

Award Form

This Award Form creates this Contract. It summarises the main features of the procurement and includes the Buyer and the Supplier's contact details.

1.	Buyer	The Secretary of State for Education of Sanctuary Buildings, 20 Great Smith Street, London, SW1P 3BT ("DfE") (the Buyer).
2.	Supplier	<p>Name: Mott MacDonald Limited</p> <p>Address: Mott MacDonald House, 8-10 Sydenham Road, Croydon, Surrey, CR0 2EE</p> <p>Registration number: 01243967</p>
3.	Contract	<p>This Contract between the Buyer and the Supplier is for the supply of Deliverables, being the provision of delivery partner support services for LAs and others to assist the delivery of Early Years Entitlements and Wraparound Childcare to the Department – see Schedule 2 (Specification) for full details.</p> <p>This opportunity is advertised in this Contract Notice in Find A Tender, reference 2023/S 000-030170 (FTS Contract Notice).</p>
4.	Contract reference	con_23980
5.	Buyer Cause	Any material breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of this Contract and in respect of which the Buyer is liable to the Supplier.
6.	Collaborative working principles	The Collaborative Working Principles apply to this Contract. See Clause 3.1.3 for further details.
7.	Financial Transparency Objectives	The Financial Transparency Objectives apply to this contract. See Clause 6.3 for further details.
8.	Start Date	15 th January 2024
9.	Expiry Date	31 st March 2026
10.	Extension Period	Further period up to 31st March 2027 (12 months). The price of the extension period will be equivalent to Year 2

		<p>Total Service Period Price and Support Activity Pot. Set up costs and financial incentives will not be in scope.</p> <p>Extension exercised where the Buyer gives the Supplier no less than 90 days' written notice before this Contract expires.</p>
<p>11.</p>	<p>Ending this Contract without a reason</p>	<p>The Buyer shall be able to terminate this Contract in accordance with Clause 14.3, provided that the amount of notice that the Buyer shall give to terminate in Clause 14.3 shall be 90 days.</p>
<p>12.</p>	<p>Incorporated Terms (together these documents form the "this Contract")</p>	<p>The following documents are incorporated into this Contract. Where numbers are missing we are not using these Schedules. If there is any conflict, the following order of precedence applies:</p> <ul style="list-style-type: none"> (a) This Award Form (b) Any Special Terms (see Section 13 (Special Terms) in this Award Form) (c) Schedule 31 (Buyer Specific Terms) (d) Core Terms (e) Schedule 36 (Intellectual Property Rights) (f) Schedule 1 (Definitions) (g) Schedule 6 (Transparency Reports) (h) Schedule 20 (Processing Data) (i) The following Schedules (in equal order of precedence): <ul style="list-style-type: none"> (i) Schedule 2 (Specification) (ii) Schedule 3 (Charges) (iii) Schedule 5 (Commercially Sensitive Information) (iv) Schedule 7 (Staff Transfer) (v) Schedule 8 (Implementation Plan & Testing) (vi) Schedule 10 (Service Levels) (vii) Schedule 11 (Continuous Improvement) (viii) Schedule 13 (Contract Management) (ix) Schedule 14 (Business Continuity and Disaster Recovery) (x) Schedule 16 (Buyer Specific Security Requirements) (xi) Schedule 18 (Supply Chain Visibility) (xii) Schedule 19 (Cyber Essentials Scheme) (xiii) Schedule 21 (Variation Form) (xiv) Schedule 22 (Insurance Requirements)

		<p>(xv) Schedule 24 (Financial Difficulties)</p> <p>(xvi) Schedule 25 (Rectification Plan)</p> <p>(xvii) Schedule 26 (Sustainability)</p> <p>(xviii) Schedule 27 (Key Subcontractors)</p> <p>(xix) Schedule 28 (ICT Services)</p> <p>(xx) Schedule 29 (Key Supplier Staff)</p> <p>(xxi) Schedule 30 (Exit Management)</p> <p>(j) Schedule 4 (Tender), unless any part of the Tender offers a better commercial position for the Buyer (as decided by the Buyer, in its absolute discretion), in which case that part of the Tender will take precedence over the documents above.</p>
13.	Special Terms	N/A
14.	Buyer's Environmental Policy	Available online: https://www.gov.uk/government/publications/sustainability-and-climate-change-strategy
15.	Social Value Commitment	The Supplier agrees, in providing the Deliverables and performing its obligations under this Contract, to deliver the Social Value outcomes in Schedule 4 (Tender) and report on the Social Value KPIs as required by Schedule 10 (Service Levels).
16.	Buyer's Security Requirements and Security and ICT Policy	<p>Security Requirements: as set out in Schedule 16 (Security).</p> <p>Security Policy: Security policy framework: protecting government assets - GOV.UK (www.gov.uk)</p> <p>For the purposes of Schedule 16 (Security) the Supplier is required to comply with the Security Policy.</p> <p>For the purposes of Supplier Staff vetting, the Supplier is required to comply with the Security Policy.</p> <p>ICT Policy: see Schedule 16 (Buyer Specific Security Requirements), and Schedule 28 (ICT Services).</p>
17.	Charges	<p>Details in Schedule 3 (Charges).</p> <p>Indexation is not applicable.</p>
18.	Estimated Year 1 Charges	<p>██████████ (ex. VAT), based on pricing schedule submitted by supplier at procurement.</p> <p>As some elements of the contract are demand-led, this is an estimate only and is subject to approved draw-down of funds for support activities.</p>
19.	Reimbursable expenses	None.

20.	Payment method	BACS transfer upon the receipt of a valid invoice. Details in Schedule 3 (Charges).
21.	Service Levels	Service Credits will accrue in accordance with Schedule 10 (Service Levels). The Service Credit Cap is: 8% of quarterly payment The Service Period is 3 Months. A Critical Service Level Failure is: <ul style="list-style-type: none"> • Where any one or more of the “Service Credit” KPIs (KPIs 4A, 4B, 5 as set out in Schedule 10) are rated at “Inadequate” across the relevant measurement period.
22.	Liability	In accordance with Clause 15.1 each Party's total aggregate liability across the Contract Period under this Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Charges. In accordance with Clause 15.5, the Supplier’s total aggregate liability across the Contract Period under Clause 18.8.5 is no more than the Data Protection Liability, being £10 million.
23.	Cyber Essentials Certification	Cyber Essentials Scheme Plus Certificate (or equivalent). Details in Schedule 19 (Cyber Essentials Scheme).
24.	Progress Meetings and Progress Reports	See Schedule 13 (Contract Management).
25.	Guarantor	N/A
26.	Virtual Library	In accordance with Paragraph 2.2 of Schedule 30 (Exit Management) <ul style="list-style-type: none"> • the period in which the Supplier must create and maintain the Virtual Library, is as set out in that Paragraph; and • the Supplier shall update the Virtual Library every six months.
27.	Supplier’s Contract Manager	██████████

28.	Supplier Authorised Representative	[REDACTED]
29.	Supplier Compliance Officer	[REDACTED]
30.	Supplier Data Protection Officer	[REDACTED]
31.	Supplier Marketing Contact	[REDACTED]
32.	Key Subcontractors	<p>Key Subcontractor 1 Name (Registered name if registered): Coram Hemsall's Ltd Registration number (if registered): 4746844 Role of Subcontractor: Leading Local Authority (LA) and provider support.</p> <p>Key Subcontractor 2 Name (Registered name if registered): Coram Registration number (if registered): 09361384 Role of Subcontractor: Leading learning and evidence</p>
33.	Buyer's Contract Manager	[REDACTED]
34.	Buyer Authorised Representative	[REDACTED]

For and on behalf of the Supplier:		For and on behalf of the Buyer:	
Signature:	██████████	Signature:	██████████
Name:	██████████	Name:	██████████
Role:	██████████	Role:	██████████
Date:	23 rd January 2024	Date:	23 rd January 2024

Core Terms – Mid-tier Contract v1.2

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1. Definitions used in the contract

Interpret this Contract using Schedule 1 (Definitions).

2. How the contract works

- 2.1 If the Buyer decides to buy Deliverables under this Contract it must state its requirements using the Award Form. If allowed by the Regulations, the Buyer can:
- 2.1.1 make changes to the Award Form;
 - 2.1.2 create new Schedules;
 - 2.1.3 exclude optional template Schedules; and
 - 2.1.4 use Special Terms in the Award Form to add or change terms, with Supplier approval.
- 2.2 The Contract:
- 2.2.1 is between the Supplier and the Buyer; and
 - 2.2.2 includes Core Terms, Schedules and any other changes or items in the completed Award Form.
- 2.3 The Supplier acknowledges it has all the information required to perform its obligations under this Contract before entering into it. The Buyer acknowledges that the Supplier will rely on the accuracy, sufficiency and consistency of all information provided to the Supplier by or on behalf of the Buyer.
- 2.4 The Supplier acknowledges that, subject to the Allowable Assumptions set out in Annex 2 of Schedule 3 (Charges) (if any), it has satisfied itself of all details relating to:
- 2.4.1 the Buyer's requirements for the Deliverables;
 - 2.4.2 the Buyer's operating processes and working methods; and
 - 2.4.3 the ownership and fitness for purpose of the Buyer Assets, and it has advised the Buyer in writing of:
 - 2.4.4 each aspect, if any, of the Buyer's requirements for the Deliverables, operating processes and working methods that is not suitable for the provision of the Services;
 - 2.4.5 the actions needed to remedy each such unsuitable aspect; and
 - 2.4.6 a timetable for and, to the extent that such costs are to be payable to the Supplier, the costs of those actions,
- and such actions, timetable and costs are fully reflected in this Contract.
- 2.5 The Supplier won't be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:
- 2.5.1 verify the accuracy of the Due Diligence Information; and

- 2.5.2 properly perform its own adequate checks.
- 2.6 The Buyer will not be liable for errors, omissions or misrepresentation of any information.
- 2.7 The Supplier warrants and represents that all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

3. What needs to be delivered

3.1 All deliverables

3.1.1 The Supplier must provide Deliverables:

- (a) that comply with the Specification, the Tender Response and this Contract;
- (b) using reasonable skill and care;
- (c) using Good Industry Practice;
- (d) using its own policies, processes and internal quality control measures as long as they don't conflict with this Contract;
- (e) on the dates agreed; and
- (f) that comply with Law.

3.1.2 *Not Used.*

3.1.3 Where the Award Form states that the Collaborative Working Principles will apply, the Supplier must co-operate and provide reasonable assistance to any Buyer Third Party notified to the Supplier by the Buyer from time to time and act at all times in accordance with the following principles:

- (a) proactively leading on, mitigating and contributing to the resolution of problems or issues irrespective of its contractual obligations, acting in accordance with the principle of "fix first, settle later";
- (b) being open, transparent and responsive in sharing relevant and accurate information with Buyer Third Parties;
- (c) where reasonable, adopting common working practices, terminology, standards and technology and a collaborative approach to service development and resourcing with Buyer Third Parties;
- (d) providing reasonable cooperation, support, information and assistance to Buyer Third Parties in a proactive, transparent and open way and in a spirit of trust and mutual confidence; and
- (e) identifying, implementing and capitalising on opportunities to improve deliverables and deliver better solutions and performance throughout the relationship lifecycle.

3.2 **Goods clauses**

- 3.2.1 All Goods delivered must be new, or as new if recycled, unused and of recent origin.
- 3.2.2 The Supplier transfers ownership of the Goods on Delivery or payment for those Goods, whichever is earlier.
- 3.2.3 Risk in the Goods transfers to the Buyer on Delivery of the Goods, but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within three (3) Working Days of Delivery.
- 3.2.4 The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.
- 3.2.5 The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.
- 3.2.6 The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.
- 3.2.7 All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- 3.2.8 The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- 3.2.9 The Supplier must indemnify the Buyer against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Recall of the Goods.
- 3.2.10 The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than fourteen (14) days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier uses all reasonable endeavours to minimise these costs.
- 3.2.11 The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with Clause 3. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.
- 3.2.12 The Buyer will not be liable for any actions, claims and Losses incurred by the Supplier or any third party during Delivery of the Goods unless and to the extent that it is caused by negligence or other wrongful act of the Buyer or its servant or agent. If the Buyer suffers or incurs any Loss or injury (whether fatal or otherwise) occurring in the course of Delivery or installation then the Supplier shall indemnify the Buyer from any losses, charges, costs or expenses which arise as a result of or in connection with such Loss or injury where it is attributable to any act or omission of the Supplier or any of its Subcontractors or Supplier Staff.

3.3 Services clauses

- 3.3.1 Late Delivery of the Services will be a Default of this Contract.
- 3.3.2 The Supplier must co-operate with the Buyer and third-party suppliers on all aspects connected with the Delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions of the Buyer.
- 3.3.3 The Supplier must at its own risk and expense provide all Supplier Equipment required to Deliver the Services. Any equipment provided by the Buyer to the Supplier for supplying the Services remains the property of the Buyer and is to be returned to the Buyer on expiry or termination of this Contract.
- 3.3.4 The Supplier must allocate sufficient resources and appropriate expertise to this Contract.
- 3.3.5 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.
- 3.3.6 On completion of the Services, the Supplier is responsible for leaving the Buyer Premises in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer Premises or Buyer Assets, other than fair wear and tear.
- 3.3.7 The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.
- 3.3.8 The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under this Contract.

4. Pricing and payments

- 4.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the Award Form.
- 4.2 All Charges:
 - 4.2.1 exclude VAT, which is payable on provision of a valid VAT invoice; and
 - 4.2.2 include all costs connected with the Supply of Deliverables.
- 4.3 The Buyer must pay the Supplier the Charges within thirty (30) days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the invoice or in the Award Form.
- 4.4 A Supplier invoice is only valid if it:
 - 4.4.1 includes all appropriate references including this Contract reference number and other details reasonably requested by the Buyer; and
 - 4.4.2 includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any).

- 4.5 The Buyer may retain or set-off payment of any amount owed to it by the Supplier under this Contract or any other agreement between the Supplier and the Buyer if notice and reasons are provided.
- 4.6 The Supplier must ensure that all Subcontractors are paid, in full, within thirty (30) days of receipt of a valid, undisputed invoice. If this does not happen, the Buyer can publish the details of the late payment or non-payment.
- 4.7 The Supplier has no right of set-off, counterclaim, discount or abatement unless they're ordered to do so by a court.

5. The buyer's obligations to the supplier

- 5.1 If Supplier Non-Performance arises from a Buyer Cause or through no fault of the Supplier:
 - 5.1.1 the Buyer cannot terminate this Contract under Clause 14.4.1;
 - 5.1.2 the Supplier is entitled to reasonable and proven additional expenses and to relief from Delay Payments, liability and Deduction under this Contract;
 - 5.1.3 the Supplier is entitled to additional time needed to make the Delivery;
 - 5.1.4 the Supplier cannot suspend the ongoing supply of Deliverables.
- 5.2 Clause 5.1 only applies if the Supplier:
 - 5.2.1 gives notice to the Buyer of the Buyer Cause within ten (10) Working Days of becoming aware;
 - 5.2.2 demonstrates that the Supplier Non-Performance only happened because of the Buyer Cause; and
 - 5.2.3 mitigated the impact of the Buyer Cause.

6. Record keeping and reporting

- 6.1 The Supplier must attend Progress Meetings with the Buyer and provide Progress Reports when specified in the Award Form.
- 6.2 The Supplier must keep and maintain full and accurate records and accounts in respect of this Contract during the Contract Period and for seven (7) years after the End Date and in accordance with the UK GDPR or the EU GDPR as the context requires, including the records and accounts which the Buyer has a right to Audit.
- 6.3 Where the Award Form states that the Financial Transparency Objectives apply, the Supplier must co-operate with the Buyer to achieve the Financial Transparency Objectives and, to this end, will provide a Financial Report to the Buyer:
 - 6.3.1 on or before the Effective Date;
 - 6.3.2 at the end of each Contract Year; and
 - 6.3.3 within six (6) Months of the end of the Contract Period,

- 6.3.4 and the Supplier must meet with the Buyer if requested within ten (10) Working Days of the Buyer receiving a Financial Report.
- 6.4 If the Supplier becomes aware of an event that has occurred or is likely to occur in the future which will have a material effect on the:
 - 6.4.1 Supplier's currently incurred or forecast future Costs; and
 - 6.4.2 forecast Charges for the remainder of this Contract,
 - 6.4.3 then the Supplier must notify the Buyer in writing as soon as practicable setting out the actual or anticipated effect of the event.
- 6.5 The Buyer or an Auditor can Audit the Supplier.
- 6.6 The Supplier must allow any Auditor access to their premises and the Buyer will use reasonable endeavours to ensure that any Auditor:
 - 6.6.1 complies with the Supplier's operating procedures; and
 - 6.6.2 does not unreasonably disrupt the Supplier or its provision of the Deliverables.
- 6.7 During an Audit, the Supplier must provide information to the Auditor and reasonable co-operation at their request including access to:
 - 6.7.1 all information within the permitted scope of the Audit;
 - 6.7.2 any Sites, equipment and the Supplier's ICT system used in the performance of this Contract; and
 - 6.7.3 the Supplier Staff.
- 6.8 The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a Material Default by the Supplier, in which case the Supplier will repay the Buyer's reasonable costs in connection with the Audit.
- 6.9 The Supplier must comply with the Buyer's reasonable instructions following an Audit, including:
 - 6.9.1 correcting any identified Default;
 - 6.9.2 rectifying any error identified in a Financial Report; and
 - 6.9.3 repaying any Charges that the Buyer has overpaid.
- 6.10 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:
 - 6.10.1 tell the Buyer and give reasons;
 - 6.10.2 propose corrective action; and
 - 6.10.3 provide a deadline for completing the corrective action.
- 6.11 Except where an Audit is imposed on the Buyer by a regulatory body or where the Buyer has reasonable grounds for believing that the Supplier has not complied with its obligations under this Contract, the Buyer

may not conduct an Audit of the Supplier or of the same Key Subcontractor more than twice in any Contract Year.

7. Supplier staff

- 7.1 The Supplier Staff involved in the performance of this Contract must:
 - 7.1.1 be appropriately trained and qualified;
 - 7.1.2 be vetted using Good Industry Practice and the Security Policy (if used); and
 - 7.1.3 comply with all conduct requirements when on the Buyer's Premises.
- 7.2 Where the Buyer decides one of the Supplier's Staff is not suitable to work on this Contract, the Supplier must replace them with a suitably qualified alternative.
- 7.3 The Supplier must provide a list of Supplier Staff needing to access the Buyer's Premises and say why access is required.
- 7.4 The Supplier indemnifies the Buyer against all claims brought by any person employed or engaged by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.
- 7.5 The Buyer indemnifies the Supplier against all claims brought by any person employed or engaged by the Buyer caused by an act or omission of the Buyer or any of the Buyer's employees, agents, consultants and contractors.

8. Supply chain

8.1 Appointing Subcontractors

- 8.1.1 The Supplier must exercise due skill and care when it selects and appoints Subcontractors to ensure that the Supplier is able to:
 - (a) manage Subcontractors in accordance with Good Industry Practice;
 - (b) comply with its obligations under this Contract; and
 - (c) with all parties' consent, assign, novate or transfer its rights and/or obligations under the Sub-Contract that relate exclusively to this Contract to the Buyer or a Replacement Supplier.

