from any Subcontractor under a PCSPS Admission Agreement or the PCSPS Rules; and
- (b) any amounts payable by the Authority as a result of a failure by the Contractor or any Subcontractor to comply with its obligations under the PCSPS Admission Agreement or the PCSPS Rules.

### **3.5 Service Provider ceases to be a PCSPS Admission Body**

- (a) If the Contractor or any relevant Subcontractor employs any Eligible PCSPS Employees from an Original Employee Transfer Date and
  - (i) due to exceptional circumstances beyond the control of the Authority and the Contractor it is not possible to operate the provisions of paragraphs 3.1 to 3.3 inclusive meaning that continued access to the PCSPS for the Eligible PCSPS Employees is not possible; or
  - (ii) if for any reason beyond the control of the Authority and the Contractor after the Original Employee Transfer Date, the Contractor or any relevant Subcontractor ceases to be a PCSPS Admission Body (other than on the date of termination or expiry of this Agreement or the PCSPS Admission Agreement or because it ceases to employ any Eligible PCSPS

Employees), and there are exceptional circumstances beyond the control of the Authority and the Contractor which mean that continued access to the PCSPS for the Eligible PCSPS Employees is no longer possible

then the provisions of paragraphs 3.1 to 3.3 inclusive shall not apply (without prejudice to any rights of the Authority under those paragraphs) and the provisions of paragraph 3.6 shall apply.

### **3.6 Alternative to the PCSPS**

Where this paragraph 3.6 applies pursuant to paragraph 3.5 the following shall apply:

- (a) The Contractor shall, or shall procure that the relevant Subcontractor shall, not later than the Original Employee Transfer Date or the Cessation Date (as the case may be), nominate to the Authority in writing the occupational pension scheme or schemes which are to be the "Contractor Scheme" for the purposes of this paragraph 3.6. The Contractor Scheme must be:
  - (i) established within three (3) months prior to the Original Employee Transfer Date or Cessation Date (as the case may be) and capable of receiving a bulk transfer payment from the PCSPS on terms described in Part B to this Schedule (Bulk Transfer Terms);
  - (ii) acceptable to the Authority as a scheme replacing the PCSPS for the Eligible PCSPS Employees (such acceptance not to be unreasonably withheld or delayed);
  - (iii) a registered pension scheme for the purposes of Part 4 of the Finance Act 2004; and
  - (iv) broadly comparable to the PCSPS in accordance with the Fair Deal Policy published by HM Treasury in June 1999 ("Staff Transfers from Central Government: A Fair Deal for Staff Pensions") and the Fair Deal guidance note issued by HM Treasury in June 2004 ("Fair Deal for Staff Pensions: Procurement of Bulk Transfer Agreements and Related Issues").
- (b) The Contractor shall procure that:
  - (i) the Eligible PCSPS Employees shall not later than three (3) months before the Original Employee Transfer Date or the Cessation Date (as the case may be) be offered membership of the Contractor Scheme with effect on and from the Original Employee Transfer Date or the Cessation Date (as the case may be);
  - (ii) the Contractor Scheme shall provide benefits in respect of the Eligible PCSPS Employees' periods of service on and after the Original Employee Transfer Date or Cessation Date (as the case may be) which an actuary appointed by the Authority or the Contractor shall certify to be the same as, broadly comparable to or better than the benefits to which the Eligible PCSPS Employees were entitled under the PCSPS immediately before the Original Employee Transfer Date or the Cessation Date;
  - (iii) where, for whatever reason, the Contractor Scheme has not been established at the Original Employee Transfer Date or Cessation Date (as the case may be) the Eligible PCSPS Employees shall be provided with benefits in respect of death in service which are no less favourable than the death in service benefits provided by the PCSPS immediately before the Original Employee Transfer Date or Cessation

Date (as the case may be). Such benefits will continue to be provided until appropriate death in service benefits are provided by the Contractor Scheme;