8.2 Mandatory provisions in Sub-Contracts

- 8.2.1 For Sub-Contracts in the Supplier's supply chain entered into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract:
 - (a) where such Sub-Contracts are entered into after the Effective Date, the Supplier will ensure that they all contain provisions that; or

- (b) where such Sub-Contracts are entered into before the Effective Date, the Supplier will take all reasonable endeavours to ensure that they all contain provisions that:
- (c) allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law;
- (d) require the Supplier to pay all Subcontractors in full, within thirty (30) days of receiving a valid, undisputed invoice; and
- (e) allow the Buyer to publish the details of the late payment or non-payment if this thirty (30) day limit is exceeded.

8.3 When Sub-Contracts can be ended

8.3.1 At the Buyer's request, the Supplier must terminate any Sub-Contracts in any of the following events:

- (a) there is a Change of Control of a Subcontractor which isn't pre-approved by the Buyer in writing;
- (b) the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 14.4;
- (c) a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Buyer;
- (d) the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law; and/or
- (e) the Buyer has found grounds to exclude the Subcontractor in accordance with Regulation 57 of the Public Contracts Regulations 2015.

8.4 Competitive terms

8.4.1 If the Buyer can get more favourable commercial terms for the supply at cost of any materials or goods used by the Supplier to provide the Deliverables and that cost is reimbursable by the Buyer, then the Buyer may require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items.

8.4.2 If the Buyer uses Clause 8.4.1 then the Charges must be reduced by an agreed amount by using the Variation Procedure.

8.5 Ongoing responsibility of the Supplier

The Supplier is responsible for all acts and omissions of its Subcontractors and those employed or engaged by them as if they were its own.

9. Rights and protection

- 9.1 The Supplier warrants and represents that:
 - 9.1.1 it has full capacity and authority to enter into and to perform this Contract;
 - 9.1.2 this Contract is entered into by its authorised representative;
 - 9.1.3 it is a legally valid and existing organisation incorporated in the place it was formed;
 - 9.1.4 there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform this Contract;
 - 9.1.5 all necessary rights, authorisations, licences and consents (including in relation to IPRs) are in place to enable the Supplier to perform its obligations under this Contract and for the Buyer to receive the Deliverables;
 - 9.1.6 it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform this Contract;
 - 9.1.7 it is not impacted by an Insolvency Event or a Financial Distress Event; and
 - 9.1.8 neither it nor, to the best of its knowledge the Supplier Staff, have committed a Prohibited Act prior to the Effective Date or been subject to an investigation relating to a Prohibited Act.
- 9.2 The warranties and representations in Clauses 2.7 and 9.1 are repeated each time the Supplier provides Deliverables under this Contract.
- 9.3 The Supplier indemnifies the Buyer against each of the following:
 - 9.3.1 wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts this Contract; and
 - 9.3.2 non-payment by the Supplier of any tax or National Insurance.
- 9.4 All claims indemnified under this Contract must use Clause 30.
- 9.5 The description of any provision of this Contract as a warranty does not prevent the Buyer from exercising any termination right that it may have for Default of that clause by the Supplier.
- 9.6 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Buyer.
- 9.7 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier for free.

10. Intellectual Property Rights (IPRs)

- 10.1 The Parties agree that the terms set out in Schedule 36 (Intellectual Property Rights) shall apply to this Contract.

- 10.2 If there is an IPR Claim, the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.
- 10.3 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
 - 10.3.1 obtain for the Buyer the rights to continue using the relevant item without infringing any third party IPR; or
 - 10.3.2 replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables.
- 10.4 If the Buyer requires that the Supplier procures a licence in accordance with Clause 10.3.1 or to modify or replace an item pursuant to Clause 10.3.2, but this has not avoided or resolved the IPR Claim, then the Buyer may terminate this Contract by written notice with immediate effect and the consequences of termination set out in Clauses 14.5.1 shall apply.

11. Rectifying issues

- 11.1 If there is a Notifiable Default, the Supplier must notify the Buyer within three (3) Working Days of the Supplier becoming aware of the Notifiable Default and the Buyer may request that the Supplier provide a Rectification Plan within ten (10) Working Days of the Buyer's request alongside any additional documentation that the Buyer requires.
- 11.2 When the Buyer receives a requested Rectification Plan it can either:
 - 11.2.1 reject the Rectification Plan or revised Rectification Plan giving reasons; or
 - 11.2.2 accept the Rectification Plan or revised Rectification Plan (without limiting its rights) in which case the Supplier must immediately start work on the actions in the Rectification Plan at its own cost.
- 11.3 Where the Rectification Plan or revised Rectification Plan is rejected, the Buyer:
 - 11.3.1 will give reasonable grounds for its decision; and
 - 11.3.2 may request that the Supplier provides a revised Rectification Plan within five (5) Working Days.

12. Escalating issues

- 12.1 If the Supplier fails to:
 - 12.1.1 submit a Rectification Plan or a revised Rectification Plan within the timescales set out in Clauses 11.1 or 11.3; and
 - 12.1.2 adhere to the timescales set out in an accepted Rectification Plan to resolve the Notifiable Default.

or if the Buyer otherwise rejects a Rectification Plan, the Buyer can require the Supplier to attend an Escalation Meeting on not less than five (5) Working Days' notice. The Buyer will determine the location, time and duration of the Escalation Meeting(s) and the Supplier must ensure that the Supplier Authorised Representative is available to attend.

- 12.2 The Escalation Meeting(s) will continue until the Buyer is satisfied that the Notifiable Default has been resolved, however, where an Escalation Meeting(s) has continued for more than five (5) Working Days, either Party may treat the matter as a Dispute to be handled through the Dispute Resolution Procedure.
- 12.3 If the Supplier is in Default of any of its obligations under this Clause 12, the Buyer shall be entitled to terminate this Agreement and the consequences of termination set out in Clauses 14.5.1 shall apply as if the contract were terminated under Clause 14.4.1.

13. Step-in rights

- 13.1 If a Step-In Trigger Event occurs, the Buyer may give notice to the Supplier that it will be taking action in accordance with this Clause 13.1 and setting out:
 - 13.1.1 whether it will be taking action itself or with the assistance of a third party;
 - 13.1.2 what Required Action the Buyer will take during the Step-In Process;
 - 13.1.3 when the Required Action will begin and how long it will continue for;
 - 13.1.4 whether the Buyer will require access to the Sites; and
 - 13.1.5 what impact the Buyer anticipates that the Required Action will have on the Supplier's obligations to provide the Deliverables.
- 13.2 For as long as the Required Action is taking place:
 - 13.2.1 the Supplier will not have to provide the Deliverables that are the subject of the Required Action;
 - 13.2.2 no Deductions will be applicable in respect of Charges relating to the Deliverables that are the subject of the Required Action; and
 - 13.2.3 the Buyer will pay the Charges to the Supplier after subtracting any applicable Deductions and the Buyer's costs of taking the Required Action.
- 13.3 The Buyer will give notice to the Supplier before it ceases to exercise its rights under the Step-In Process and within twenty (20) Working Days of this notice the Supplier will develop a draft Step-Out Plan for the Buyer to approve.

- 13.4 If the Buyer does not approve the draft Step-Out Plan, the Buyer will give reasons and the Supplier will revise the draft Step-Out Plan and re-submit it for approval.
- 13.5 The Supplier shall bear its own costs in connection with any step-in by the Buyer under this Clause 13, provided that the Buyer shall reimburse the Supplier's reasonable additional expenses incurred directly as a result of any step-in action taken by the Buyer under:
- 13.5.1 limbs (f) or (g) of the definition of a Step-In Trigger Event; or
- 13.5.2 limbs (h) and (i) of the definition of a Step-in Trigger Event (insofar as the primary cause of the Buyer serving a notice under Clause 13.1 is identified as not being the result of the Supplier's Default).

14. Ending the contract

- 14.1 The Contract takes effect on the Effective Date and ends on the End Date or earlier if terminated under this Clause 14 or if required by Law.
- 14.2 The Buyer can extend this Contract for the Extension Period by giving the Supplier written notice before this Contract expires as described in the Award Form.

14.3 Ending the contract without a reason

The Buyer has the right to terminate this Contract at any time without reason by giving the Supplier not less than ninety (90) days' notice (unless a different notice period is set out in the Award Form) and if it's terminated Clause 14.6.3 applies.

14.4 When the Buyer can end this Contract

- 14.4.1 If any of the following events happen, the Buyer has the right to immediately terminate this Contract by issuing a Termination Notice to the Supplier and the consequences of termination in Clause 14.5.1 shall apply:
- (a) there's a Supplier Insolvency Event;
 - (b) the Supplier fails to notify the Buyer in writing of any Occasion of Tax Non-Compliance or fails to provide details of proposed mitigating factors which, in the reasonable opinion of the Buyer, are acceptable;
 - (c) there's a Notifiable Default that is not corrected in line with an accepted Rectification Plan;
 - (d) the Buyer rejects a Rectification Plan or the Supplier does not provide it within ten (10) days of the request;
 - (e) there's any Material Default of this Contract;
 - (f) there's any Material Default of any Joint Controller Agreement relating to this Contract;
 - (g) there's a Default of Clauses 2.8, 12, 31 or Schedule 28 (ICT Services) (where applicable);

- (h) the performance of the Supplier causes a Critical Service Level Failure to occur;
- (i) there's a consistent repeated failure to meet the Service Levels in Schedule 10 (Service Levels);
- (j) there's a Change of Control of the Supplier which isn't pre-approved by the Buyer in writing;
- (k) the Buyer discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time this Contract was awarded;
- (l) the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them;
- (m) the Supplier fails to comply with its legal obligations in the fields of environmental, social, equality or employment Law when providing the Deliverables; or
- (n) the Supplier fails to enter into or to comply with an Admission Agreement under Part D of Schedule 7 (Staff Transfer).

14.4.2 If any of the events in 73 (1) (a) or (b) of the Regulations happen, the Buyer has the right to immediately terminate this Contract and Clauses 14.5.1(b)) to 14.5.1(g)) apply.

14.5 What happens if the contract ends

14.5.1 Where the Buyer terminates this Contract under Clauses 14.4.1, 10.4 and 12.3, Paragraph 7 of Part D of Schedule 7 (Staff Transfer), Paragraph 2.2 of Schedule 12 (Benchmarking) (where applicable) Paragraph 4.1 of Schedule 37 (Corporate Resolution Planning) (where applicable) Paragraph 7 of Schedule 24 (Financial Difficulties) (where applicable) or Paragraphs 3.1.12.2 or 3.3.1.2 of Part A of Schedule 26 (Sustainability) all of the following apply:

- (a) The Supplier is responsible for the Buyer's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.
- (b) The Buyer's payment obligations under the terminated Contract stop immediately.
- (c) Accumulated rights of the Parties are not affected.
- (d) The Supplier must promptly delete or return the Government Data except where required to retain copies by Law.
- (e) The Supplier must promptly return any of the Buyer's property provided under the terminated Contract.
- (f) The Supplier must, at no cost to the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier).

- (g) The Supplier must repay to the Buyer all the Charges that it has been paid in advance for Deliverables that it has not provided as at the date of termination or expiry.

14.5.2 If either Party terminates this Contract under Clause 24.3:

- (a) each party must cover its own Losses; and
- (b) Clauses 14.5.1(b)) to 14.5.1(g)) apply.

14.5.3 The following Clauses survive the termination or expiry of this Contract: 3.2.10, 4, 6, 7.4, 7.5, 10, 14.5, 14.6.3, 15, 18, 19, 20, 21, 22, 23, 35.3.2, 39, 40, Schedule 1 (Definitions), Schedule 3 (Charges), Schedule 7 (Staff Transfer), Schedule 30 (Exit Management)) (if used), Schedule 36 (Intellectual Property Rights) and any Clauses and Schedules which are expressly or by implication intended to continue.

14.6 **When the Supplier (and the Buyer) can end the contract**

14.6.1 The Supplier can issue a Reminder Notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate this Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the total Contract Value within thirty (30) days of the date of the Reminder Notice.

14.6.2 The Supplier also has the right to terminate this Contract in accordance with Clauses 24.3 and 27.5.

14.6.3 Where the Buyer terminates this Contract under Clause 14.3 or the Supplier terminates this Contract under Clause 14.6.1 or 27.5:

- (a) the Buyer must promptly pay all outstanding Charges incurred to the Supplier;
- (b) the Buyer must pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and costed schedule with evidence – the maximum value of this payment is limited to the total sum payable to the Supplier if this Contract had not been terminated; and
- (c) Clauses 14.5.1(b)) to 14.5.1(g)) apply.

14.7 **Partially ending and suspending the contract**

14.7.1 Where the Buyer has the right to terminate this Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends this Contract it can provide the Deliverables itself or buy them from a third party.

14.7.2 The Buyer can only partially terminate or suspend this Contract if the remaining parts of this Contract can still be used to effectively deliver the intended purpose.

14.7.3 The Parties must agree any necessary Variation required by this Clause 14.7 using the Variation Procedure, but the Supplier may not either:

- (a) reject the Variation; or
- (b) increase the Charges, except where the right to partial termination is under Clause 14.3.

14.7.4 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under this Clause 14.7.

15. How much you can be held responsible for?

15.1 Each Party's total aggregate liability across the Contract Period under this Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Charges unless specified otherwise in the Award Form.

15.2 Neither Party is liable to the other for:

15.2.1 any indirect Losses; and/or

15.2.2 Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

15.3 In spite of Clause 15.1, neither Party limits or excludes any of the following:

15.3.1 its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;

15.3.2 its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; and

15.3.3 any liability that cannot be excluded or limited by Law.

15.4 In spite of Clause 15.1, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.4, 7.5, 9.3.2, 10.2, 35.3.2 or Schedule 7 (Staff Transfer) of this Contract.

15.5 In spite of Clause 15.1, The Buyer does not limit or exclude its liability for any indemnity given under Clause 7 or Schedule 7 (Staff Transfer) of this Contract.

15.6 In spite of Clause 15.1, but subject to Clauses 15.2 and 15.3, the Supplier's total aggregate liability in each Contract Year under Clause 18.8.5 is no more than the Data Protection Liability Cap.

15.7 Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with this Contract, including any indemnities.

15.8 When calculating the Supplier's liability under Clause 15.1 the following items will not be taken into consideration:

15.8.1 Deductions; and

15.8.2 any items specified in Clause 15.4.

- 15.9 If more than one Supplier is party to this Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

16. Obeying the law

- 16.1 The Supplier shall comply with the provisions of Schedule 26 (Sustainability).
- 16.2 The Supplier shall comply with the provisions of:
- 16.2.1 the Official Secrets Acts 1911 to 1989; and
 - 16.2.2 section 182 of the Finance Act 1989.
- 16.3 The Supplier indemnifies the Buyer against any costs resulting from any Default by the Supplier relating to any applicable Law to do with this Contract.
- 16.4 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 16.1 and Clauses 31 to 36.

17. Insurance

The Supplier must, at its own cost, obtain and maintain the Required Insurances in Schedule 22 (Insurance Requirements).

18. Data protection and security

- 18.1 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Schedule 20 (Processing Data).
- 18.2 The Supplier must not remove any ownership or security notices in or relating to the Government Data.
- 18.3 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies via a secure encrypted method upon reasonable request.
- 18.4 The Supplier must ensure that any Supplier, Subcontractor and Subprocessor system (including any cloud services or end user devices used by the Supplier, Subcontractor and Subprocessor) holding any Government Data, including back-up data, is a secure system that complies with the Cyber Essentials Schedule (if used), the Security Schedule (if used), the Security Policy and the security requirements specified in the Award Form. and otherwise as required by Data Protection Legislation.
- 18.5 If at any time the Supplier suspects or has reason to believe that the Government Data is corrupted, lost or sufficiently degraded, then the Supplier must immediately notify the Buyer and suggest remedial action.
- 18.6 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:

- 18.6.1 tell the Supplier to restore or get restored Government Data as soon as practical but no later than five (5) Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier; and
- 18.6.2 restore the Government Data itself or using a third party.
- 18.7 The Supplier must pay each Party's reasonable costs of complying with Clause 18.6 unless the Buyer is at fault.
- 18.8 The Supplier:
 - 18.8.1 must provide the Buyer with all Government Data in an agreed format (provided it is secure and readable) within ten (10) Working Days of a written request;
 - 18.8.2 must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
 - 18.8.3 must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice, other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are either Independent Controllers or Joint Controllers;
 - 18.8.4 securely erase all Government Data and any copies it holds when asked to do so by the Buyer (and certify to the Buyer that it has done so) unless and to the extent required by Law to retain it other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are either Independent Controllers or Joint Controllers; and
 - 18.8.5 indemnifies the Buyer against any and all Losses incurred if the Supplier breaches Clause 18 or any Data Protection Legislation.

19. What you must keep confidential

- 19.1 Each Party must:
 - 19.1.1 keep all Confidential Information it receives confidential and secure;
 - 19.1.2 not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent, except for the purposes anticipated under this Contract; and
 - 19.1.3 immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.
- 19.2 In spite of Clause 19.1, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:

- 19.2.1 where disclosure is required by applicable Law, a regulatory body or a court with the relevant jurisdiction if the Recipient Party notifies the Disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
 - 19.2.2 if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;
 - 19.2.3 if the information was given to it by a third party without obligation of confidentiality;
 - 19.2.4 if the information was in the public domain at the time of the disclosure;
 - 19.2.5 if the information was independently developed without access to the Disclosing Party's Confidential Information;
 - 19.2.6 on a confidential basis, to its auditors or for the purpose of regulatory requirements;
 - 19.2.7 on a confidential basis, to its professional advisers on a need-to-know basis; and
 - 19.2.8 to the Serious Fraud Office where the Recipient Party has reasonable grounds to believe that the Disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.
- 19.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under this Contract. The Supplier Staff shall remain responsible at all times for compliance with the confidentiality obligations set out in this Contract by the persons to whom disclosure has been made.
- 19.4 The Buyer may disclose Confidential Information in any of the following cases:
- 19.4.1 on a confidential basis to the employees, agents, consultants and contractors of the Buyer;
 - 19.4.2 on a confidential basis to any other Crown Body, any successor body to a Crown Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;
 - 19.4.3 if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
 - 19.4.4 where requested by Parliament;
 - 19.4.5 under Clauses 4.6 and 20; and
 - 19.4.6 on a confidential basis under the audit rights in Clauses 6.5 to 6.9 (inclusive), Clause 13 (Step-in rights), Schedule 7 and Schedule 30 (if used).
- 19.5 For the purposes of Clauses 19.2 to 19.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement

or arrangement including terms as strict as those required in Clause 19.

- 19.6 Transparency Information and any information which is exempt from disclosure by Clause 20 is not Confidential Information.
- 19.7 The Supplier must not make any press announcement or publicise this Contracts or any part of them in any way, without the prior written consent of the Buyer and must use all reasonable endeavours to ensure that Supplier Staff do not either.

20. When you can share information

- 20.1 The Supplier must tell the Buyer within forty eight (48) hours if it receives a Request For Information.
- 20.2 In accordance with a reasonable timetable and in any event within five (5) Working Days of a request from the Buyer, the Supplier must give the Buyer full co-operation and information needed so the Buyer can:
 - 20.2.1 publish the Transparency Information; and
 - 20.2.2 comply with any Request for Information.
- 20.3 To the extent that it is allowed and practical to do so, the Buyer will use reasonable endeavours to notify the Supplier of a FOIA request and may talk to the Supplier to help it decide whether to publish information under Clause 20.1. However, the extent, content and format of the disclosure is the Buyer's decision in its absolute discretion.

21. Invalid parts of the contract

If any provision or part provision of this Contract is or becomes invalid, illegal or unenforceable for any reason, such provision or part-provision shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Contract.

22. No other terms apply

The provisions incorporated into this Contract are the entire agreement between the Parties. The Contract replaces all previous statements, or agreements whether written or oral. No other provisions apply.

23. Other people's rights in this Contract

- 23.1 The provisions of Paragraphs 2.1 and 2.3 of Part A, Paragraphs 2.1, 2.3 and 3.1 of Part B, Paragraphs 1.2, 1.4 and 1.7 of Part C, Part D and Paragraphs 1.4, 1.7, 2.3, 2.5 and 2.10 of Part E of Schedule 7 (Staff Transfer) and the provisions of Paragraph 3.1, 6.1, 7.2, 8.2, 8.5, 8.6 and 8.9 of Schedule 30 (Exit Management) (together "**Third Party Provisions**") confer benefits on persons named or identified in such provisions other than the Parties (each such person a "**Third Party Beneficiary**") and are intended to be enforceable by Third Parties Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act ("**CRTPA**").

- 23.2 Subject to Clause 23.1, no third parties may use the CRTPA to enforce any term of this Contract unless stated (referring to CRTPA) in this Contract. This does not affect third party rights and remedies that exist independently from CRTPA.
- 23.3 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Buyer, which may, if given, be given on and subject to such terms as the Buyer may determine.
- 23.4 Any amendments or modifications to this Contract may be made, and any rights created under Clause 23.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

24. Circumstances beyond your control

- 24.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under this Contract while the inability to perform continues, if it both:
 - 24.1.1 provides a Force Majeure Notice to the other Party; and
 - 24.1.2 uses all reasonable measures practical to reduce the impact of the Force Majeure Event.
- 24.2 Any failure or delay by the Supplier to perform its obligations under this Contract that is due to a failure or delay by an agent, Subcontractor or supplier will only be considered a Force Majeure Event if that third party is itself prevented from complying with an obligation to the Supplier due to a Force Majeure Event.
- 24.3 Either party can partially or fully terminate this Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for ninety (90) days continuously.

25. Relationships created by the contract

The Contract does not create a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure others do so.

26. Giving up contract rights

A partial or full waiver or relaxation of the terms of this Contract is only valid if it is stated to be a waiver in writing to the other Party.

27. Transferring responsibilities

- 27.1 The Supplier cannot assign, novate or in any other way dispose of this Contract or any part of it without the Buyer's written consent.
- 27.2 Subject to Schedule 27 (Key Subcontractors), the Supplier cannot sub-contract this Contract or any part of it without the Buyer's prior written consent. The Supplier shall provide the Buyer with information about the Subcontractor as it reasonably requests. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. If the

Buyer does not communicate a decision to the Supplier within ten (10) Working Days of the request for consent, then its consent will be deemed to have been given. The Buyer may reasonably withhold its consent to the appointment of a Subcontractor if it considers that:

- 27.2.1 the appointment of a proposed Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
- 27.2.2 the proposed Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
- 27.2.3 the proposed Subcontractor employs unfit persons.
- 27.3 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.
- 27.4 When the Buyer uses its rights under Clause 27.3 the Supplier must enter into a novation agreement in the form that the Buyer specifies.
- 27.5 The Supplier can terminate this Contract novated under Clause 27.3 to a private sector body that is experiencing an Insolvency Event.
- 27.6 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.
- 27.7 If at any time the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:
 - 27.7.1 their name;
 - 27.7.2 the scope of their appointment;
 - 27.7.3 the duration of their appointment; and
 - 27.7.4 a copy of the Sub-Contract.

28. Changing the contract

- 28.1 Either Party can request a Variation to this Contract which is only effective if agreed in writing, including where it is set out in the Variation Form, and signed by both Parties.
- 28.2 The Supplier must provide an Impact Assessment either:
 - 28.2.1 with the Variation Form, where the Supplier requests the Variation; and
 - 28.2.2 within the time limits included in a Variation Form requested by the Buyer.
- 28.3 If the Variation to this Contract cannot be agreed or resolved by the Parties, the Buyer can either:
 - 28.3.1 agree that this Contract continues without the Variation; and
 - 28.3.2 refer the Dispute to be resolved using Clause 39 (Resolving Disputes).

- 28.4 The Buyer is not required to accept a Variation request made by the Supplier.
- 28.5 The Supplier may only reject a Variation requested by the Buyer if the Supplier:
- 28.5.1 reasonably believes that the Variation would materially and adversely affect the risks to the health and safety of any person or that it would result in the Deliverables being provided in a way that infringes any Law; or
 - 28.5.2 demonstrates to the Buyer's reasonable satisfaction that the Variation is technically impossible to implement and that neither the Tender nor the Specification state that the Supplier has the required technical capacity or flexibility to implement the Variation.
- 28.6 If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the Charges.
- 28.7 If there is a Specific Change in Law or one is likely to happen during this Contract Period the Supplier must give the Buyer notice of the likely effects of the changes as soon as reasonably practical. They must also say if they think any Variation is needed either to the Deliverables, the Charges or this Contract and provide evidence:
- 28.7.1 that the Supplier has kept costs as low as possible, including in Subcontractor costs; and
 - 28.7.2 of how it has affected the Supplier's costs.
- 28.8 Any change in the Charges or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 28.1 to 28.4.

29. How to communicate about the contract

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

30. Dealing with claims

- 30.1 If a Beneficiary is notified of a Claim, then it must notify the Indemnifier as soon as reasonably practical and no later than ten (10) Working Days.
- 30.2 At the Indemnifier's cost the Beneficiary must both:

- 30.2.1 allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim; and
- 30.2.2 give the Indemnifier reasonable assistance with the claim if requested.
- 30.3 The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which cannot be unreasonably withheld or delayed.
- 30.4 The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that doesn't damage the Beneficiary's reputation.
- 30.5 The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.
- 30.6 Each Beneficiary must use all reasonable endeavours to minimise and mitigate any losses that it suffers because of the Claim.
- 30.7 If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:
 - 30.7.1 the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; and
 - 30.7.2 the amount the Indemnifier paid the Beneficiary for the Claim.

31. Preventing fraud, bribery and corruption

- 31.1 The Supplier must not during the Contract Period:
 - 31.1.1 commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2);
 - 31.1.2 do or allow anything which would cause the Buyer, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them; and
 - 31.1.3 Clause 31.1, including 31.1.1 and 31.1.2, are reciprocal.
- 31.2 The Supplier must during the Contract Period:
 - 31.2.1 create, maintain and enforce adequate policies and procedures to ensure it complies with the Relevant Requirements to prevent a Prohibited Act and require its Subcontractors to do the same;
 - 31.2.2 keep full records to show it has complied with its obligations under this Clause 31 and give copies to the Buyer on request; and
 - 31.2.3 if required by the Buyer, within twenty (20) Working Days of the Effective Date of this Contract, and then annually, certify in writing to the Buyer, that they have complied with this Clause

31, including compliance of Supplier Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures.

- 31.3 The Supplier must immediately notify the Buyer if it becomes aware of any Default of Clauses 31.1 or has any reason to think that it, or any of the Supplier Staff, have either:
- 31.3.1 been investigated or prosecuted for an alleged Prohibited Act;
 - 31.3.2 been debarred, suspended, proposed for suspension or debarment, or are otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency;
 - 31.3.3 received a request or demand for any undue financial or other advantage of any kind related to this Contract; and
 - 31.3.4 suspected that any person or Party directly or indirectly related to this Contract has committed or attempted to commit a Prohibited Act.
- 31.4 If the Supplier notifies the Buyer as required by Clause 31.3, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.
- 31.5 If the Supplier is in Default under Clause 31.1 the Buyer may:
- 31.5.1 require the Supplier to remove any Supplier Staff from providing the Deliverables if their acts or omissions have caused the Default; and
 - 31.5.2 immediately terminate this agreement in accordance with Clause 14.4.1 and the consequences of termination in Clauses 14.5.1 shall apply.
- 31.6 In any notice the Supplier gives under Clause 31.4 it must specify the:
- 31.6.1 Prohibited Act;
 - 31.6.2 identity of the Party who it thinks has committed the Prohibited Act; and
 - 31.6.3 action it has decided to take.

32. Equality, diversity and human rights

- 32.1 The Supplier must follow all applicable equality Law when they perform their obligations under this Contract, including:
- 32.1.1 protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and
 - 32.1.2 any other requirements and instructions which the Buyer reasonably imposes related to equality Law.

- 32.2 The Supplier must use all reasonable endeavours, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on this Contract.

33. Health and safety

- 33.1 The Supplier must perform its obligations meeting the requirements of:
 - 33.1.1 all applicable Law regarding health and safety; and
 - 33.1.2 the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier.
- 33.2 The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Buyer Premises that relate to the performance of this Contract.

34. Environment

- 34.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.
- 34.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

35. Tax

- 35.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate this Contract where the Supplier has not paid a minor tax or social security contribution.
- 35.2 Where the Charges payable under this Contract are or are likely to exceed £5 million at any point during the relevant Contract Period, and an Occasion of Tax Non-Compliance occurs, the Supplier must notify the Buyer of it within five (5) Working Days including:
 - 35.2.1 the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and
 - 35.2.2 other information relating to the Occasion of Tax Non-Compliance that the Buyer may reasonably need.
- 35.3 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under this Contract, the Supplier must both:
 - 35.3.1 comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions; and

35.3.2 indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.

35.4 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:

35.4.1 the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 35.3.1, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;

35.4.2 the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;

35.4.3 the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with Clause 35.3.1 or confirms that the Worker is not complying with those requirements; and

35.4.4 the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

36. Conflict of interest

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

36.2 The Supplier must promptly notify and provide details to the Buyer if an actual, potential or perceived Conflict of Interest happens or is expected to happen.

36.3 The Buyer will consider whether there are any appropriate measures that can be put in place to remedy an actual, perceived or potential Conflict of Interest. If, in the reasonable opinion of the Buyer, such measures do not or will not resolve an actual or potential Conflict of Interest, the Buyer may terminate its Contract immediately by giving notice in writing to the Supplier where there is or may be an actual or potential Conflict of Interest and Clauses 14.5.1(b) to 14.5.1(g) shall apply.

37. Reporting a breach of the contract

37.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected:

37.1.1 breach of Law;

37.1.2 Default of Clause 16.1; and

37.1.3 Default of Clauses 31 to 36.

37.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach or Default listed in Clause 37.1 to the Buyer or a Prescribed Person.

38. Further Assurances

Each Party will, at the request and cost of the other Party, do all things which may be reasonably necessary to give effect to the meaning of this Contract.

39. Resolving disputes

39.1 If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within twenty eight (28) days of a written request from the other Party, meet in good faith to resolve the Dispute by commercial negotiation.

39.2 If the Parties cannot resolve the Dispute via commercial negotiation, they can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 39.4 to 39.6.

39.3 Unless the Buyer refers the Dispute to arbitration using Clause 39.5, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:

39.3.1 determine the Dispute;

39.3.2 grant interim remedies; and

39.3.3 grant any other provisional or protective relief.

39.4 The Supplier agrees that the Buyer has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.

39.5 The Buyer has the right to refer a Dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause 39.4, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 39.5.

39.6 The Supplier cannot suspend the performance of this Contract during any Dispute.

40. Which law applies

Core Terms – Mid-Tier, Crown Copyright 2024

This Contract and any issues or Disputes arising out of, or connected to it, are governed by English law.

Schedule 1 (Definitions)

1. Definitions

- 1.1 In this Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In this Contract, unless the context otherwise requires:
 - 1.3.1 reference to a gender includes the other gender and the neuter;
 - 1.3.2 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
 - 1.3.3 a reference to any Law includes a reference to that Law as amended, extended, consolidated, replaced or re-enacted from time to time (including as a consequence of the Retained EU Law (Revocation and Reform) Act 2023);
 - 1.3.4 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";
 - 1.3.5 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
 - 1.3.6 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings**" as references to obligations under this Contract;
 - 1.3.7 references to "**Clauses**" and "**Schedules**" are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
 - 1.3.8 references to "**Paragraphs**" are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided;

- 1.3.9 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified;
- 1.3.10 where the Buyer is a Crown Body the Supplier shall be treated as contracting with the Crown as a whole; and
- 1.3.11 Any reference in this Contract which immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to Section 1A of the European Union (Withdrawal) Act 2018) is a reference to (as it has effect from time to time) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to form part of domestic law by application of Section 3 of the European Union (Withdrawal) Act 2018 and which shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of Section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time.

1.4 In this Contract, unless the context otherwise requires, the following words shall have the following meanings:

- "Achieve"** in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and "**Achieved**", "**Achieving**" and "**Achievement**" shall be construed accordingly;
- "Additional FDE Group Member"** means any entity (if any) specified as an Additional FDE Group Member in Part A of Annex 3 of Schedule 24 (Financial Difficulties);
- "Affected Party"** the party seeking to claim relief in respect of a Force Majeure Event;
- "Affiliates"** 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 of that body corporate from time to time;
- "Allowable Assumptions"** means the assumptions (if any) set out in Annex 2 of Schedule 3 (Charges);
- "Annex"** extra information which supports a Schedule;
- "Approval"** the prior written consent of the Buyer and "**Approve**" and "**Approved**" shall be construed accordingly;
- "Associates"** means, in relation to an entity, an undertaking in which the entity owns, directly or indirectly, between 20% and 50% of the voting rights and exercises a degree of control sufficient for the undertaking to be treated as an associate under generally accepted accounting principles;

"Audit"

the Buyer's right to:

- (a) verify the integrity and content of any Financial Report;
- (b) verify the accuracy of the Charges and any other amounts payable by the Buyer under a Contract (including proposed or actual variations to them in accordance with this Contract);
- (c) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services;
- (d) verify the Open Book Data;
- (e) verify the Supplier's and each Subcontractor's compliance with the applicable Law;
- (f) identify or investigate actual or suspected breach of Clauses 3 to 37 and/or Schedule 26 (Sustainability), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations;
- (g) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables;
- (h) obtain such information as is necessary to fulfil the Buyer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;
- (i) review any books of account and the internal contract management accounts kept by the Supplier in connection with this Contract;
- (j) carry out the Buyer's internal and statutory audits and to prepare, examine and/or certify the Buyer's annual and interim reports and accounts;
- (k) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources;

"Auditor"

- (a) the Buyer's internal and external auditors;
- (b) the Buyer's statutory or regulatory auditors;

	<p>(c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;</p> <p>(d) HM Treasury or the Cabinet Office;</p> <p>(e) any party formally appointed by the Buyer to carry out audit or similar review functions; and</p> <p>(f) successors or assigns of any of the above;</p>
"Award Form"	the document outlining the Incorporated Terms and crucial information required for this Contract, to be executed by the Supplier and the Buyer;
"Beneficiary"	a Party having (or claiming to have) the benefit of an indemnity under this Contract;
"Buyer"	the public sector purchaser identified as such in the Order Form;
"Buyer Assets"	the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of this Contract;
"Buyer Authorised Representative"	the representative appointed by the Buyer from time to time in relation to this Contract initially identified in the Award Form;
"Buyer Cause"	has the meaning given to it in the Award Form;
"Buyer Existing IPR"	means any and all IPR that are owned by or licensed to the Buyer, and where the Buyer is a Crown Body, any Crown IPR, and which are or have been developed independently of this Contract (whether prior to the Effective Date or otherwise) but excluding Buyer Software;
"Buyer Premises"	premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);
"Buyer Property"	the property, other than real property and IPR, including the Buyer System, any equipment issued or made available to the Supplier by the Buyer in connection with this Contract;
"Buyer Software"	any software which is owned by or licensed to the Buyer and which is or will be used by the Supplier for the purposes of providing the Deliverables;
"Buyer System"	the Buyer's computing environment (consisting of hardware, software and/or telecommunications networks or equipment)

	used by the Buyer or the Supplier in connection with this Contract which is owned by or licensed to the Buyer by a third party and which interfaces with the Supplier System or which is necessary for the Buyer to receive the Deliverables;
"Buyer Third Party"	means any supplier to the Buyer (other than the Supplier), which is notified to the Supplier from time to time;
"Buyer's Confidential Information"	(a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Buyer (including all Buyer Existing IPR and New IPR); (b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Buyer's attention or into the Buyer's possession in connection with this Contract; and information derived from any of the above;
"Change in Law"	any change in Law which impacts on the supply of the Deliverables and performance of this Contract which comes into force after the Effective Date;
"Change of Control"	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
"Charges"	the prices (exclusive of any applicable VAT), payable to the Supplier by the Buyer under this Contract, as set out in the Award Form, for the full and proper performance by the Supplier of its obligations under this Contract less any Deductions;
"Claim"	any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;
"Commercially Sensitive Information"	the Confidential Information listed in Schedule 5 (Commercially Sensitive Information (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Buyer that, if disclosed by the Buyer, would cause the Supplier significant commercial disadvantage or material financial loss;
"Comparable Supply"	the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables;
"Confidential Information"	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of the Buyer or the Supplier, including IPRs, together with information derived from the above, and any

	other information clearly designated as being confidential (whether or not it is marked as " confidential ") or which ought reasonably to be considered to be confidential;
"Conflict of Interest"	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under this Contract, in the reasonable opinion of the Buyer;
"Contract"	the contract between the Buyer and the Supplier, which consists of the terms set out and referred to in the Award Form;
"Contract Period"	the term of this Contract from the earlier of the: (a) Start Date; or (b) the Effective Date, until the End Date;
"Contract Value"	the higher of the actual or expected total Charges paid or payable under this Contract where all obligations are met by the Supplier;
"Contract Year"	a consecutive period of twelve (12) Months commencing on the Effective Date or each anniversary thereof;
"Control"	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and " Controlled " shall be construed accordingly;
"Controller"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Core Terms"	the Buyer's terms and conditions which apply to and comprise one part of this Contract set out in the document called " Core Terms ";
"Costs"	the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables: (a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including: (i) base salary paid to the Supplier Staff; (ii) employer's National Insurance contributions; (iii) pension contributions; (iv) car allowances; (v) any other contractual employment benefits; (vi) staff training;

- (vii) work place accommodation;
 - (viii) work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and
 - (ix) reasonable recruitment costs, as agreed with the Buyer;
- (b) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets;
- (c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Deliverables; and
- (d) Reimbursable Expenses to the extent these have been specified as allowable in the Award Form and are incurred in delivering any Deliverables;

but excluding:

- (a) Overhead;
- (b) financing or similar costs;
- (c) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Contract Period whether in relation to Supplier Assets or otherwise;
- (d) taxation;
- (e) fines and penalties;
- (f) amounts payable under Schedule 12 (Benchmarking) where such Schedule is used; and
- (g) non-cash items (including depreciation, amortisation, impairments and movements in provisions);

"COTS Software" or "Commercial off the shelf Software"

non-customised software where the IPR may be owned and licensed either by the Supplier or a third party depending on the context, and which is commercially available for purchase and subject to standard licence terms;

"Critical Service Level Failure"

has the meaning given to it in the Award Form;

"Crown Body"	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the Welsh Government), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
"Crown IPR"	means any IPR which is owned by or licensed to the Crown, and which are or have been developed independently of this Contract (whether prior to the Effective Date or otherwise);
"CRTPA"	the Contract Rights of Third Parties Act 1999;
"Data Loss Event"	any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.
"Data Protection Impact Assessment"	an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
"Data Protection Legislation"	(i) the UK GDPR, (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy; and (iv) (to the extent that it applies) the EU GDPR;
"Data Protection Liability Cap"	has the meaning given to it in the Award Form;
"Data Protection Officer"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Data Subject"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Data Subject Access Request"	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;
"Deductions"	all Service Credits or Delay Payments (if applicable);
"Default"	any breach of the obligations of the Supplier (including abandonment of this Contract in breach of its terms) or any other default (including Material Default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of this Contract and in respect of which the Supplier is liable to the Buyer;
"Defect"	any of the following:

- (a) any error, damage or defect in the manufacturing of a Deliverable; or
 - (b) any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; or
 - (c) any failure of any Deliverable to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Contract; or
 - (d) any failure of any Deliverable to operate in conjunction with or interface with any other Deliverable in order to provide the performance, features and functionality specified in the requirements of the Buyer or the Documentation (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from passing any Test required under this Contract;
- "Delay Payments"** the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;
- "Deliverables"** Goods, Services or software that may be ordered and/or developed under this Contract including the Documentation;
- "Delivery"** delivery of the relevant Deliverable or Milestone in accordance with the terms of this Contract as confirmed and accepted by the Buyer by the either (a) confirmation in writing to the Supplier; or (b) where Schedule 8 (Implementation Plan and Testing) is used issue by the Buyer of a Satisfaction Certificate. **"Deliver"** and **"Delivered"** shall be construed accordingly;
- "Dependent Parent Undertaking"** means any Parent Undertaking which provides any of its Subsidiary Undertakings and/or Associates, whether directly or indirectly, with any financial, trading, managerial or other assistance of whatever nature, without which the Supplier would be unable to continue the day to day conduct and operation of its business in the same manner as carried on at the time of entering into this Contract, including for the avoidance of doubt the provision of the Services in accordance with the terms of this Contract;
- "Disaster"** the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable);

"Disclosing Party"	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 19 (What you must keep confidential);
"Dispute"	any claim, dispute or difference (whether contractual or non-contractual) arising out of or in connection with this Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of this Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;
"Dispute Resolution Procedure"	the dispute resolution procedure set out in Clause 39 (Resolving disputes);
"Documentation"	descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under this Contract as: <ul style="list-style-type: none">(a) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables(b) is required by the Supplier in order to provide the Deliverables; and/or(c) has been or shall be generated for the purpose of providing the Deliverables;
"DOTAS"	the Disclosure of Tax Avoidance Schemes rules which require a promoter 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 2004 and as extended to National Insurance Contributions;
"DPA 2018"	The Data Protection Act 2018;
"Due Diligence Information"	any information supplied to the Supplier by or on behalf of the Buyer prior to the Effective Date;
"Effective Date"	the date on which the final Party has signed this Contract;

"EIR"	the Environmental Information Regulations 2004;
"Employment Regulations"	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced;
"End Date"	the earlier of: (a) the Expiry Date as extended by the Buyer under Clause 14.2; or (b) if this Contract is terminated before the date specified in (a) above, the date of termination of this Contract;
"End User"	means a party that is accessing the Deliverables provided pursuant to this Contract (including the Buyer where it is accessing services on its own account as a user);
"Environmental Policy"	to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer;
"Equality and Human Rights Commission"	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
"Escalation Meeting"	means a meeting between the Supplier Authorised Representative and the Buyer Authorised Representative to address issues that have arisen during the Rectification Plan Process;
"Estimated Year 1 Charges"	the anticipated total Charges payable by the Buyer in the first Contract Year specified in the Award Form;
"Estimated Yearly Charges"	means for the purposes of calculating each Party's annual liability under Clause 15.1: (a) in the first Contract Year, the Estimated Year 1 Charges; or (b) in any subsequent Contract Years, the Charges paid or payable in the previous Contract Year; or (c) after the end of this Contract, the Charges paid or payable in the last Contract Year during the Contract Period;
"EU GDPR"	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free

	movement of such data (General Data Protection Regulation) as it has effect in EU law;
"Existing IPR"	any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of this Contract (whether prior to the Start Date or otherwise);
"Exit Plan"	has the meaning given to it in Paragraph 4.1 of Schedule 30 (Exit Plan);
"Expiry Date"	the date of the end of this Contract as stated in the Award Form;
"Extension Period"	such period or periods beyond which the Initial Period may be extended, specified in the Award Form;
"FDE Group"	the Supplier and any Additional FDE Group Member;
"Financial Distress Event"	<p>The occurrence of one or more the following events:</p> <ul style="list-style-type: none">(a) the credit rating of any FDE Group entity drops below the applicable Credit Rating Threshold of the relevant Rating Agency;(b) any FDE Group entity issues a profits warning to a stock exchange or makes any other public announcement, in each case about a material deterioration in its financial position or prospects;(c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of any FDE Group entity;(d) any FDE Group entity commits a material breach of covenant to its lenders;(e) a Key Subcontractor notifies the Buyer that the Supplier has not paid any material sums properly due under a specified invoice and not subject to a genuine dispute;(f) any FDE Group entity extends the filing period for filing its accounts with the Registrar of Companies so that the filing period ends more than nine (9) months after its accounting reference date without an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate;(g) any FDE Group entity is late to file its annual accounts without a public notification or an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate;(h) the directors and/or external auditors of any FDE Group entity conclude that a material uncertainty exists in relation to that FDE Group entity's going concern in the annual report including in a reasonable but plausible

downside scenario. This includes, but is not limited to, commentary about liquidity and trading prospects in the reports from directors or external auditors;

- (i) any of the following:
- (i) any FDE Group entity makes a public announcement which contains commentary with regards to that FDE Group entity's liquidity and trading and trading prospects, such as but not limited to, a profit warning or ability to trade as a going concern;
 - (ii) commencement of any litigation against any FDE Group entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m;
 - (iii) non-payment by any FDE Group entity of any financial indebtedness;
 - (iv) any financial indebtedness of any FDE Group entity becoming due as a result of an event of default;
 - (v) the cancellation or suspension of any financial indebtedness in respect of any FDE Group entity; or
 - (vi) an external auditor of any FDE Group entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that FDE Group entity,

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

- (j) any one of the Financial Indicators set out in Part C of Annex 2 of Schedule 24 for any of the FDE Group entities failing to meet the required Financial Target Threshold;

"Financial Report"

a report provided by the Supplier to the Buyer that:

- (a) to the extent permitted by Law, provides a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier;
- (b) to the extent permitted by Law, provides detail a true and fair reflection of the costs and expenses to be incurred by Key Subcontractors (as requested by the Buyer);

- (c) is in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Buyer to the Supplier on or before the Effective Date for the purposes of this Contract; and
- (d) is certified by the Supplier's Chief Financial Officer or Director of Finance;

"Financial Transparency Objectives"

means:

- (a) the Buyer having a clear analysis of the Costs, Overhead recoveries (where relevant), time spent by Supplier Staff in providing the Services and the Supplier Profit Margin so that it can understand any payment sought by the Supplier;
- (b) the Parties being able to understand Cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;
- (c) the Parties being able to understand the quantitative impact of any Variations that affect ongoing Costs and identifying how these could be mitigated and/or reflected in the Charges;
- (d) the Parties being able to review, address issues with and re-forecast progress in relation to the provision of the Services;
- (e) the Parties challenging each other with ideas for efficiency and improvements; and
- (f) enabling the Buyer to demonstrate that it is achieving value for money for the tax payer relative to current market prices;

"FOIA"

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"

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

- (a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under a Contract;
- (b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare;

	<ul style="list-style-type: none">(c) acts of a Crown Body, local government or regulatory bodies;(d) fire, flood or any disaster; or(e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding:<ul style="list-style-type: none">(i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain;(ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and(iii) any failure of delay caused by a lack of funds, and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;
"Force Majeure Notice"	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
"General Anti-Abuse Rule"	<ul style="list-style-type: none">(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 National Insurance contributions;
"General Change in Law"	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;
"Goods"	goods made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract;
"Good Industry Practice"	At any time the standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected at such time from a skilled and experienced person or body engaged within the relevant industry or business sector;
"Government"	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the Welsh Government), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;

"Government Data"	<p>(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's Confidential Information, and which:</p> <p>(i) are supplied to the Supplier by or on behalf of the Buyer; and/or</p> <p>(ii) the Supplier is required to generate, process, store or transmit pursuant to this Contract; or</p> <p>(b) any Personal Data for which the Buyer is Controller;</p>
"Government Procurement Card"	<p>the Government's preferred method of purchasing and payment for low value goods or services https://www.gov.uk/government/publications/government-procurement-card--2;</p>
"Guarantor"	<p>the person (if any) who has entered into a guarantee in the form set out in Schedule 23 (Guarantee) in relation to this Contract;</p>
"Halifax Abuse Principle"	<p>the principle explained in the CJEU Case C-255/02 Halifax and others;</p>
"HMRC"	<p>His Majesty's Revenue and Customs;</p>
"ICT Environment"	<p>the Buyer System and the Supplier System;</p>
"ICT Policy"	<p>the Buyer's policy in respect of information and communications technology, referred to in the Award Form (if used), which is in force as at the Effective Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;</p>
"Impact Assessment"	<p>an assessment of the impact of a Variation request by the Buyer completed in good faith, including:</p> <p>(a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under this Contract;</p> <p>(b) details of the cost of implementing the proposed Variation;</p> <p>(c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;</p>

	(d) a timetable for the implementation, together with any proposals for the testing of the Variation; and
	(e) such other information as the Buyer may reasonably request in (or in response to) the Variation request;
"Implementation Plan"	the plan for provision of the Deliverables set out in Schedule 8 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer;
"Incorporated Terms"	the contractual terms applicable to this Contract specified in the Award Form;
"Indemnifier"	a Party from whom an indemnity is sought under this Contract;
"Independent Controller"	a party which is Controller of the same Personal Data as the other Party and there is no element of joint control with regards to that Personal Data;
"Indexation"	the adjustment of an amount or sum in accordance with this Contract;
"Information Commissioner"	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
"Initial Period"	the initial term of this Contract specified in the Award Form;
"Insolvency Event"	with respect to any person, means: (a) that person suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or: (i) (being a company or an LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986; (b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, an LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person

with one or more other companies or the solvent reconstruction of that person;

- (c) another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person;
- (d) a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of that person's assets and such attachment or process is not discharged within fourteen (14) days;
- (e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- (f) where that person is a company, an LLP or a partnership:
 - (i) a petition is presented (which is not dismissed within fourteen (14) days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;
 - (ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that person;
 - (iii) (being a company or an LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or
 - (iv) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or
- (g) any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;

"Installation Works"

all works which the Supplier is to carry out at the beginning of the Contract Period to install the Goods in accordance with this Contract;

"Intellectual Property Rights" or "IPR"	<p>(a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</p> <p>(b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>(c) all other rights having equivalent or similar effect in any country or jurisdiction;</p>
"IP Completion Day"	has the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;
"IPR Claim"	any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR (excluding COTS Software where Part B of Schedule 36 (Intellectual Property Rights) is used), used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Buyer in the fulfilment of its obligations under this Contract;
"IR35"	the off-payroll rules requiring individuals who work through their company pay the same tax and National Insurance contributions as an employee which can be found online at: https://www.gov.uk/guidance/ir35-find-out-if-it-applies ;
"Joint Controller Agreement"	the agreement (if any) entered into between the Buyer and the Supplier substantially in the form set out in Annex 2 of Schedule 20 (Processing Data);
"Joint Control"	where two (2) or more Controllers jointly determine the purposes and means of Processing;
"Joint Controllers"	has the meaning given in Article 26 of the UK GDPR, or EU GDPR, as the context requires;
"Key Staff"	the persons who the Supplier shall appoint to fill key roles in connection with the Services as listed in Annex 1 of Schedule 29 (Key Supplier Staff);
"Key Sub-Contract"	each Sub-Contract with a Key Subcontractor;

"Key Subcontractor"	<p>any Subcontractor:</p> <ul style="list-style-type: none">(a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or(b) which, in the opinion of the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or(c) with a Sub-Contract with this Contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under this Contract, <p>and the Supplier shall list all such Key Subcontractors in the Award Form;</p>
"Know-How"	<p>all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party's possession before the Effective Date;</p>
"Law"	<p>any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;</p>
"Law Enforcement Processing"	<p>processing under Part 3 of the DPA 2018;</p>
"Losses"	<p>all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and "Loss" shall be interpreted accordingly;</p>
"Malicious Software"	<p>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;</p>

"Material Default"	a single serious Default or a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are remedied)
"Marketing Contact"	shall be the person identified in the Award Form;
"Milestone"	an event or task described in the Implementation Plan;
"Milestone Date"	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
"Month"	a calendar month and "Monthly" shall be interpreted accordingly;
"National Insurance"	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
"New IPR"	<p>(a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Contract and updates and amendments of these items including database schema; and/or</p> <p>(b) IPR in or arising as a result of the performance of the Supplier's obligations under this Contract and all updates and amendments to the same;</p> <p>but shall not include the Supplier's Existing IPR or <i>Specially Written Software</i>;</p>
"New IPR Item"	means a deliverable, document, product or other item within which New IPR subsists;
"Notifiable Default"	means: <p>(a) the Supplier commits a Material Default; and/or</p> <p>(b) the performance of the Supplier is likely to cause or causes a Critical Service Level Failure;</p>
"Object Code"	software and/or data in machine-readable compiled object code form;
"Occasion of Tax Non – Compliance"	where: <p>(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:</p> <p>(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 in any jurisdiction that have an effect</p>

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 a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or

- (b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Start Date or to a civil penalty for fraud or evasion;

"Open Book Data"

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

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

	<p>(g) an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and</p> <p>(h) the actual Costs profile for each Service Period;</p>
"Open Licence"	<p>means any material that is published for use, with rights to access, copy, modify and publish, by any person for free, under a generally recognised open licence including Open Government Licence as set out at http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/ and the Open Standards Principles documented at https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles, and includes the Open Source publication of Software;</p>
"Open Source"	<p>computer Software that is released on the internet for use by any person, such release usually being made under a recognised open source licence and stating that it is released as open source;</p>
"Open Licence Publication Material"	<p>means items created pursuant to this Contract which the Buyer may wish to publish as Open Licence which are supplied in a format suitable for publication under Open Licence;</p>
"Overhead"	<p>those amounts which are intended to recover a proportion of the Supplier's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Staff and accordingly included within limb (a) of the definition of "Costs";</p>
"Parent Undertaking"	<p>has the meaning set out in section 1162 of the Companies Act 2006;</p>
"Parliament"	<p>takes its natural meaning as interpreted by Law;</p>
"Party"	<p>the Buyer or the Supplier and "Parties" shall mean both of them where the context permits;</p>
"Personal Data"	<p>has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;</p>
"Personal Data Breach"	<p>has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;</p>
"Prescribed Person"	<p>a legal adviser, an MP or an appropriate body which a whistleblower may make a disclosure to as detailed in "Whistleblowing";</p>

list of prescribed people and bodies", 24 November 2016, available online at:
<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>;

"Processing"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Processor"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Processor Personnel"	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under this Contract;
"Progress Meeting"	a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative;
"Progress Report"	a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates;
"Prohibited Acts"	<ul style="list-style-type: none">(a) to directly or indirectly offer, promise or give any person working for or engaged by the Buyer or any other public body a financial or other advantage to:<ul style="list-style-type: none">(i) induce that person to perform improperly a relevant function or activity; or(ii) reward that person for improper performance of a relevant function or activity;(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract; or(c) committing any offence:<ul style="list-style-type: none">(i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or(ii) under legislation or common law concerning fraudulent acts; or(iii) defrauding, attempting to defraud or conspiring to defraud the Buyer or other public body; or(d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;
"Protective Measures"	technical and organisational measures designed to ensure compliance with obligations of the Parties arising under Data Protection Legislation including 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 such measures adopted by it including those outlined in Schedule 16 (Security);
"Public Sector Body "	means a formally established organisation that is (at least in part) publicly funded to deliver a public or government service;
"Recall"	a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the IPR rights) that might endanger health or hinder performance;
"Recipient Party"	the Party which receives or obtains directly or indirectly Confidential Information;
"Rectification Plan"	<p>the Supplier's plan (or revised plan) to rectify its breach using the template in Schedule 25 (Rectification Plan) which shall include:</p> <ul style="list-style-type: none">(a) full details of the Notifiable Default that has occurred, including a root cause analysis;(b) the actual or anticipated effect of the Notifiable Default; and(c) the steps which the Supplier proposes to take to rectify the Notifiable Default (if applicable) and to prevent such Notifiable Default from recurring, including timescales for such steps and for the rectification of the Notifiable Default (where applicable);
"Rectification Plan Process"	the process set out in Clause 11;
"Regulations"	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);
"Reimbursable Expenses"	<p>the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including:</p> <ul style="list-style-type: none">(a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and(b) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to

and from the premises at which the Services are principally to be performed;

"Relevant Requirements"	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;
"Relevant Tax Authority"	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
"Reminder Notice"	a notice sent in accordance with Clause 14.6.1 given by the Supplier to the Buyer providing notification that payment has not been received on time;
"Replacement Deliverables"	any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables, whether those goods are provided by the Buyer internally and/or by any third party;
"Replacement Supplier"	any third party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is providing Replacement Deliverables for its own account, shall also include the Buyer;
"Request For Information"	a request for information or an apparent request relating to this Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
"Required Action"	means the action the Buyer will take and what Deliverables it will control during the Step-In Process;
"Required Insurances"	the insurances required by Schedule 22 (Insurance Requirements);
"Satisfaction Certificate"	the certificate (materially in the form of the document contained in Annex 2 of Part B of Schedule 8 (Implementation Plan and Testing) or as agreed by the Parties where Schedule 8 is not used in this Contract) granted by the Buyer when the Supplier has Achieved a Milestone or a Test;
"Schedules"	any attachment to this Contract which contains important information specific to each aspect of buying and selling;
"Security Management Plan"	the Supplier's security management plan prepared pursuant to Schedule 16 (Security) (if applicable);
"Security Policy"	the Buyer's security policy, referred to in the Award Form (if used), in force as at the Effective Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;

"Serious Fraud Office"	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
"Service Credits"	any service credits specified in the Annex to Part A of Schedule 10 (Service Levels) being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels;
"Service Levels"	any service levels applicable to the provision of the Deliverables under this Contract (which, where Schedule 10 (Service Levels) is used in this Contract, are specified in the Annex to Part A of such Schedule);
"Service Period"	has the meaning given to it in the Award Form;
"Services"	services made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract;
"Sites"	any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which: <ul style="list-style-type: none">(a) the Deliverables are (or are to be) provided; or(b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables;(c) those premises at which any Supplier Equipment or any part of the Supplier System is located (where ICT Services are being provided);
"SME"	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium enterprises;
"Social Value"	the additional social benefits that can be achieved in the delivery of this Contract set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used);
"Social Value KPIs"	the Social Value priorities set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used);
"Social Value Report"	the report the Supplier is required to provide to the Buyer pursuant to Paragraph 1 of Part C of Schedule 26 (Sustainability) where Schedule 10 (Service Levels) is not used;
"Software"	any software including Specially Written Software, COTS Software and software that is not COTS Software;

"Software Supporting Materials"	has the meaning given to it in Schedule 36 (Intellectual Property Rights);
"Source Code"	computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software;
"Special Terms"	any additional terms and conditions set out in the Award Form incorporated into this Contract;
"Specially Written Software"	any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Supplier (or by a Subcontractor or other third party on behalf of the Supplier) specifically for the purposes of this Contract, including any modifications or enhancements to COTS Software. For the avoidance of doubt Specially Written Software does not constitute New IPR;
"Specific Change in Law"	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Effective Date;
"Specification"	the specification set out in Schedule 2 (Specification);
"Standards"	any: <ul style="list-style-type: none">(a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;(b) standards detailed in the specification in Schedule 2 (Specification);(c) standards agreed between the Parties from time to time;(d) relevant Government codes of practice and guidance applicable from time to time;
"Start Date"	the date specified on the Award Form;