- (iv) if the Contractor Scheme is terminated for whatever reason, a replacement pension scheme shall be provided by the Contractor (or the relevant Subcontractor) with immediate effect for those Eligible PCSPS Employees who are still employed by the Contractor (or the relevant Subcontractor). The replacement pension scheme must comply with this paragraph 3.6 (Alternative to the PCSPS);
- (v) all necessary information is provided to the staff, recognised unions and/or other appropriate representative bodies and, where applicable, consultation takes place, in relation to any proposals to offer membership of the Contractor's Scheme as an alternative to the PCSPS;
- (c) Part B (Bulk Transfer Terms) to this Schedule shall apply in relation to the terms for bulk transfers from the PCSPS to a Contractor Scheme following the Original Employee Transfer Date or Cessation Date (as the case may be) and any subsequent bulk transfers on termination or expiry of this Agreement or any sub-contracting of the Services where a Future Service Provider or Subcontractor is unable to gain admission to the PCSPS for whatever reason.

### **3.7 Undertaking from the Contractor**

The Contractor undertakes to the Authority (for the benefit of the Authority itself and for the Authority as agent and trustee for the benefit of the Eligible PCSPS Employees) that:

- (a) all information which:
  - (i) the Authority;
  - (ii) the Minister;
  - (iii) the professional advisers to the Minister and the Authority; and/or
  - (iv) the administrator of the PCSPS,

may reasonably request from the Contractor or any relevant Subcontractor for the administration of the PCSPS shall be supplied to them as expeditiously as possible;

- (b) it shall not and shall procure that any relevant Subcontractor shall not, without the consent in writing of the Authority (which shall only be given subject to the payment by the Contractor or the relevant Subcontractor of such reasonable costs as the Authority or the Minister may require), consent to, instigate, encourage or assist any event (other than an increase in the final pensionable earnings for an Eligible PCSPS Employee, calculated in accordance with rule A4.(1) of the PCSPS Rules, that is equal to or less than the "specified amount", as defined in The Principal Civil Service Pension Scheme (Amendment) No 3 Scheme 2013) which could impose on the PCSPS or on the Authority a cost or liability in respect of any Eligible PCSPS Employee greater than the cost which would have been payable or liability that would have been incurred in respect of that Eligible PCSPS Employee had that consent, instigation, encouragement or assistance not been given
- (c) until the Amendment Date, it shall not and shall procure that any relevant Subcontractor shall not issue any announcements (whether in writing or not) to the Eligible PCSPS

Employees concerning the matters stated in this Schedule without the consent in writing of the Authority and the Minister (such consents not to be unreasonably withheld or delayed); and

- (d) it shall not and shall procure that any relevant Subcontractor shall not take or omit to take any action which would materially affect the benefits under the PCSPS of any Eligible PCSPS Employees who are or will be employed wholly or mainly in connection with the performance of the Services without the prior written agreement of the Authority (not to be unreasonably withheld or delayed) provided that the Contractor and/or any relevant Subcontractor will be so entitled without the requirement of consent to give effect to any pre-existing contractual obligations to any Eligible PCSPS Employees.

#### **4. GENERAL PROVISIONS**

##### **4.1 Contractor obligations on expiry or termination**

The Contractor shall and shall procure that each relevant Subcontractor shall:

- (a) maintain such documents and information as will be reasonably required to manage the pensions aspects of any onward transfer of any person engaged or employed by the Contractor or any Subcontractor in the provision of the Services on the expiry or termination of this Agreement or a Subcontract (including without limitation identification of the Original Employees, the Eligible LGPS Employees and the Eligible PCSPS Employees);
- (b) promptly provide to the Authority such documents and information mentioned in paragraph 2.10(a) and 3.7(a) which the Authority (or other entities referred to in paragraphs 2.10(a) and 3.7(a)) may reasonably request in advance of the expiry or termination of this Agreement or a Subcontract; and
- (c) fully co-operate with the reasonable requests of the Authority relating to any administrative tasks necessary to deal with the pensions aspects of any onward transfer of any person engaged or employed by the Contractor or any Subcontractor in the provision of the Services on the expiry or termination of this Agreement or a Subcontract.

##### **4.2 Authority obligations on expiry or termination**

Following the expiry or termination of this Agreement, the Authority shall use its reasonable endeavours to procure that:-

- (a) the Future Service Provider complies with the provisions of paragraph 2 and paragraph 3 of this Schedule, provided that references to the "Contractor" will become references to the Future Service Provider; and references to "Original Employees" will become references to the Original Employees transferred to the Future Service Provider;
- (b) the Future Service Provider undertakes that the Future Service Provider's scheme, for the purposes of complying with paragraphs 2.8 and 2.9 and/or paragraphs 3.5 and 3.6 (if necessary) is capable of receiving a bulk transfer of pension liabilities in relation to any onward transfer of an Original Employee engaged or employed by the Contractor and will receive such a transfer at the request of the Contractor or the Authority.

**4.3 Indemnity for a breach of the Contractor Admission Agreement or PCSPS Admission Agreement**

The Contractor hereby indemnifies the Authority and/or any Future Service Provider and, in each case, their Subcontractors on demand from and against all Losses suffered or incurred by it or them which arise from any breach by the Contractor or any of its Subcontractors of the terms of the Contractor Admission Agreement, any Subcontractor Admission Agreement, a PCSPS Admission Agreement or this Schedule 22 before or as a result of the termination or expiry of this Agreement (howsoever caused).

**4.4 Claims from Eligible LGPS Employees and Eligible PCSPS Employees or Trade Unions**

- (a) The Contractor hereby indemnifies the Authority and/or any Future Service Provider and, in each case, their Subcontractors from and against all Losses suffered or incurred by it or them which arise from claims by Eligible LGPS Employees and Eligible PCSPS Employees of the Contractor and/or of any of its Subcontractors, or by any trade unions, elected employee representatives or staff associations, in respect of all or any such Eligible LGPS Employees and Eligible PCSPS Employees which Losses:
- (i) arise out of the acts or omissions of the Contractor (or the relevant Sub-contractor) after the Amendment Date and relate to pension rights in respect of periods of employment on and after the Amendment Date and on or before the date of termination or expiry of this Agreement (or the relevant Subcontract); or
  - (ii) arise out of the failure of the Contractor and/or any relevant Subcontractor to comply with the provisions of paragraphs 2 and 3 of this Schedule (or the equivalent provisions in the relevant Subcontract) before the date of termination or expiry of this Agreement (or the relevant Subcontract).
- (b) For the avoidance of doubt this paragraph 4.4 shall survive the termination of this Agreement.

**4.5 Transfer to another Employer**

Save on expiry or termination of this Agreement, if the employment of any Eligible LGPS Employee and/or any Eligible PCSPS Employee transfers to a Future Service Provider (by way of a Relevant Transfer or a Staff Transfer Scheme) in connection with a transfer or sub-contracting of the Services the Contractor shall:

- (a) consult with and inform those Eligible LGPS Employees and Eligible PCSPS Employees of the pension provisions relating to that transfer; and
- (b) procure that the Future Service Provider complies with and enters into an agreement containing provisions equivalent to the provisions of paragraph 2 (in particular paragraphs 2.1, 2.2, 2.4(a), 2.8, 2.9, 2.10 and 2.11); paragraph 3 (in particular paragraphs 3.1, 3.2, 3.3, 3.5, 3.6 and 3.7) and paragraphs 4.1 and 4.5, provided that references to “Original Employee Transfer Date” will become references to the date of the transfer to the Future Service Provider and references to “Original Employees”, “Eligible LGPS Employees” and “Eligible PCSPS Employees” will become references to the Original Employees, Eligible LGPS Employees and Eligible PCSPS Employees so transferred to the Future Service Provider.

**5. NEW EMPLOYEES AND EMPLOYEES NOT MEMBERS OF THE LOCAL GOVERNMENT PENSION SCHEME OR THE PCSPS**

The Contractor shall at all material times, and shall procure that any relevant Subcontractors shall at all material times, in respect of new employees who are engaged in the provision of the Services under this Agreement or a Subcontract, provide a Retirement Benefits Scheme which is a “qualifying scheme” for the purposes of the Service Provider’s auto-enrolment obligations under the Pensions Act 2008, the terms of which satisfy the conditions in s.258 Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 (where applicable).