"Step-In Process"	the process set out in Clause 13;
"Step-In Trigger Event"	means: <ul style="list-style-type: none">(a) the Supplier's level of performance constituting a Critical Service Level Failure;(b) the Supplier committing a Material Default which is irremediable;(c) where a right of termination is expressly reserved in this Contract;(d) an Insolvency Event occurring in respect of the Supplier or any Guarantor;(e) a Default by the Supplier that is materially preventing or materially delaying the provision of the Deliverables or any material part of them;(f) the Buyer considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this agreement;(g) the Buyer being advised by a regulatory body that the exercise by the Buyer of its rights under Clause 13 is necessary;(h) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Deliverables; and/or(i) a need by the Buyer to take action to discharge a statutory duty;
"Step-Out Plan"	means the Supplier's plan that sets out how the Supplier will resume the provision of the Deliverables and perform all its obligations under this Contract following the completion of the Step-In Process;
"Storage Media"	the part of any device that is capable of storing and retrieving data;
"Sub-Contract"	any contract or agreement (or proposed contract or agreement), other than this Contract, pursuant to which a third party: <ul style="list-style-type: none">(a) provides the Deliverables (or any part of them);(b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or(c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);
"Subcontractor"	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;

"Subprocessor"	any third Party appointed to process Personal Data on behalf of the Processor related to this Contract;
"Subsidiary Undertaking"	has the meaning set out in section 1162 of the Companies Act 2006;
"Supplier"	the person, firm or company identified in the Award Form;
"Supplier Assets"	all assets and rights used by the Supplier to provide the Deliverables in accordance with this Contract but excluding the Buyer Assets;
"Supplier Authorised Representative"	the representative appointed by the Supplier named in the Award Form, or later defined in a Contract;
"Supplier Equipment"	the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Contract;
"Supplier Existing IPR"	any and all IPR that are owned by or licensed to the Supplier and which are or have been developed independently of this Contract (whether prior to the Effective Date or otherwise);
"Supplier Existing IPR Licence"	means a licence to be offered by the Supplier to the Supplier Existing IPR as set out in Schedule 36 (Intellectual Property Rights);
"Supplier Group"	means the Supplier, its Dependent Parent Undertakings and all Subsidiary Undertakings and Associates of such Dependent Parent Undertakings;
"Supplier New and Existing IPR Licence"	means a licence to be offered by the Supplier to the New IPR and Supplier Existing IPR as set out in Schedule 36 (Intellectual Property Rights) but excluding Buyer Software;
"Supplier Non-Performance"	where the Supplier has failed to: (a) Achieve a Milestone by its Milestone Date; (b) provide the Goods and/or Services in accordance with the Service Levels ; and/or (c) comply with an obligation under this Contract;
"Supplier Profit"	in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of this Contract for the relevant period;

"Supplier Profit Margin"	in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
"Supplier Staff"	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under this Contract;
"Supplier System"	the information and communications technology system used by the Supplier in supplying the Deliverables, including the COTS Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Buyer System);
"Supplier's Confidential Information"	<ul style="list-style-type: none">(a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier;(b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with this Contract;(c) information derived from any of (a) and (b) above;
"Supplier's Contract Manager"	the person identified in the Award Form appointed by the Supplier to oversee the operation of this Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment;
"Supply Chain Information Report Template"	the document at Annex 1 of Schedule 18 (Supply Chain Visibility);
"Supporting Documentation"	sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under this Contract detailed in the information are properly payable;
"Tender Response"	the tender submitted by the Supplier to the Buyer and annexed to or referred to in Schedule 4 (Tender);

"Termination Assistance"	the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice;
"Termination Assistance Period"	the period specified in a Termination Assistance Notice for which the Supplier is required to provide the Termination Assistance as such period may be extended pursuant to Paragraph 5.2 of Schedule 30 (Exit Management);
"Termination Assistance Notice"	has the meaning given to it in Paragraph 5.1 of Schedule 30 (Exit Management);
"Termination Notice"	a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Contract on a specified date and setting out the grounds for termination;
"Test Issue"	any variance or non-conformity of the Deliverables or Deliverables from their requirements as set out in this Contract;
"Test Plan"	a plan: <ul style="list-style-type: none">(a) for the Testing of the Deliverables; and(b) setting out other agreed criteria related to the achievement of Milestones;
"Tests and Testing"	any tests required to be carried out pursuant to this Contract as set out in the Test Plan or elsewhere in this Contract and "Tested" shall be construed accordingly;
"Third Party IPR"	Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
"Third Party IPR Licence"	means a licence to the Third Party IPR as set out in Paragraph 1.6 of Schedule 36 (Intellectual Property Rights);
"Transparency Information"	the Transparency Reports and the content of this Contract, including any changes to this Contract agreed from time to time, except for – <ul style="list-style-type: none">(a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and(b) Commercially Sensitive Information;
"Transparency Reports"	the information relating to the Deliverables and performance pursuant to this Contract which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Schedule 6 (Transparency Reports);

"UK GDPR"	has the meaning as set out in section 3(10) of the DPA 2018, supplemented by section 205(4) of the DPA 2018;
"Variation"	means a variation to this Contract;
"Variation Form"	the form set out in Schedule 21 (Variation Form);
"Variation Procedure"	the procedure set out in Clause 28 (Changing the contract);
"VAT"	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
"VCSE"	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
"Verification Period"	has the meaning given to it in the table in Annex 2 of Schedule 3 (Charges);
"Work Day"	7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
"Work Hours"	the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;
"Worker"	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) (https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees) applies in respect of the Deliverables; and
"Working Day"	any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Award Form.

Schedule 2 (Specification)

This Schedule sets out what the Buyer wants.

For all Deliverables, the Supplier must help the Buyer comply with any specific applicable Standards of the Buyer.

Our social value priorities:

- **Theme 2: Tackling Economic Inequality**
- **Model Award Criteria 2.3:** Support educational attainment relevant to the contract, including training schemes that address skills gaps and result in recognised qualifications.

1. Introduction

The purpose of this Specification is to provide the requirements for a contract to provide specialist support for local authorities (LAs) to enable them to deliver:

- a) their Early Years (EY) and wraparound childcare sufficiency duties;
- b) the expansion to the EY entitlements announced at the 2023 Spring Budget; and
- c) the wraparound childcare programme announced at the 2023 Spring Budget.

LAs are integral to the delivery of these programmes but require additional support to ensure they are in the best possible position to provide flexible and appropriate childcare in their areas. This tender seeks innovative bids from Potential Suppliers able to provide LAs with the advice, guidance and support they need to implement the reforms in their areas and overcome any challenges that could hinder implementation.

2. Background

Wraparound childcare

The national wraparound childcare programme is part of the childcare reforms announced at the 2023 Spring Budget. The government's ambition is that by 2026, all parents and carers of primary school-aged children who need it will be able to access term time childcare in their local area from 8am-6pm, so that parents can access employment and improve labour market participation (hours worked and numbers employed). Wraparound childcare is key to ensuring there are more parents working or beginning to work and supporting their families.

To support the delivery of this ambition, DfE will invest £289m to support LAs to work with schools, PVI and childminders to introduce or expand childcare provision between 8am and 6pm. This funding will also enable LAs to test flexible ways of providing childcare and gather evidence of what works. The funding period will run from January 2024 until April 2026, and we expect that many schools or private settings will be able to deliver wraparound childcare that is self-financing and sustainable by September 2026.

We expect parents in all parts of the country to see an expansion in the availability of wraparound care in England from September 2024. There is potential that some LAs will be ready to roll out provision from Spring 2024.

In order to meet this ambition, we need to improve the availability of wraparound provision and ensure that provision is affordable and of good quality. Parents will not choose to use wraparound childcare if they do not feel confident that their child is safe and engaged and/or if they are unable to afford to pay for provision.

Through the programme we also want to test innovative ways of providing childcare and gather evidence of what works. The programme will support LAs to test new models of provision and generate additional demand. Supporting the sharing of information and building an evidence base of what works is key, both to enable LAs to deliver successful provision and inform how we build a system that is sustainable. Engagement of schools is key to the programme's success, both providing and signposting parents to wraparound provision.

We have been working with sector experts to understand the challenges and barriers to the delivery of the programme, including 16 LAs to help us co-design the programme. What we have heard is that each LA has their own unique strengths and challenges. Therefore, the programme and contracted Supplier needs to respond to this and provide a flexible approach to supporting LAs to respond to the needs of their communities and ensure that aims of the programme are met.

Early Years

In the 2023 Spring Budget, the Chancellor announced that funded childcare hours would be extended to children of eligible working parents in England from nine months old to support increased parental engagement in the labour market.

The measures announced will expand the existing system by offering up to 30 funded hours of childcare per week over 38 weeks of the year to children aged nine months and over, where their parents are eligible. The policy will have a phased rollout:

- From April 2024, eligible working parents of two-year-olds will be able to access 15 hours of free childcare.
- From September 2024, eligible working parents of children from the age of nine months will be able to access 15 hours of free childcare.
- From September 2025, working parents of children aged nine months and

upwards will be entitled to 30 hours free childcare per week right up to their child starting school.

This staggered approach will give LAs and childcare providers time to prepare for the changes, ensuring there are enough providers ready to meet demand and so parents can plan for childcare. The Government is providing support for LAs to enable them to deliver the expanded EY offer, including £12m of delivery support funding in FY2023-24.

Ahead of the full rollout of 30 hours free childcare to children from 9 months from September 2025, DfE may select a small number of 'early implementer' LAs to go live with the full offer ahead of national rollout. We tested delivery with early implementers when rolling out the 3–4-year-old entitlement and the evaluation findings were invaluable for LAs, providers and government ahead of the 2017 rollout. We are therefore exploring options for generating early learning for the EY expanded entitlements to share with LAs and providers.

The role of LAs

LAs have a legal duty to ensure sufficient childcare places in their areas. For EY provision, DfE provides grant funding to LAs to deliver the funded government places, and LAs are responsible for allocating funding to local childcare providers. For wraparound, DfE will provide funding to LAs both to build their own capacity, and programme funding to make new wraparound childcare places available to meet and drive parental demand. This contract sits alongside government funding for LAs to deliver the programmes, and is intended to bolster the capacity, capability and expertise those authorities already have.

3. The Provision of Services

Service requirements and Key Performance Indicators (KPIs) that apply to the provision of the Services are set out in this Specification and Schedule 10 (Service Levels).

The successful Supplier will support 153 LAs (Unitary, Metropolitan Boroughs, London Boroughs, and County Councils) to deliver: a) their EY and wraparound childcare sufficiency duties, b) the expansion to the EY entitlements announced at the 2023 Spring Budget, and c) the wraparound childcare programme announced at the 2023 Spring Budget. The contract covers England only.

The specific requirements for Suppliers are listed in the below sections 'Outline Programme Requirements' and 'Detailed Programme Requirements'.

4. Mandatory Requirements

As part of this Specification there are a number of mandatory requirements that the Supplier must meet, listed in Table 1 below.

Table 1: Mandatory Requirements

1	<p>The Supplier can deliver all of the Service Requirements as set out in this Specification within the following delivery timescale:</p> <ul style="list-style-type: none"> • Commence delivery of the key objectives of the contract from 8th January 2024 • Contract end: 31st March 2026
2	<p>The Supplier accepts the Terms and Conditions of contract as provided in this ITT (Document 4, Attachment 1). This includes, but is not limited to:</p> <ul style="list-style-type: none"> • GDPR compliance • Cyber Essentials Plus scheme • DfE's IPR position • Exit Planning • Reporting, including against KPIs
3	<p>The Supplier must have, or commit to obtaining prior to contract commencement, the insurance levels indicated below:</p> <ul style="list-style-type: none"> • Employer's Compulsory Liability Insurance: £5,000,000 • Public Liability Insurance: £1,000,000 • Personal Liability Insurance: £1,000,000 • Product Liability Insurance: £1,000,000
4	<p>The Services must be compliant with Government Digital Standards where appropriate, and where applicable the Technology Code of Practice and Accessibility Standards which are set out in the GDS Service Manual Service Manual - GOV.UK (www.gov.uk)</p>
5	<p>The Supplier is to set up a dedicated email address for LAs.</p>
6	<p>The Supplier is to develop and maintain a portal / tool that allows LAs to submit delivery plan information, progress reporting and data collection as may be necessary to fulfil the requirements of the national impact evaluation. The tool should be compliant with Departmental systems. The Supplier is to utilise this online tool to record and report up-to-date performance of each LA.</p>
7	<p>The Supplier agrees with the Service Credit and Incentive Payment approach detailed in the Specification – agreement to sacrifice up to 8% of quarterly charges against non-/under-achievement of specified KPIs.</p>

5. Outline programme requirements

The successful Supplier will work with LAs to ensure they can deliver the expanded EY entitlements and wraparound childcare programme in line with programme milestones. They will provide expert support for LAs to support them to increase their capacity and expertise to deliver, supporting LAs to meet delivery milestones. This support will sit alongside support and guidance provided by DfE, to ensure LAs are able to meet their sufficiency duties for the

expanded EY entitlements and deliver the wraparound childcare programme. All support provided through this contract should enable LAs to sustain activity beyond the life of this contract (i.e., beyond March 2026).

This support contract sits across both EY and the wraparound programme to ensure LAs receive joined-up support across both areas where required, to better enable authorities and DfE to realise synergies across the programmes, and to mitigate potential workload impacts for LAs. **Where possible, and where this will support LAs most effectively, the requirements outlined in this section should be delivered jointly between both programmes.**

While most requirements across the two programmes are broadly aligned, they differ with regard to the national monitoring of delivery (requirement 2 below). The wraparound programme requires a national delivery monitoring function (requirement 2b – see below) involving the regular collection of LAs’ delivery plans. This is because wraparound is a novel programme requiring potentially new activity for LAs, and regular delivery plan submissions are a condition of their grant funding. However, the related EY requirement (2a – see below) differs because DfE already collects significant amounts of data about EY delivery and will therefore monitor national readiness and sufficiency in-house, with support and input from the Supplier.

We welcome innovative bids that go beyond the requirements outlined in this specification where that can more effectively support LAs and have developed our scoring criteria with this in mind.

Table 2: List of Requirements

No.	Early Years requirement:	Wraparound requirement:
1	1a) Provide targeted support for LAs to implement the EY entitlements expansion and/or to ensure sufficiency for the existing entitlements.	1b) Provide targeted support for LAs identified as requiring support to implement the wraparound programme.
2	2a) Provide expertise and intelligence to enable DfE to accurately monitor LAs’ readiness for, and delivery of, the national rollout of the EY expansion and sufficiency for the existing entitlements, to inform decisions about and implementation of additional support.	2b) Accurately monitor LAs’ readiness for and delivery of the national rollout of the wraparound programme, to inform decisions about and implementation of additional support.
3	3a) Support and facilitate the sharing of good practice between and across LAs and foster peer-support networks.	3b) Support and facilitate the sharing of good practice between and across LAs and foster peer-support networks.

4	4a) Support with LA provider engagement and local market management , including direct provider engagement where required.	4b) Support with LA provider engagement and local market management , including direct provider engagement where required.
5	5a) Work with any selected early implementer LAs (max 10) to meet the above requirements and deliver entitlements places ahead of the national rollout, through the potential EY expansion early implementer programme.	5b) Work with any LAs identified as early implementers (max 10) that work to an earlier timeline.

Expertise

To deliver the requirements outlined above, the Supplier must be able to provide expert advice and support for LAs on the following areas, and any other topics relevant to the effective rollout of the EY expansion and wraparound programme. This will include, but may not be limited, to:

- EY policy and funding
- Primary school-aged childcare policy and funding
- IT systems (particularly those requiring changes to administer the EY entitlement expansion or wraparound programme)
- Analysis (particularly EY and primary school-aged supply and demand analysis)
- Estates and space (specifically, appropriate physical spaces for childcare from 0-4 for EY and school-age for wraparound)
- EY and school age childcare staffing (recruitment and retention; skills)
- Contract management
- Health and safety
- Safeguarding
- Business support and provider engagement, including schools
- Any additional relevant areas that may be required throughout the programme depending on changing needs of LAs

In addition, we expect the Supplier to keep the skills and knowledge of its workforce up to date, to enable them to effectively support LAs as the stages of rollout are met for the EY entitlement expansion and wraparound programme.

Project management

The successful Supplier will need to provide an overarching project management function to enable and report on the elements above. The timelines and processes for this project management should be aligned with DfE’s timelines.

The Supplier shall work closely with the existing DfE contracted support provider for EY, to enable successful handover of activity relating to support provided to

LAs to ensure childcare sufficiency, and to ensure an effective support package is available for the full handover period. The current contract is due to end on 31st March 2024. This shall be done in a way that avoids placing additional burdens on LAs and avoids any duplication of services between suppliers during the handover period (c.2 months).

6. Detailed programme requirements

6.1 Requirements to support LA implementation of the EY entitlement expansion

1a) Provide targeted expert support for LAs to implement the EY entitlements expansion and/or to ensure sufficiency for the existing entitlements.

- i. From the commencement of the contract, put in place a team of experts that can effectively support LAs with the delivery of the EY entitlements expansion and to meet their childcare sufficiency duty.
- ii. Establish and promote effective mechanisms to allow any LA to contact the Supplier for support or to seek advice to deliver the expanded EY entitlements or to meet their existing sufficiency duty. For example, email address(es), helplines and/or websites should be made readily available to all LAs.
- iii. Offer a package of support for LAs who require help to deliver the EY expansion or to meet their childcare sufficiency duty by:
 - o Designing and implementing a prioritisation process for LAs that self-refer to the Supplier for support. This process must be agreed with DfE, and the outputs of the prioritisation process must also be agreed with DfE.
 - o Promptly offering a package of support to LAs that have been identified by DfE as needing additional help, or who have successfully self-referred for the Supplier's support via the prioritisation process above.
- iv. Deliver advice and support to all LAs who require help to deliver the EY expansion or to meet their childcare sufficiency duty, as per requirement 1(a)(iii). For these LAs, the Supplier should, following initial engagement and diagnostic work, set out proposed support actions, for agreement by DfE. The Supplier should then work with those LAs to agree and implement a package of support. This advice and support could include, but is not limited to:
 - o Supporting LAs to use data effectively, at sub-local (e.g., ward or middle layer super output area) and LA level. For example, the Supplier will support LAs to carry out their own supply and demand

- mapping, including using DfE-supplied supply and demand analysis more effectively to identify sufficiency issues in their areas.
- Supporting LAs to overcome EY workforce challenges in their areas.
 - Supporting LAs to implement the IT changes needed to administer the expanded EY entitlements.
 - Supporting LAs to resource the EY expansion effectively, including identifying staffing needs with LAs and advising on LA staff prioritisation.
 - Supporting LAs to put in place effective plans for sustaining their EY delivery beyond the life of this contract.
 - Supporting LAs to ensure there is sufficient flexibility in the delivery of EY provision to support working parents. For example, ensuring there is an appropriate mix of sessional and full-day care, and supporting LAs to ensure there is a sufficient mix of term-time and year-round provision.
 - Providing communications and engagement support for LAs to ensure providers and parents in their area understand details of the EY expansion.
 - Advising LAs on the best use of any delivery support funding provided by DfE.
- v. Arrange and lead regular monitoring meetings with LAs identified (by the LA themselves, DfE, or the Supplier with the agreement of DfE) as needing support to deliver the EY entitlement expansion or to meet their sufficiency duty. Involve relevant DfE teams in these meetings where this is deemed appropriate by the Supplier or when requested by DfE.
- vi. Produce materials and tools to support LAs to deliver the EY entitlement expansion and to ensure sufficiency for the existing entitlements (either bespoke to individual LAs, or for use nationally/ regionally).
- vii. Provide DfE with impartial advice about LAs that may require any delivery support funding, and the quantum of such funding. DfE will make the ultimate decision about any such funding, if available. A robust governance process will be in place to ensure effective decision-making, if any such funding is available.
- viii. Monitor, and report regularly to DfE, each LAs' progress against the agreed package of support, proposing resolutions or further support activities where appropriate. This will be integrated into DfE's delivery monitoring structures. DfE will use this information to both monitor progress and to decide when support should cease (for example, when the support has had a significant positive impact on an LA's ability to

deliver).