**PART B**

**BULK TRANSFER TERMS**

**1. Interpretation and Definitions**

In this Part B, unless the context otherwise requires, the following terms shall have the meanings given to them below:

**Actuary's Letter** means a letter from the Administering Authority's or Minister's Actuary (as the case may be) setting out the assumptions that will be used to calculate a past service reserve transfer value allowing for projected final salary at the assumed date of retirement, leaving service or death (in the case of any final salary-type benefits) or allowing for the applicable active service revaluation rate to be applied up to the assumed date of retirement, leaving service or death (in the case of career average salary benefits);

**Administering Authority's/ Minister's Actuary** means the actuary appointed by the Administering Authority or the Minister (as the case may be) for the purposes of this Part B;

**AVCs** means additional voluntary or enhanced contributions payable by employees under the LGPS 2013 Regulations (or under regulations governing any of the Earlier Schemes within the meaning of regulation 1(6) of the Local Government Pension Scheme Transitional Provisions, Savings and Amendment Regulation 2014) or the PCSPS Rules (as the case may be);

**Contractor's Actuary** means the actuary appointed by the Contractor and/or relevant Subcontractor for the purposes of this Schedule;

**Contractor's Scheme** means the pension scheme or schemes nominated by the Contractor and/or relevant Subcontractor in accordance with paragraph 2.9 or paragraph 3.6 of Part A of this Schedule;

**Due Date** means the date agreed between the Contractor's Actuary and the Administering Authority's/ Minister's Actuary which shall be no later than the date 60 days after the last of the conditions in paragraph 3.6 of this Part B has been satisfied;

**Transfer Amount** means the amount or amounts referred to in paragraph 3.1 of this Part B; and

**Transferring Member** means an Eligible LGPS Employee or an Eligible PCSPS Employee who agrees to a transfer of benefits being made for him or her from the Local Government Pension Scheme or the PCSPS (as the case may be) to the Contractor's Scheme under paragraph 2 of this Part B.

**2. The Contractor's Scheme**

- 2.1 The Contractor shall (and shall procure that each relevant Subcontractor shall) invite each Eligible LGPS Employee or Eligible PCSPS Employee who joins the Contractor's Scheme in accordance with paragraph 2.9 or paragraph 3.6 of Part A to consent to a transfer of benefits being made for him from the Local Government Pension Scheme or the PCSPS (as the case may be) to the Contractor's Scheme. The Contractor and/or relevant Subcontractor must issue this invitation no later than one month after the Relevant Transfer Date or Cessation Date (as applicable). The invitation must be in a form acceptable to the Authority and the Administering Authority or Minister (such acceptance not to be unreasonably withheld or delayed). Any Eligible LGPS Employee or Eligible PCSPS Employee wishing to consent to a transfer of benefits must notify the Contractor and/or relevant Subcontractor of this consent in writing no later than three months after the date of the invitation.

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The Contractor shall (and shall procure that each relevant Subcontractor shall) provide the Authority and the Administering Authority or Minister with the names of the Transferring Members no later than five months after the Relevant Transfer Date or Cessation Date (as applicable).

**3. Transfer payment from the Local Government Pension Scheme or PCSPS**

3.1 The Authority shall use reasonable endeavours to ensure that the Administering Authority or Minister (as the case may be) transfers from the Local Government Pension Scheme or PCSPS (as the case may be) to the Contractor's Scheme on the Due Date an amount in respect of the relevant Transferring Members' service in the Local Government Pension Scheme or PCSPS before the Relevant Transfer Date or the Cessation Date calculated in accordance with the Actuary's Letter and the LGPS 2013 Regulations or the PCSPS Rules (as the case may be).

3.2 As soon as reasonably practicable following the Relevant Transfer Date or the Cessation Date, the Contractor shall (and shall procure that each relevant Sub-Contractor shall) promptly provide all data within its possession or under its control which the Administering Authority and the Administering Authority's or Minister's Actuary may require for the calculation of the Transfer Amount and shall warrant that this data is in all material respects true, complete and accurate.

3.3 As soon as reasonably practicable following the Relevant Transfer Date or the Cessation Date, the Authority shall promptly provide all data within its possession or under its control which the Administering Authority or the Minister and the Administering Authority's or Minister's Actuary may require for the calculation of the Transfer Amount and shall warrant that this data is in all material respects true, complete and accurate.

3.4 The Authority shall use its reasonable endeavours to procure that:

- (a) as soon as reasonably practicable after the Administering Authority's or Minister's Actuary has been provided with the necessary data and information, the Administering Authority's or Minister's Actuary shall calculate the Transfer Amount in accordance with the Actuary's Letter and the LGPS 2013 Regulations or PCSPS Rules (as the case may be); and
- (b) within one week of completing this calculation, the Administering Authority's or Minister's Actuary shall notify the Contractor's Actuary in writing of the particulars of the calculation and the data on which the calculation is based.

The Contractor's Actuary will then have one month (or such longer period as the parties may agree) from the date on which those particulars and data have been supplied to him in which to object in writing that the calculation is incorrect or not in accordance with the Actuary's Letter. The calculation shall be final and binding on the parties if the Contractor's Actuary raises no objection within this stated period.

3.5 The Authority and the Contractor shall use all reasonable endeavours to ensure that:

- (a) if the Contractor's Actuary objects in writing under paragraph 3.4 of this Part B, the Administering Authority's or Minister's Actuary and the Contractor's Actuary shall agree the Transfer Amount within three months (or such longer period as shall be agreed between the parties) of the objection;
- (b) if agreement cannot be reached within that period, the amount shall be determined by an independent actuary to be nominated by the Administering Authority or Minister (as the case may be) and the Contractor and/or relevant Subcontractor jointly or, if they cannot agree, by the President of the Institute of Actuaries on application by either party;

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- (c) the independent actuary shall act as an expert and not as an arbitrator, and his decision shall be final and binding on the parties; and
- (d) the independent actuary's costs shall be payable equally by the Administering Authority or Minister and the Contractor and/or relevant Subcontractor.

3.6 Payment to the Contractor's Scheme of the Transfer Amount shall only be made on the following conditions:

- (a) the Transfer Amount has been agreed or determined under paragraph 3.4 or 3.5 of this Part B and in accordance with the LGPS 2013 Regulations or the PCSPS Rules (as the case may be);
- (b) the Contractor and/or relevant Subcontractor has complied with all its obligations under this Part B; and
- (c) the trustees of the Contractor's Scheme have confirmed in writing that:
  - (i) a payment should be made in accordance with the LGPS 2013 Regulations or PCSPS Rules (as the case may be) and that they shall accept payment on the terms set out in paragraph 4 of this Part B;
  - (ii) they shall accept liability for each Transferring Member's accrued contracted-out rights under the Local Government Pension Scheme or PCSPS; and
  - (iii) they shall accept the Transfer Amount in full and final settlement of all claims against the Local Government Pension Scheme or PCSPS in respect of each Transferring Member (save in the event of information provided by the Authority or the Local Government Pension Scheme or the PCSPS (as applicable) being materially incorrect or where there has been manifest error) provided that the trustees of the Contractor's Scheme notify the Local Government Pension Scheme or the PCSPS (as applicable) that materially incorrect information has been provided or that there has been a manifest error within 12 months of receipt of the Transfer Amount by the trustees of the Contractor's Scheme).

3.7 The payment of the Transfer Amount from the Local Government Pension Scheme shall be satisfied by the transfer of readily marketable stocks and shares of the Local Government Pension Scheme as agreed by the Administering Authority and the trustees of the Contractor's Scheme, having a mid-market value on the day before the Due Date equal to the Transfer Amount. If the Administering Authority and the trustees of the Contractor's Scheme are not able to agree some or all of the particular assets to be transferred, or the mid-market value of any such assets, the payment of the Transfer Amount (or the appropriate part of it) shall be satisfied by the Local Government Pension Scheme transferring cash equal in value to 99.8% of that part of the Transfer Amount in respect of which there has been no agreement as to the assets to be transferred (with the 0.2% deduction being an allowance for the costs incurred by the Administering Authority of making the transfer in cash).

3.8 The payment of the Transfer Amount from the PCSPS shall be satisfied by the PCSPS transferring cash equal to the Transfer Amount.