- ix. Undertake a formal evaluation at an appropriate point following the end of the support activity and shared with DfE by the date agreed with the LA and DfE contract manager.

2a) Provide expertise and intelligence to enable DfE to accurately monitor LAs' readiness for, and delivery of, the national rollout of the EY expansion and sufficiency for the existing entitlements, to inform decisions about and implementation of additional support.

- i. Contribute to DfE's assessment of LA readiness for the EY entitlement expansion, including DfE's implementation of termly readiness self-assessments. This will include proposing additional LAs for support where the Supplier's intelligence suggests this is necessary.
- ii. Supply DfE with local and national intelligence to inform its assessment of risk in each LA.
- iii. Maintain a record of all activities provided to support LAs and report this to DfE on at least a monthly basis.
- iv. Maintain a list of up-to-date names, email addresses and phone numbers for working-level and senior EY contacts in each LA.
- v. The Supplier must coordinate with the LA delivery team to ensure engagement is streamlined and does not result in duplicate activity for LAs.

3a) Support and facilitate the sharing of good practice between and across LAs and foster peer-support networks.

- i. Develop partnership working between LAs to provide innovative solutions to delivery challenges.
- ii. Arrange, facilitate and lead activities and networks to ensure knowledge and best practice is shared within and between LAs, building on existing networks where these exist with a view that this activity becomes sustainable beyond the life of the contract. Coordinate and support DfE-led events for LAs where requested.
- iii. Produce and share case studies of good practice to be shared with other LAs and used in wider communications and evidence base.
- iv. Develop other effective means of sharing best practice and knowledge between LAs and within LAs – such as developing or identifying appropriate online platforms for sharing information between LAs.
- v. Share information with DfE-appointed evaluator as required to aid evaluation of the programme.

4a) Support with LA provider engagement and local market management, including direct provider engagement where required

- i. Identify and diagnose where provider business support functions/ activity within LAs require improvement.
- ii. Ensure a support package (as outlined in requirement 1a) is in place to improve LA provider business support functions – this may form the majority of support provided to some LAs, depending on need. This will include, but will not be limited to:
 - Working with LAs to ensure their local provider markets understand the implications of funding decisions on their own growth planning.
 - In collaboration with LAs, providing advice to providers to help them understand how to adapt their business models to deliver the expanded EY entitlements.
 - Supporting LAs so they have a clear understanding of their local provider market, including improving their capacity to determine where providers can expand to meet increased demand.
 - Where appropriate, advising LAs and providers on the best use of physical space to provide appropriate childcare places.
 - Supporting LAs to work with providers to support expansion in sub-LA areas where it is needed.
- iii. Produce materials and deliver activity to improve all LAs' ability to effectively engage with providers to facilitate market expansion (e.g., national or regional workshops, briefings, business planning surgeries etc.).

5a) Work with any early implementer LAs (maximum of 10) to deliver the EY expansion early implementer programme

- i. Provide any of the support outlined in the requirements 1a, 2a, 3a and 4a as needed for any early implementer LAs.

6.2 Requirements to support LA implementation of the wraparound programme

1b) Provide targeted support for LAs identified as requiring support to implement the wraparound programme.

- i. From the commencement of the contract, put in place a team of experts that can effectively support LAs with the delivery of the wraparound programme.

- ii. Establish and promote effective mechanisms to allow any LA to contact the Supplier for support or to seek advice to deliver the wraparound programme. For example, email address(es), helplines and/or websites should be made readily available to all LAs.
- iii. Make prompt contact with all LAs requesting support to deliver the wraparound programme for primary school-age childcare.
- iv. Provide advice and support to all LAs requiring or requesting support via the processes outlined elsewhere in these requirements, according to the timeframes agreed via that process. This will include, but is not limited to:
 - Supporting LAs to use data effectively, at sub-local and LA level. For example, the Supplier will support LAs to carry out their own supply and demand mapping, including using DfE-supplied supply and demand analysis (where available), more effectively to identify sufficiency issues and opportunities for growing wraparound provision in their areas.
 - Supporting LAs to implement any IT changes that are needed to administer the wraparound programme.
 - Supporting LAs to resource the wraparound programme effectively, including identifying staffing needs with LAs and advising on LA staff prioritisation.
 - Supporting LAs to put in place effective plans to deliver additional wraparound childcare places and then sustaining wraparound delivery beyond the life of this contract.
 - Supporting LAs to ensure there is sufficient flexibility in the delivery of wraparound childcare to support working parents.
 - Providing communications and engagement support for LAs to ensure providers and parents in their area understand details of the wraparound programme.
- v. Arrange and lead regular monitoring meetings with LAs identified (by the LA themselves, DfE or the Supplier) as needing support. Involve DfE team in these meetings where this is deemed appropriate by the Supplier or requested by DfE.
- vi. Design and implement a prioritisation process for LAs that are either identified by the Supplier, through regular contact with LAs, or self-refer to the Supplier as requiring additional support to deliver the wraparound programme. This process must be agreed with DfE and enable identification and prioritisation of LAs for additional support throughout the programme. For those LAs agreed to offer additional support the Supplier should, following initial engagement and diagnostic work, set out proposed support actions, for agreement by DfE. The Supplier should then work with those LAs to agree and implement a plan of support.

2b) Accurately monitor LAs' readiness for and delivery of the national rollout of the wraparound programme, to inform decisions about and implementation of additional support.

- i. Establish a national reporting and monitoring system through which the Supplier will record contact with LAs, support provided and evidence-based confidence ratings and through which LAs will supply mapping on supply and demand, delivery plans, progress reports and data returns in line with DfE deadlines (see illustrative timeline below).
- ii. The system must be designed to handle a range of document inputs including (but not restricted to) Microsoft Word and Excel documents and PDFs. The system output should include summary reports, csv data downloads and Power BI. All input and output must be compatible with DfE systems and processes without restriction for future use and development following project close. The outputs should also be usable by DfE for any future evaluation of the wraparound programme.
- iii. The system should be designed around the principles of ease of use for end user and security of data transfer between DfE and our external partners including LAs and schools.
- iv. Work with LAs, providing additional support as required, to ensure all LAs return delivery plan submissions to completeness and quality required. Use expertise to undertake a review of these to identify issues or concerns both in initial plans and then through future reporting submissions that may impact on LA delivery of activities as set out in these plans.
- v. Contact all LAs monthly to monitor readiness for and delivery of the wraparound programme. Contact should be sufficient to assure confidence in LA readiness and delivery progress, should be at least by phone call and tailored to need, with those LAs requiring it receiving longer support meetings.
- vi. Report to DfE monthly readiness of all LAs, including confidence ratings, against delivery milestones for the wraparound programme. This is to be broken down by LA and identify those LAs requiring additional support. The detail of these reports is to be agreed through development with DfE and may differ between EY and wraparound. The reports will identify common themes / risks / issues / concerns across more than one LA, and report these to DfE for use in its own readiness monitoring.
- vii. Report to DfE the monthly progress of all LAs against DfE reporting milestones – e.g., supply and demand mapping / delivery plan returns / reporting returns. DfE may require the frequency of these reports to change during the contract period to respond to programme needs.
- viii. Maintain a record of all activities provided to support LAs, including required monthly contact, and report this to DfE on at least a monthly basis.

- ix. Produce and maintain a list of up-to-date names, email addresses and phone numbers for working-level and senior wraparound contacts in each LA.
- x. Report LA-level and national-level readiness to deliver the wraparound programme to appropriate DfE governance and delivery structures, attending meetings and supplying data where required.

3b) Support and facilitate the sharing of good practice between and across LAs and foster peer-support networks

- i. Develop partnership working between LAs to provide innovative solutions to delivery challenges.
- ii. Arrange, facilitate and lead activities and networks to ensure knowledge and best practice is shared within and between LAs, building on existing networks where these exist with a view that this activity becomes sustainable beyond the life of the contract. Coordinate and support DfE-led events for all LAs at least 1 per term.
- iii. Produce and share case studies of good practice to be shared with other LAs and used in wider communications and evidence base, these should present good practice to address areas of challenge LAs are identifying.
- iv. Develop other effective means of sharing best practice and knowledge between LAs and within LAs – such as developing or identifying appropriate online platforms for sharing information between LAs.
- v. Share information with DfE appointed evaluator as required to aid evaluation of the programme.

4b) Support with LA provider engagement and local market management, including direct provider engagement where required

- i. Provide support to LAs on how to effectively engage with providers and particularly schools to ensure programme success, including identifying LAs that may benefit from additional support. Work with LAs to put in place plans to address issues in engaging providers.
- ii. Deliver, co-produce and provide support and guidance to support LAs to carry out activity (e.g., workshops, briefings, business planning surgeries etc.) to support increased capacity in the market.
- iii. Work with LAs to get buy-in and commitment from schools to deliver or signpost to effective childcare that meets the needs of eligible parents.
- iv. Work with LAs to ensure that they have effective mechanisms in place to promote the availability of wraparound to parents including through schools and providers.

5b) Work with any LAs identified as early implementers that work to an

earlier timeline.

- i. Work with those LAs that DfE has agreed will work to an earlier timeframe enabling early roll out of wraparound programme. This will require these LAs to provide delivery plans and reports outside of programme windows.
- ii. Gather learning from early implementer LAs and report back to DfE to inform national rollout.
- iii. Support LAs to work closely with providers and parents, to identify and resolve delivery challenges ahead of early rollout.
- iv. Provide support to the LA throughout implementation by working alongside them to help with preparations for delivery.

7. Programme Timescales

The table below shows the indicative project timings, which may be subject to change.

Table 3: Indicative support programme timeline

Activity	Date
Contract commencement date	8 January 2024
Initial DfE / provider contract initiation meeting	8 January 2024
Support contract for LA to commence, expert team in place, mechanism for LAs accessing support in place (i.e., phone number / email address).	By 1 February 2024
Prioritisation process for LAs that DfE or Supplier identify or self-refer to the Supplier for support to be agreed with DfE	By 1 February 2024
Supplier to make initial contact with all LAs to introduce their role and initiate support relationship.	1-15 February 2024
LA readiness self-assessments sent and analysed for EY	February – April 2024
Data collection exercise from LAs to assess readiness to deliver and report on existing supply and demand for wraparound places.	March 2024
Complete handover with existing Supplier of LA sufficiency support.	29 March 2024
Eligible working parents of two-year-olds will be able to access 15 hours of free childcare.	1 April 2024

<p>Supplier to create online tool / portal to enable LA to upload wraparound delivery plans and reporting against these</p>	<p>January – March 2024 April testing ready for May delivery</p>
<p>LAs to submit delivery plans for the delivery of wraparound. Supplier is to:</p> <ul style="list-style-type: none"> • support LAs in the creation of delivery plans before and during the submission window; • quality assure plans for content and completeness; • support LAs to update and resubmit plans as necessary; • submit to DfE within 2 weeks of receipt from LA; and • ensure all LAs deliver within the specified window. 	<p>7 May – 14 June 2024 LA submission window Updated delivery plans and progress reports to be submitted in Feb 25, Nov 25 and March 26.</p>
<p>Portal to enable LA return of delivery plan progress reporting.</p> <ul style="list-style-type: none"> • Support LAs in the creation and submission of updated delivery plans and progress reports – Feb 25, Nov 25 and March 26. • Quality assure plans for content and completeness. • Support LAs to update and resubmit plans as necessary. • Submit to DfE within 2 weeks of receipt from LA. <p>Ensure all LAs deliver within the specified window.</p>	<p>June 2024</p>
<p>LA readiness self-assessments sent and analysed for EY only</p>	<p>May-July 2024</p>
<p>LAs to submit baseline data reporting – online return to be developed – against wraparound delivery forecast – places / providers</p>	<p>Summer term 2024 Updated data reporting to be submitted termly.</p>
<p>15 hours of free childcare will be extended to all children from the age of nine months.</p>	<p>September 2024</p>
<p>LAs to have additional wraparound places available</p>	<p>September 2024</p>
<p>LA readiness self-assessments sent and analysed for EY only</p>	<p>October – December 2024 February – April 2025</p>
<p>Working parents of children under the age of five will be entitled to 30 hours free childcare per week.</p>	<p>September 2025</p>

LA readiness self-assessments sent and analysed for EY only	October – December 2025 February – April 2026
<p>LAs to submit final delivery and data reports through online return.</p> <ul style="list-style-type: none"> • Support LAs in the creation and submission of final delivery reports March 26. • Quality assure plans for content and completeness. • Support LAs to update and resubmit plans as necessary. • Submit to DfE within 2 weeks of receipt from LA. • Ensure all LAs deliver within the specified window. 	March 2026
Contract end date	31 March 2026

In addition to the above, the Supplier is required to develop a programme reporting tool / portal as below:

- Phase 1: LA monitoring tool in place within 6 weeks on contract start date (to include data handed over from previous childcare sufficiency contractor)
- Phase 2: tool / portal to enable LA return of wraparound supply and demand data for submission by 1 March 2024
- Phase 3: tool / portal to enable LA return of delivery plans and termly data returns by 1 April 2024
- Phase 4: tool / portal to enable progress reporting against delivery plans by 1 June 2024

All phases of development will require working with DfE teams and analysts to scope and agree content.

8. Illustrative KPIs, Financial Incentives and Service Credits

The Supplier will, as part of the contract and performance management process, be required to report regularly on progress towards meeting the KPIs set out in Table 4 below.

Please note, these KPIs are illustrative and may be refined prior to contract award. A Social Value KPI will also be created using the Supplier's social value Method Statement.

The maximum Financial Incentive available across the life of the contract is £175,000.

The Service Credit cap is set at a maximum of 8% of the quarterly payment, deducted from the next invoice submitted following the end of the Service Period.

Table 4: Key Performance Indicators

Financial Incentives				
KPI	Sub-KPI	Output or outcome	KPI descriptor	Measure
1	A (WA)	Wraparound Outcome	Effective rollout support: Delivery confidence improves for those LAs that are agreed as requiring support.	<p>Full incentive paid when 90% of LAs agreed as requiring additional support throughout the contract, due to low confidence ratings, meet sufficient confidence rating (rating definitions to be confirmed by DfE) within 6 months or, when identified after August 25, the end of the contract period.</p> <p>The total value of this KPI is £50,000 to be paid at the end of the contract period. Payment for performance below 100% will tapered according to performance:</p> <ul style="list-style-type: none"> • 50% payment if 75-89% of relevant LAs meet sufficient confidence rating • 20% payment if 50-74% of relevant LAs meet sufficient confidence rating • 0% payment below 50% of relevant LAs meet sufficient confidence rating
	B (EY)	EY Outcome	Effective rollout support: 90% of LAs referred or self-referred for rollout support meet sufficiency criteria agreed between DfE and the Supplier when rollout milestone is met.	<p>Full incentive paid if 90% or above of LAs who have received support from the Supplier meet sufficiency criteria agreed between DfE and the Supplier for the term following the relevant rollout stage identified in their package of support (e.g., Sept 24 and/or Sept 25). KPI will cover the following periods:</p> <ul style="list-style-type: none"> • If KPI is met in the term following the Sept 24 rollout stage, the maximum incentive payment available will be £25,000. • If KPI is met in the term following the Sept 25 rollout stage, the maximum incentive payment available will be £25,000. <p>The total value of this KPI is therefore £50,000 across the life of this contract. Payment for performance below 90% will tapered according to performance:</p> <ul style="list-style-type: none"> • 80% payment if 80-89% of relevant LAs meet sufficiency duty in the term following the relevant rollout stage (Sept 24 or Sept 25)

				<ul style="list-style-type: none"> • 60% payment if 60-79% of relevant LAs meet sufficiency in the term following the relevant rollout stage (Sept 24 or Sept 25) • 50% payment if 50-59% of relevant LAs meet sufficiency duty in the term following the relevant rollout stage (Sept 24 or Sept 25) • 0% payment below 50% of relevant LAs meeting their sufficiency duty in the term following the relevant rollout stage (Sept 24 or Sept 25) <p>Where an LA has more than one rollout stage identified in their action plan (e.g., Sept 24 and Sept 25), their sufficiency will count towards the KPI at both points. For example, where an LA meets the sufficiency criteria agreed between DfE and the Supplier in the two months following September 24, that will contribute to the fulfilment of the % target for Sept 24; if they do not meet those sufficiency criteria for Sept 25, they will not contribute to the fulfilling the % target. This will be measured in February, with payment in March.</p> <p>The exact start and end of the 'term' following the rollout stage will be agreed between DfE and the Supplier. In exceptional circumstances, DfE may agree a different time period for the measurement of success against this KPI.</p>
2	N/A	Wraparound Outcome	National reporting: Effective monitoring of all LAs	<p>Full incentive paid when 100% of LAs receive contact each month that enables effective and evidenced confidence rating to be applied by the Supplier, on a monthly basis, that identifies those LAs requiring further support and enables specific actions to be taken.</p> <p>The total value of this KPI is £25,000 across the life of this contract and will be measured at the end of each financial year, taking into account work done in the full financial year. The KPI will be measured at 2 points (March 25 and March 26) with payment made in the following month. Payment will be split equal into 2 payments of £12,500 one in April 25 and one in April 26. Payment for performance below 100% will be tapered according to performance:</p> <ul style="list-style-type: none"> • 50% payment when 95-99% of all LAs receive contact and evidenced rating. • 20% payment if 90-94% of all LAs receive contact and evidenced rating.