#### **4. Past service benefits**

The Contractor shall (and shall procure that each relevant Subcontractor shall) ensure that the Contractor's Scheme provides in respect of each Transferring Member such benefits as the

Administering Authority's or Minister's Actuary (as the case may be) certifies to be of actuarially equivalent value (in accordance with the Actuary's Letter) to the benefits which would have been payable under the Local Government Pension Scheme or PCSPS in respect of the Transferring Member's service before the Relevant Transfer Date or the Cessation Date (as applicable) if he had remained a member of the Local Government Pension Scheme or PCSPS.

**5. Additional voluntary contributions**

Nothing in this Part B shall apply to AVCs or to benefits secured by them. However, the Authority shall use all reasonable endeavours to procure that the assets representing each Transferring Member's AVCs in the Local Government Pension Scheme or PCSPS (if any) shall be transferred to the Contractor's Scheme. The Contractor shall (and shall procure that each relevant Subcontractor shall) ensure that the Contractor's Scheme provides benefits for each relevant Transferring Member which are equivalent to the assets transferred.

**6. No assistance**

The Contractor shall not (and shall procure that each relevant Subcontractor shall not) encourage or initiate or assist or facilitate any action or provide any financial assistance for the purpose of requiring the Local Government Pension Scheme or PCSPS to pay an amount larger than the Transfer Amount to the Contractor's Scheme in respect of the Transferring Members.

**7. Exit Provisions**

7.1 The Contractor undertakes to the Authority (for the benefit of the Authority itself and for the Authority as agent and trustee for the benefit of the Eligible LGPS Employees and Eligible PCSPS Employees) that on:

- (a) the expiry or termination of this Agreement; or
- (b) the expiry or termination of any Subcontract in the case of a relevant Subcontractor; or
- (c) the employment of any Eligible LGPS Employee or Eligible PCSPS Employee transferring to a Future Services Provider as a result of a Staff Transfer Scheme or TUPE,

the Contractor shall (and shall procure that each relevant Subcontractor shall), if requested by the Authority, use its best endeavours to procure that the trustees of the Contractor's Scheme offer bulk transfer terms in respect of the relevant Eligible LGPS Employees' or Eligible PCSPS Employees' service in the Contractor's Scheme (including any service credits awarded in accordance with paragraph 4 of this Part B) to the pension scheme of the Authority, any Future Service Provider (or their Subcontractors), or any new Subcontractor (as applicable), which are no less favourable (in the opinion of the Administering Authority's or Minister's Actuary or an actuary appointed by the Authority) than the bulk transfer terms set out in the Actuary's Letter, provided always that the bulk transfer payment that relates to the service credits that were awarded in the Contractor's Scheme in accordance with paragraph 4 of this Part B shall be not less than that provided for under the Actuary's Letter. The Service Credits to be awarded by the pension scheme of the Authority, any Future Service Provider or any new Subcontractor shall be awarded on a day for day basis or actuarial equivalent basis where there are benefit differences between the two Schemes. In addition to this, the Contractor shall procure that the Future Services Provider complies with the requirements of paragraph 4.1 of Part A to this Schedule.

7.2 If the transfer payment paid by the trustees of the Contractor's Scheme is less (in the opinion (acting reasonably) of the Administering Authority's or Minister's Actuary or an actuary appointed by the

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Authority) than the transfer payment which would have been paid had paragraph 7.1 of this Part B been complied with, the Contractor shall (and/or shall procure that each relevant Subcontractor shall) pay to the Authority, or any Future Service Provider (or their Subcontractor), (as appropriate) (or as such person shall direct) the amount of the difference.

**8. Authority's Costs**

Any costs of the Authority necessarily and reasonably incurred in connection with this Part B shall be borne by the Contractor.

**APPENDIX 1**

**LGPS ADMISSION AGREEMENT**

The LGPS Admission Agreement is set out on the following pages.

**APPENDIX 2**

**SSJ PENSIONS GUARANTEE**

The SSJ Pensions Guarantee is set out on the following pages.

**APPENDIX 3**

**PCSPS ADMISSION AGREEMENT**

The PCSPS Admission Agreement is set out on the following pages.