				<ul style="list-style-type: none"> 0% payment below 90% of all LAs receive contact and evidenced rating.
3	N/A	EY Outcome	<p>Effective sufficiency support: Sufficiency achieved within 3 months for all LAs referred or self-referred as requiring support to ensure they manage and meet their current sufficiency duty (i.e., as the duty stands at the point of referral or self-referral).</p>	<p>Full incentive payment paid if 90% or above of LAs, who have received support from the Supplier, meet sufficiency criteria agreed between DfE and the Supplier within 3 months of support from the Supplier commencing.</p> <p>The total value of this KPI is £50,000 across the life of this contract, split into 2 payments of £25,000 at the end of FY 25 and FY 26. The KPI will be measured in February 2025 and 2026, looking cumulatively at all relevant support packages, and paid in March 2025 and 2026. Payment for performance below 90% will tapered according to performance:</p> <ul style="list-style-type: none"> 80% payment if 80-89% of relevant LAs meet sufficiency duty within 3 months of support commencing 60% payment if 60-79% of relevant LAs meet sufficiency duty within 3 months of support commencing 50% payment if 50-59% of relevant LAs meet sufficiency duty within 3 months of support commencing 0% payment below 50% of relevant LAs meet sufficiency duty within 3 months of support commencing <p>Payment will be divided equally between the financial years (e.g., if the KPI is met across the first financial year, £25,000 will be due at the end of FY24-25; however, if less than 50% of eligible LAs meet the sufficiency criteria across FY25-26, then no payment will be due to the Supplier).</p> <p>Where an LA is eligible for both KPI 1B and 3, DfE will decide which KPIs apply on a case-by-case basis. Similarly, where an LA was previously eligible for KPI 1B, and subsequently becomes eligible for KPI 3, DfE will decide which KPIs apply on a case-by-case basis.</p>

Service Credits				
4	A (WA)	Wraparound Output	Support given: All delivery plans received to required completeness and quality within set timeframe.	<p>100% of delivery plan submissions (plan and reporting) completed to required completeness and quality, with a 0.5% reduction on total quarterly payment for every LA that does not have return to required standard within set timeframe (both to Supplier and DfE). Penalty to be applied in the month within which the submission deadline sits. Final timeframes to be agreed.</p> <p>This KPI is to apply at 3 points in the contract lifetime.</p>
	B (EY)	EY Output	Support given: Supplier completing support package to DfE's according to criteria agreed between the Supplier and DfE, for all LAs who are referred by DfE or approved via the Supplier's self-referral route.	<p>100% of support packages to providers completed in line with criteria agreed between DfE and the Supplier, within the timeframe agreed with DfE (noting that timeframes and criteria may vary between LAs on a case-by-case basis, reflecting their differing needs). This will be measured four times across the life of the contract, in Sept 24, Mar 25, Sept 25 and Mar 26. There will be a 1% reduction on total quarterly payment for every LA beneath 100%, which will apply in the month subsequent to measurement.</p>
5	N/A	EY and Wraparound Output	Customer satisfaction: Majority of LAs who receive a package of support are satisfied with the support received	<p>75%+ of LAs who have received a package of support from the Supplier are satisfied with the support provided, according to satisfaction criteria agreed between the Supplier and DfE. Data collected twice yearly. Where the satisfaction scores are below 75%, there will be a 1% reduction on total quarterly payment for each percentage point below 75%.</p>

Schedule 3 (Charges)

1. Definitions

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

"Anticipated Contract Life Profit Margin" the anticipated Supplier Profit Margin over the Contract Period;

"Maximum Permitted Profit Margin" means the Anticipated Contract Life Profit Margin plus 5%;

2. How Charges are calculated

2.1 The Charges:

2.1.1 shall be calculated in accordance with the terms of this Schedule;

2.1.2 cannot be increased except as specifically permitted by this Schedule and in particular shall only be subject to Indexation where specifically stated in the Award Form; and

2.2 Any variation to the Charges payable under a Contract must be agreed between the Supplier and the Buyer and implemented using the procedure set out in this Schedule.

3. The pricing mechanisms

The pricing mechanisms and prices set out in Annex 1 shall be available for use in calculation of Charges in this Contract.

4. Are costs and expenses included in the Charges

4.1 Except as expressly set out in Paragraph 5 below, or otherwise stated in the Award Form, the Charges shall include all costs and expenses relating to the provision of Deliverables. No further amounts shall be payable in respect of matters such as:

4.1.1 incidental expenses such as travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs, network or data interchange costs or other telecommunications charges; or

4.1.2 costs incurred prior to the commencement of this Contract.

5. When the Supplier can ask to change the Charges

5.1 The Charges will be fixed for the first two years following the Start Date (the date of expiry of such period is a **"Review Date"**). After this Charges can only be adjusted on each following yearly anniversary (the date of each such anniversary is also a **"Review Date"**).

- 5.2 The Supplier shall give the Buyer at least three (3) Months' notice in writing prior to a Review Date where it wants to request an increase. If the Supplier does not give notice in time then it will only be able to request an increase prior to the next Review Date.
- 5.3 Any notice requesting an increase shall include:
- 5.3.1 a list of the Charges to be reviewed;
- 5.3.2 for each of the Charges under review, written evidence of the justification for the requested increase including:
- (a) a breakdown of the profit and cost components that comprise the relevant part of the Charges;
 - (b) details of the movement in the different identified cost components of the relevant Charge;
 - (c) reasons for the movement in the different identified cost components of the relevant Charge;
 - (d) evidence that the Supplier has attempted to mitigate against the increase in the relevant cost components; and
 - (e) evidence that the Supplier's profit component of the relevant Charge is no greater than that applying to Charges using the same pricing mechanism as at the Effective Date.
- 5.4 The Buyer shall consider each request for a price increase. The Buyer may grant Approval to an increase at its sole discretion.
- 5.5 Any Approval granted by the Buyer pursuant to Paragraph 5.4 shall be on the condition that the change to the Charges will not result in the Supplier Profit Margin exceeding the Maximum Permitted Profit Margin.
- 5.6 Where the Buyer approves an increase then it will be implemented from the first (1st) Working Day following the relevant Review Date or such later date as the Buyer may determine at its sole discretion and Annex 1 shall be updated accordingly.

6. Other events that allow the Supplier to change the Charges

- 6.1 The Charges can also be varied (and Annex 1 will be updated accordingly) due to:
- 6.1.1 a Specific Change in Law in accordance with Clauses 28.6 to 28.8;
or
- 6.1.2 a request from the Supplier, which it can make at any time, to decrease the Charges;

Annex 1: Rates and Prices

Pricing Schedule (please see enclosed for FTE per role per month breakdown):



Payment Mechanism:

Section 1 - Set Up Payment Mechanism

Payment for the Set Up period will be paid via Milestone payments. The Milestone payments will be payable upon the successful delivery of specific Outputs by specific dates.

Successful completion of each milestone will attract a percentage of the Potential Supplier's total Set Up Costs as set out below.

Set Up Period Start Date	08/01/2024
Set Up Period End Date	19/02/2024

Percentage of Price for the Set Up period that will be paid via Milestone Payments	100%
Milestone Payment Total	

Milestone Description	Milestone Completion Date	Milestone Payment Date	Milestone Percentage	Milestone Payment
Agree ways of working with existing supplier during handover period	31/01/2024	29/02/2024	10%	
Expert team in place	31/01/2024	29/02/2024	20%	
Prioritisation process for LAs that supplier or DfE identifies or that self-refer to the supplier for support to be agreed with DfE	31/01/2024	29/02/2024	10%	
Commissioning process for targeted support (including approval of volume-driven costs) to be agreed with DfE.	31/01/2024	29/02/2024	10%	
Contact made with all LAs	15/02/2024	31/03/2024	25%	
Programme reporting tool / portal – Phase 1 development complete.	19/02/2024	31/03/2024	25%	
		Total	100%	

Section 2 - Service Period Payment Mechanism

Payment for the Core Activity across the Service Period will be paid via a Service Fee of equal instalment payments. Payment will be a pre-determined amount each month, calculated as the total Service Period Price, divided by the number of months in the Service Period. Payment for non core activity will be paid as per the 'Delivery Costs - Support Activity' tab and contractual documents.

Meeting certain KPIs throughout the Service Period will attract additional Financial Incentive payments, payable upon the successful delivery of specific Outcomes by specific dates. The Financial Incentives table is set out below, stemming from the KPIs as set out in Document 3 (Specification).

Support Activity Payments:

The 'Support Activity Pot' is calculated by multiplying the estimated unit price by the indicative number of units for both Targeted LA Support and Best Practice Sharing Requirements. The Supplier will be able to draw down from this Support Activity Pot. This Support Activity Pot is therefore considered a maximum price element of the total contract price.

Once on contract, the Authority (DfE) and the Supplier will agree all required mechanisms (to be agreed prior to the Service Period commencement date as per the required Mobilisation Plan) to agree estimated support activity (including price – using Section 14a and Section 14b of this tab as a reference point), the process to agree commencement of support activity packages (where required / as agreed), and the process to reconcile costs to account for estimated activity vs actual activity undertaken. The Supplier will ensure that the Authority is presented with all required data and information to carry out the required contract management activity. Neither party will act unreasonably.

Service period Start Date	20/02/2024
Service period End Date	31/03/2026

Percentage of Price for the Service period that will be paid via Financial Incentive Payments	N/A - absolute maximum value
Maximum Financial Incentive Available	£175,000

Percentage of Price for the Service period that will be paid as a Service Fee (Core Activity)	100%
Service Fee Total	
Service Fee Start Date	20/02/2024
Service Fee End Date	31/03/2026
Service Fee Number of Months	25
Service Fee per Month	
Support Activity Pot	

Financial Incentive Description	Financial Incentive Measurement Date	Financial Incentive Payment Date	Financial Incentive Percentage	Financial Incentive Payment
KPI 1A - Payment	31/03/2026	30/04/2026	29%	£50,000
KPI 1B - Payment 1	28/02/2025	31/03/2025	14%	£25,000
KPI 1B - Payment 2	28/02/2026	31/03/2026	14%	£25,000
KPI 2 - Payment 1	31/03/2025	30/04/2025	7%	£12,500
KPI 2 - Payment 2	31/03/2026	30/04/2026	7%	£12,500
KPI 3 - Payment 1	28/02/2025	31/03/2025	14%	£25,000
KPI 3 - Payment 2	28/02/2026	31/03/2026	14%	£25,000
		Total	100%	£175,000

Section 3 - Total Tendered Price

Total Service Period Price	
Support Activity Pot (Total Available Pot)	
Set Up Price	
Fixed Price (Total Service Period Price + Set Up Price)	
Total Maximum Financial Incentive	
Maximum Price (Fixed Price + Support Activity Pot + Total Maximum Financial Incentive)	
Set Up Price to be used for Evaluation	
TOTAL TENDERED PRICE (Total Price to be used for Evaluation)	

Section 4 - Payment Profile and Cash Flow

Expenses Input Total	
Cost	
Profit Margin/Operating Surplus	
Total Cost	

Cash Flow - Core Activity Only All Payments Received	Year 0													
	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24	Jan-25	Feb-25
Set Up - Expenses														
Set Up - Profit/Operating Surplus														
Service Period - Expenses														
Service Period - Profit/Operating Surplus														
Total Expenses														
Set Up - Milestone Payments														
Service Period - Financial Incentive														
Service Period - Service Fee														
Total Income														
Cash Flow														
Cumulative Cash Flow														

										Year 1				Total
Mar-25	Apr-25	May-25	Jun-25	Jul-25	Aug-25	Sep-25	Oct-25	Nov-25	Dec-25	Jan-26	Feb-26	Mar-26	Apr-26	

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Section 1b - Other Staff Costs

Cost Line	Sub Section	Fixed / Variable Cost	Direct / Indirect Cost
Mott MacDonald Event expenses	1.3 Staff Related Expenses	Fixed	Direct
Contract expenses for meetings	1.3 Staff Related Expenses	Fixed	Direct
Training	1.4 Staff Training	Fixed	Indirect
Recruitment	1.5 Staff Recruitment	Fixed	Indirect
Non-utilised staff time (sick, absence, corporate events etc)	1.6 Other Staff Costs	Fixed	Indirect
TOTAL			

Jan-24	Feb-24	Total Cost (£) Set Up (Jan-19 Feb)	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24

Dec-24	Jan-25	Total Cost (£) Contract Year 1	Feb-25	Mar-25	Apr-25	May-25	Jun-25	Jul-25	Aug-25	Sep-25	Oct-25	Nov-25	Dec-25	Jan-26	Total Cost (£) Contract Year 2	Feb-26	Mar-26	Total Cost (£) Contract Year 3	Total Costs

Section 2 - Accommodation Costs

Cost Line	Sub Section	Fixed / Variable Cost	Direct / Indirect Cost
Mott MacDonald overhead - Rent	2.1 Rent/ Lease/ Mortgage Costs	Fixed	Indirect
Mott MacDonald overhead - Rates	2.3 Rates	Fixed	Indirect
Mott MacDonald overhead - Premises	2.4 Facilities Management Costs	Fixed	Indirect
National and Regional events venue hire	2.6 Venue Hire Costs	Fixed	Direct
TOTAL			

Jan-24	Feb-24	Total Cost (£) Set Up (Jan-19 Feb)	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24

Dec-24	Jan-25	Total Cost (£) Contract Year 1	Feb-25	Mar-25	Apr-25	May-25	Jun-25	Jul-25	Aug-25	Sep-25	Oct-25	Nov-25	Dec-25	Jan-26	Total Cost (£) Contract Year 2	Feb-26	Mar-26	Total Cost (£) Contract Year 3	Total Costs

Section 3 - Technology Costs

Cost Line	Sub Section	Fixed / Variable Cost	Direct / Indirect Cost
Mott MacDonald overhead - IT hardware	3.1 IT Hardware	Fixed	Indirect
Mott MacDonald overhead - IT software	3.2 IT Software	Fixed	Indirect
Mott MacDonald overhead - IT maintenance	3.3 IT Maintenance	Fixed	Indirect
Mott MacDonald overhead - IT security	3.4 IT Security Costs	Fixed	Indirect
Mott MacDonald overhead - Other IT	3.6 Other IT Costs	Fixed	Indirect
Mott MacDonald technology costs	3.2 IT Software	Fixed	Direct
TOTAL			

Jan-24	Feb-24	Total Cost (£) Set Up (Jan-19 Feb)	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24

Dec-24	Jan-25	Total Cost (£) Contract Year 1	Feb-25	Mar-25	Apr-25	May-25	Jun-25	Jul-25	Aug-25	Sep-25	Oct-25	Nov-25	Dec-25	Jan-26	Total Cost (£) Contract Year 2	Feb-26	Mar-26	Total Cost (£) Contract Year 3	Total Costs

Section 4 - Subcontractor Costs

Delivery Partner activities (e.g. full end-to-end service, specific activity or specialised service)	Sub Section	Fixed / Variable Cost	Direct / Indirect Cost
	Subcontractor Staff Costs	Fixed	Direct
	Subcontractor Staff Costs	Fixed	Direct
	Subcontractor Non-Staff Costs	Fixed	Direct
	Subcontractor Non-Staff Costs	Fixed	Direct
	Subcontractor Staff Costs	Fixed	Indirect
TOTAL			

Jan-24	Feb-24	Total Cost (£) Set Up (Jan-19 Feb)	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24

Dec-24	Jan-25	Total Cost (£) Contract Year 1	Feb-25	Mar-25	Apr-25	May-25	Jun-25	Jul-25	Aug-25	Sep-25	Oct-25	Nov-25	Dec-25	Jan-26	Total Cost (£) Contract Year 2	Feb-26	Mar-26	Total Cost (£) Contract Year 3	Total Costs

Section 5 - Other Operating Costs

Cost Line	Sub Section	Fixed / Variable Cost	Direct / Indirect Cost
Mott MacDonald overhead - Office equipment	5.2 Office Equipment	Fixed	Indirect
TOTAL			

Jan-24	Feb-24	Total Cost (£) Set Up (Jan-19 Feb)	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24

Dec-24	Jan-25	Total Cost (£) Contract Year 1	Feb-25	Mar-25	Apr-25	May-25	Jun-25	Jul-25	Aug-25	Sep-25	Oct-25	Nov-25	Dec-25	Jan-26	Total Cost (£) Contract Year 2	Feb-26	Mar-26	Total Cost (£) Contract Year 3	Total Costs

Section 6 - Consultancy Service Costs

Cost Line	Sub Section	Fixed / Variable Cost	Direct / Indirect Cost
Mott MacDonald overhead - Legal fees	6.1 Legal Fees	Fixed	Indirect
Mott MacDonald overhead - Auditing fees	6.2 Auditing Fees	Fixed	Indirect
TOTAL			

Jan-24	Feb-24	Total Cost (£) Set Up (Jan-19 Feb)	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24

Dec-24	Jan-25	Total Cost (£) Contract Year 1	Feb-25	Mar-25	Apr-25	May-25	Jun-25	Jul-25	Aug-25	Sep-25	Oct-25	Nov-25	Dec-25	Jan-26	Total Cost (£) Contract Year 2	Feb-26	Mar-26	Total Cost (£) Contract Year 3	Total Costs

Section 7 - Corporate Overheads

Cost Line	Sub Section	Fixed / Variable Cost	Direct / Indirect Cost
Mott MacDonald overhead - HR support costs	7.1 HR Support Costs	Fixed	Indirect
Mott MacDonald overhead - Finance support costs	7.2 Finance Support Costs	Fixed	Indirect
Mott MacDonald overhead - Financing costs	7.3 Financing Costs	Fixed	Indirect
Mott MacDonald overhead - Other corporate overhead costs	7.4 Other Corporate Overhead Costs	Fixed	Indirect
TOTAL			

Jan-24	Feb-24	Total Cost (£) Set Up (Jan-19 Feb)	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24

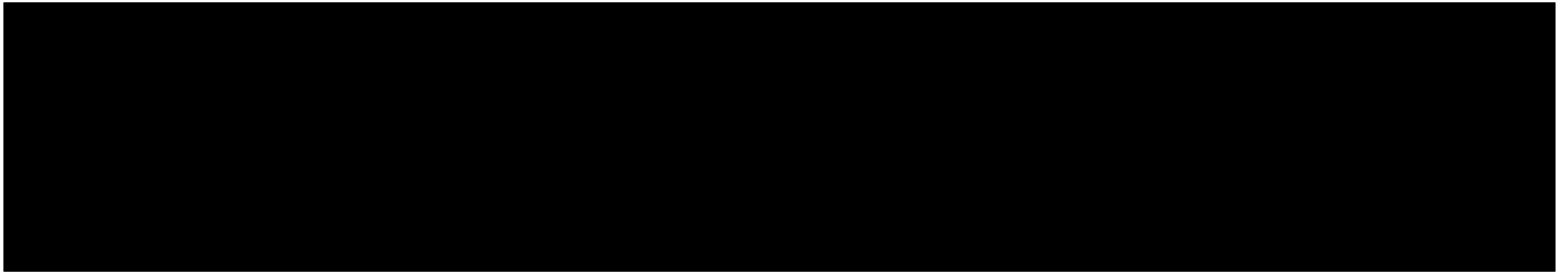
Dec-24	Jan-25	Total Cost (£) Contract Year 1	Feb-25	Mar-25	Apr-25	May-25	Jun-25	Jul-25	Aug-25	Sep-25	Oct-25	Nov-25	Dec-25	Jan-26	Total Cost (£) Contract Year 2	Feb-26	Mar-26	Total Cost (£) Contract Year 3	Total Costs

Section 8 - Other Costs - N/A

Section 9 - Profit / Operating Surplus

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Section 10 - Total Cost



Section 11 - VAT

Detail the VAT status of your organisation and supply below:

We are a VAT registered company.

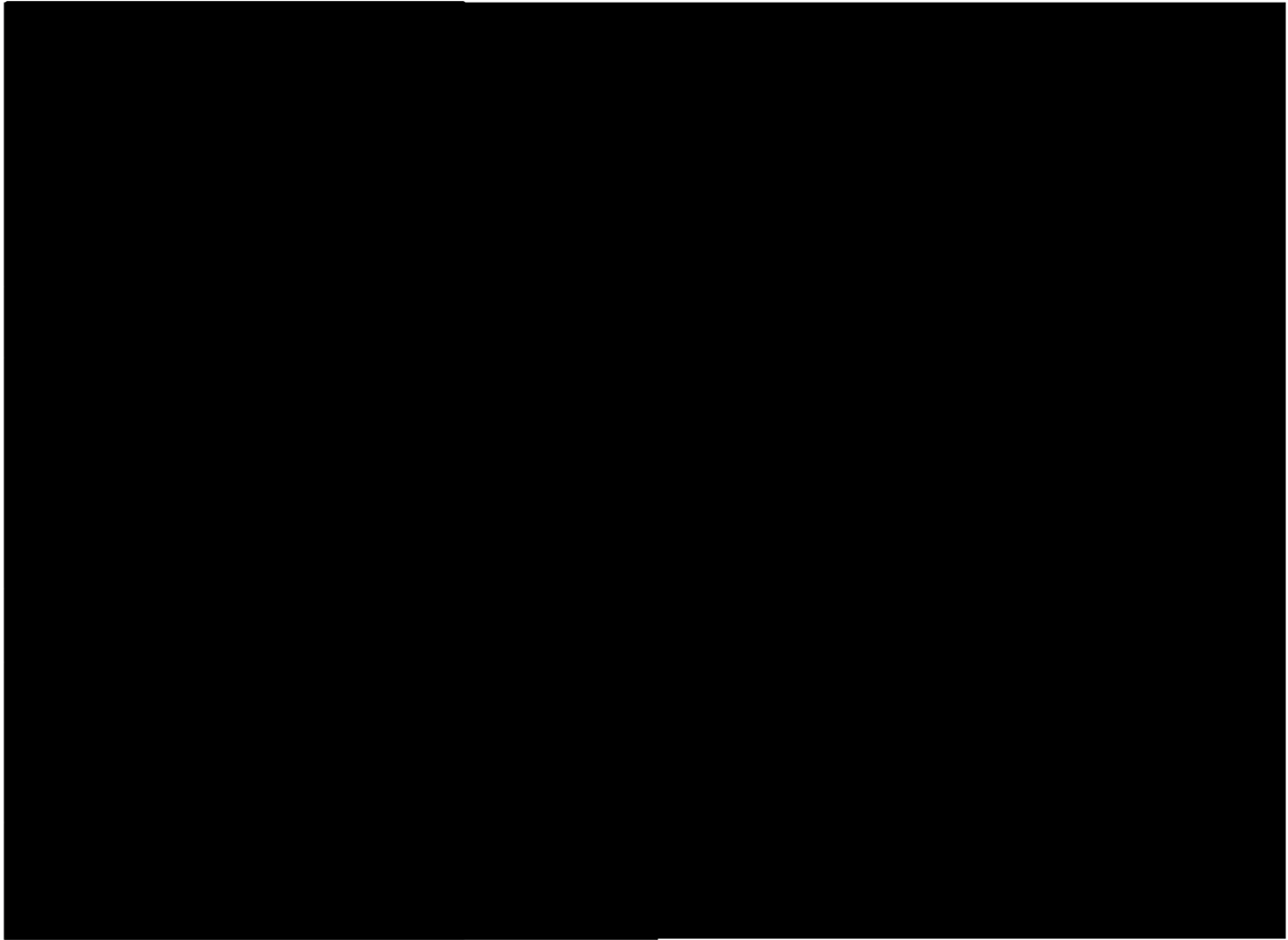
Section 12 - Assumptions and Additional Information

Assumptions	<u>Certainty Levels</u> 1 Very Uncertain 2 Uncertain 3 Possible 4 Probable 5 Very Probable	<u>Impact</u> 1 Very Small Impact 2 Small Impact 3 Medium Impact 4 Large Impact 5 Severe Impact
Contact details for LAs across both policy areas are provided from DfE to Childcare works upon the contract award date	4	3
The KPI Service Credits can be negotiated and agreed with DfE prior to contract signature	5	5
LA's are aware of their obligations in advance of contract award and grant letters are accessible to Childcare works	5	4
DfE confirm 10 Early Implementers for EY during mobilisation	4	3
We have assumed we will be supporting a maximum of 10 early implementers for EY	5	3
We have assumed we will be supporting a maximum of 10 early implementers for WAC	5	3
DfE will retain responsibility for issuing of the LA readiness self-assessments for EY but Childcare works will support and contribute to it's development	4	3
Early Implementer activity will commence and complete in 2024	5	3

Delivery Costs – Support Activity:

Section 14a - Unit price / Case Study - TARGETED LA SUPPORT				
Unit Price (This will automatically be populated once all other fields are completed)			Indicative number of units	60
Assumption 1	The Supplier will, following initial engagement and diagnostic work with LAs, set out proposed support actions for those LAs requiring targeted support, for agreement by the DfE			
Assumption 2	The Supplier should work with those LAs receiving targeted support to agree and implement a package of support as outlined in the specification.			
Assumption 3	The Supplier will arrange and lead regular monitoring meetings with LAs identified (by the LA themselves, DfE, or the Supplier with the agreement of DfE) as needing support to deliver the EY entitlement expansion or wraparound programme or to meet their sufficiency duty. Involve relevant DfE teams in these meetings where this is deemed appropriate by the Supplier or when requested by DfE.			
Assumption 4	The Supplier will produce materials and tools to support LAs to deliver the wraparound programme, EY entitlement expansion and to ensure sufficiency for the existing entitlements (either bespoke to individual LAs, or for use nationally/ regionally).			
Assumption 5	The Supplier will provide DfE with impartial advice about LAs that may require any delivery support funding, and the quantum of such funding. DfE will make the ultimate decision about any such funding, if available. Note - additional funding is not available for wraparound.			
Assumption 6	The Supplier will monitor, and report regularly to DfE, each LAs' progress against the agreed package of support, proposing resolutions or further support activities where appropriate.			
Assumption 7	The Supplier will undertake a formal evaluation at an appropriate point following the end of the support activity and shared with DfE by the date agreed with the LA and DfE contract manager.			
Assumption 8	The Supplier will supply DfE with local and national intelligence to inform its assessment of risk in each LA.			
Assumption 9	The Supplier will develop partnership working between LAs to provide innovative solutions to delivery challenges.			
Assumption 10	The Supplier will identify and diagnose where provider business support functions/ activity within LAs require improvement, and ensure a support package is in place to improve LA provider business support functions			

Task	Type of Resource	Unit Cost	No. of Units	Estimated price per task



Section 14b - Unit price / Case Study - BEST PRACTICE SHARING REQUIREMENTS			
Unit Price (This will automatically be populated once all other fields are completed)		Indicative number of units	24
	The Supplier will arrange, facilitate and lead activities and networks to ensure knowledge and best practice is shared within and between LAs, building on existing networks where these exist with a view that this activity becomes sustainable beyond the life of the contract. Coordinate and support DfE-led events for LAs where requested.		
	The Supplier will produce and share case studies of good practice to be shared with other LAs and used in wider communications and evidence base.		
	The Supplier will develop other effective means of sharing best practice and knowledge between LAs and within LAs – such as developing or identifying appropriate online platforms for sharing information between LAs.		
	The Supplier will share information with DfE-appointed evaluator as required to aid evaluation of the programme.		

Task	Type of Resource	Unit Cost	No. of Units	Estimated price per task
[Redacted Content]				

Daily Rates / FTE Cost:

Job Title	Daily Rate (£)	Employers Total Annual Cost of 1 FTE (£)
MM - Programme Director		
MM - Contract Manager		
MM - Project Manager		
MM - Assistant Project Manager		
MM - Data Analyst		
MM - Project Management Office (PMO)		
MM - Social value		
MM - Apprentice		
MM - Programme Director		
MM - Contract Manager		
MM - Project Manager		
MM - Assistant Project Manager		
MM - Data Analyst		
MM - Project Management Office (PMO)		
MM - Social value		
MM - Apprentice		
Coram Managing Director		
Coram Programme Lead		
Coram Programme Manager		
Coram Senior Researcher		
Coram Programmes Officer		
Coram Assistant		
Coram Web manager		
Coram Head of Evaluation		
Coram Research Manager		
Coram Research Officer		
Coram Research Assistant		
Coram Research Associate		
Hempsalls Strategic Lead		
Hempsalls Professional Lead		
Hempsalls Lead adviser		
Hempsalls adviser 1		
Hempsalls adviser 2		
Hempsalls adviser 3		
Hempsalls Specialist Expert Adviser		
Hempsalls EY provider support lead		
Hempsalls provider support lead		
Hempsalls provider support team		
Hempsalls provider support team		
Hempsalls Specialist Expert Adviser		

Annex 2: Payment Method

Government's aim is to pay 90% of all correctly submitted invoices within 5 days of receipt and we are 100% committed to paying correctly submitted invoices within 30 days of receipt.

The payment period will be deemed to have started when a correctly submitted invoice reaches the nominated e-mail address.

The supplier shall submit invoices electronically by email within 30 days of the end of the relevant invoicing date to:

AccountsPayable.OCR@education.gov.uk

A correct invoice is one that:

- Is delivered in timing in accordance with the contract;
- Is for the correct sum;
- Is in respect of goods / services supplied or delivered to the required quality (or are expected to be at the required quality);
- Includes the date, suppliers full name and address, contact details and bank details;
- Quotes the relevant purchase order / contract reference; and
- Which has been delivered to the nominated email address.

A valid purchase order number will include the PO prefix:

- CORE-PO-

Invoices without a valid purchase order are now rejected by the Department's e-invoicing solution. The Department no longer accepts paper invoices.

To request a statement, please email accountspayable.BC@education.gov.uk quoting the Contract reference number.

Any correctly submitted invoices that are not paid within 30 days will be subject to the provisions of the Late Payment of Commercial Debt (Interest) Act 1998.

Schedule 4 (Tender)

1. Mandatory Requirements

The Supplier answered “Yes” to all Mandatory Requirements.

2. Technical Envelope

Question 2.2.1: Staffing and Resourcing Plan

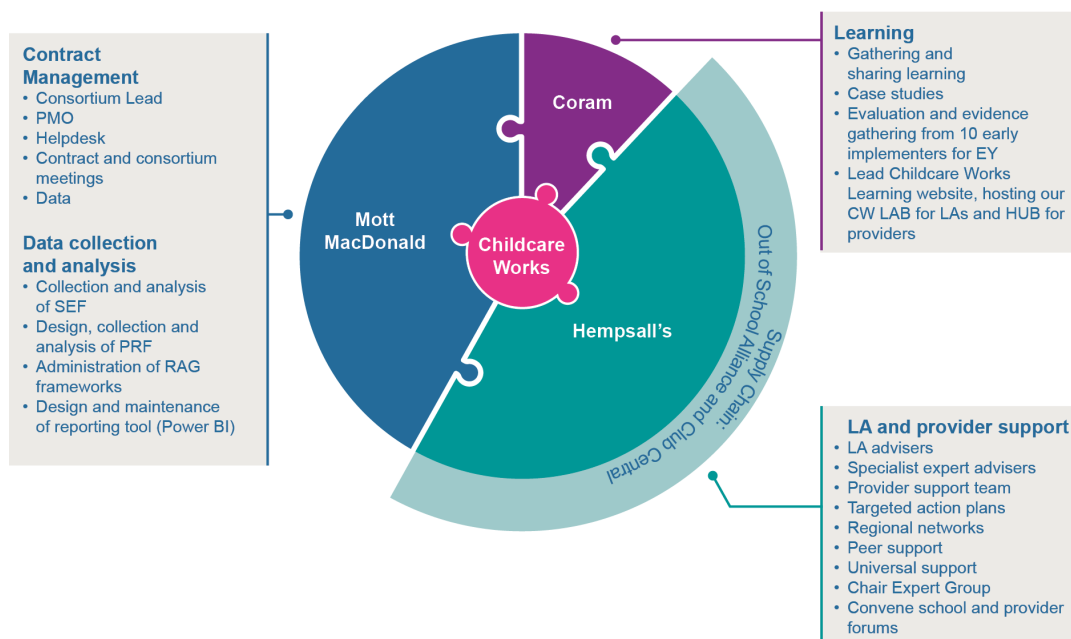
Response:

Our **Childcare Works** consortium is made up of Mott MacDonald as lead contractor with support from Hemsall’s and Coram (sub-contractors). Together we have vast experience and expertise in early years (EY) and childcare provision, with a track record of delivering contracts of national importance for you such as: Holidays Activities and Food (HAF) and the 30 hours and Achieving 2 Year Olds (A2YO) contracts. We specialise in providing expert advice and guidance to LAs and working with central government to deliver successful programmes. We have the staff capacity, reputation, credibility, and expertise to deliver and to meet your policy objectives.

Our well-resourced experienced project team

As shown in Graphic 1 below, we have identified four overarching delivery areas; this approach brings together best-in-class expertise with a proven track record and relevant expertise.

Graphic 1: Consortium delivery approach



Our team structure and external interfaces are illustrated in **2.2.1 Appendix A - Resourcing Organogram**. This includes:

- Programme director, [REDACTED], accountable for overall programme delivery with significant experience, including as the programme director for 30 hours and HAF.
- Strategic lead, [REDACTED], overseeing delivery, with over 30 years' experience in children's centres and Childcare Act Sufficiency.
- Professional Lead, [REDACTED], responsible for LA and provider support delivery, a childcare sufficiency expert and lead for current Childcare Sufficiency support contract.
- Coram Managing Director, [REDACTED], overseeing the gathering and sharing of learning, with nearly 20 years' experience of strategic leadership, influential research programmes and service delivery.

Evidence

Mott MacDonald's vast experience in programme and contract management, includes PMO functions and delivery support, data collection and analysis expertise, for example HAF supports 153 LAs to submit delivery data following each school holiday period. Data is collated on a bespoke Power BI dashboard giving DfE a breakdown of trends and correlations to inform senior DfE stakeholders and identify areas to focus LA support.

Hempsall's hold sector-leading childcare expertise, having worked in childcare and EY for 25 years. Since 2006, they have been providing advisory support to LAs for DfE on local implementation and problem and barrier solving.

Coram are experts in collating and disseminating learning to LAs through their NAFIS network via newsletters, regular webinars and a yearly conference as well as through their Parent Champion Network, a peer outreach programme to improve take up of local services and support.

Resourcing plan

Our resourcing plan is built up from our knowledge of delivering similar projects supporting LA implementation of EY and childcare provision, as well as Hempsall's role as your existing supplier of the Childcare Sufficiency contract.

We have identified the roles required, drawing on our past successful delivery and understanding of what is needed to support LAs effectively. Roles will be mobilised from our experienced team or recruited and based in locations across the country. Our coordinated approach means each of the four areas of delivery will have a named lead, responsible for making sure key deliverables are met.

Our dedicated **LA and provider support team**, will include:

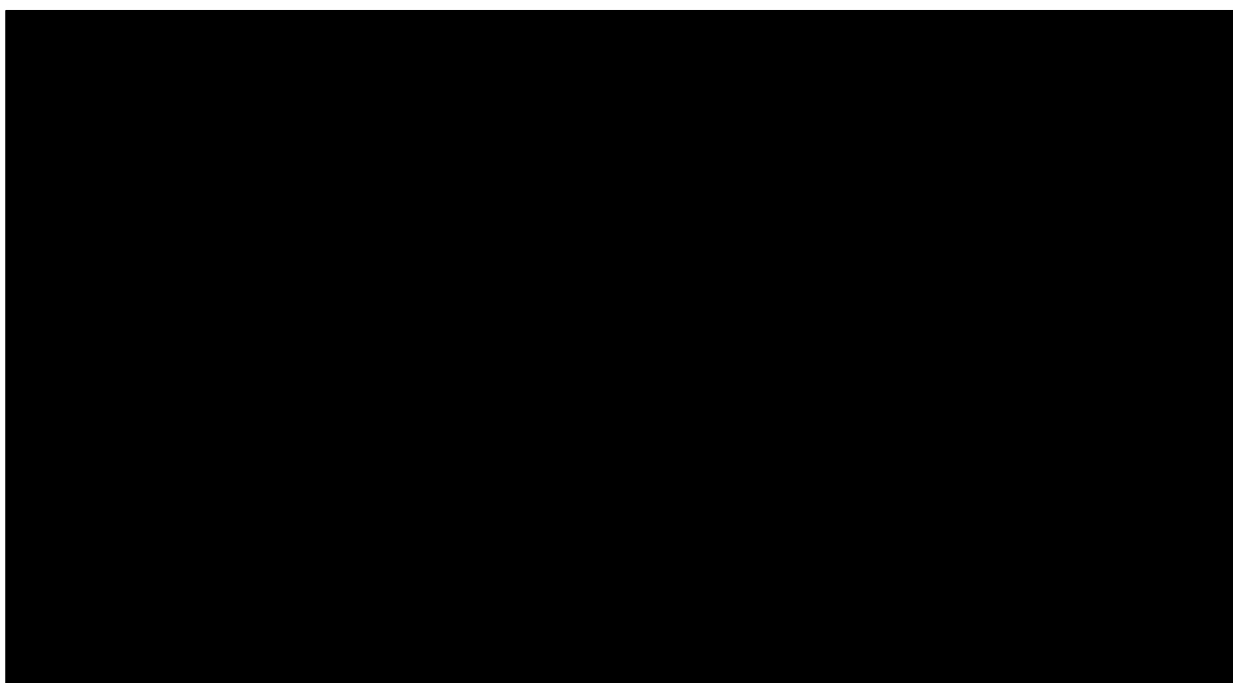
- **LA advisers**, holding 1:1 relationship with LAs, facilitating networks and peer support, and leading on additional targeted support

- **Provider support team**, leading the training and support to EY and wraparound childcare (WAC) providers
- **Specialist expert advisers**, providing technical expertise on specific themes (e.g. supply and demand, use of data, IT systems), and input on targeted support.

Our **project leadership team** will oversee delivery of the programme, aligned to objectives, monitoring risks/successes and provide challenge.

Added value: A consultative **expert board** will provide expert input across the identified areas to aid LA support and advice.

Our consortium has demonstrable expertise in the areas identified as part of the requirements shown in Graphic 2 below.



Graphic 2: Skills & expertise matrix

How we plan to attract and engage staff

██████████

Our ability to be flexible to meet the needs of the programme

██████████

Our appropriate geographical reach and local area knowledge

██████████

██████████

Appendix A – Resource Organogram



Question 2.2.2: Implementation and Delivery Planning

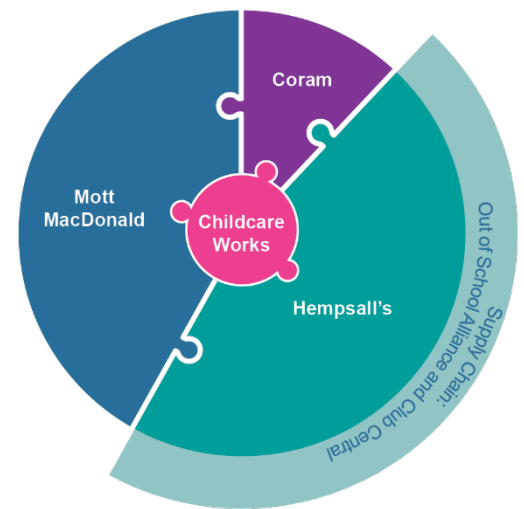
Response:

Our **Childcare Works** (CW) consortium (Graphic 1), made up of three organisations, is experienced in similar national LA support programmes. We will utilise our extensive experience during mobilisation and delivery phases, building on lessons learned from past delivery of early years and childcare projects for you.

How we will mobilise, commence, and continue effective delivery

Our delivery approach summarised below is detailed in our **implementation plan** in **2.2.2 Appendix A – Implementation plan**.

Our Programme and contract management team, already in place and ready from day one will be responsible for mobilisation, including making sure all roles are in place by 31st January 2024. We have identified four areas of delivery, each with a named lead responsible for mobilisation and ongoing delivery.



Graphic 3: Childcare Works Consortium

We have planned our **six-week mobilisation period** from contract start to 19th February 2024, with activities detailed in Table 1 below against each delivery area:

Table 1: Mobilisation activities

[Redacted content]

How we will work with the existing supplier to enable successful handover

Hempall's, the existing supplier for the DfE Childcare Sufficiency contract, is an established member of CW, so the handover process can be managed internally, enabling efficiencies and **value for money through the seamless exchange of knowledge**.

Our structure will prevent unnecessary duplication of work between the two contracts, allowing best practice already agreed with DfE to be maintained and minimise the burden on LAs. We will coordinate requests across both contracts that may occur during the handover.

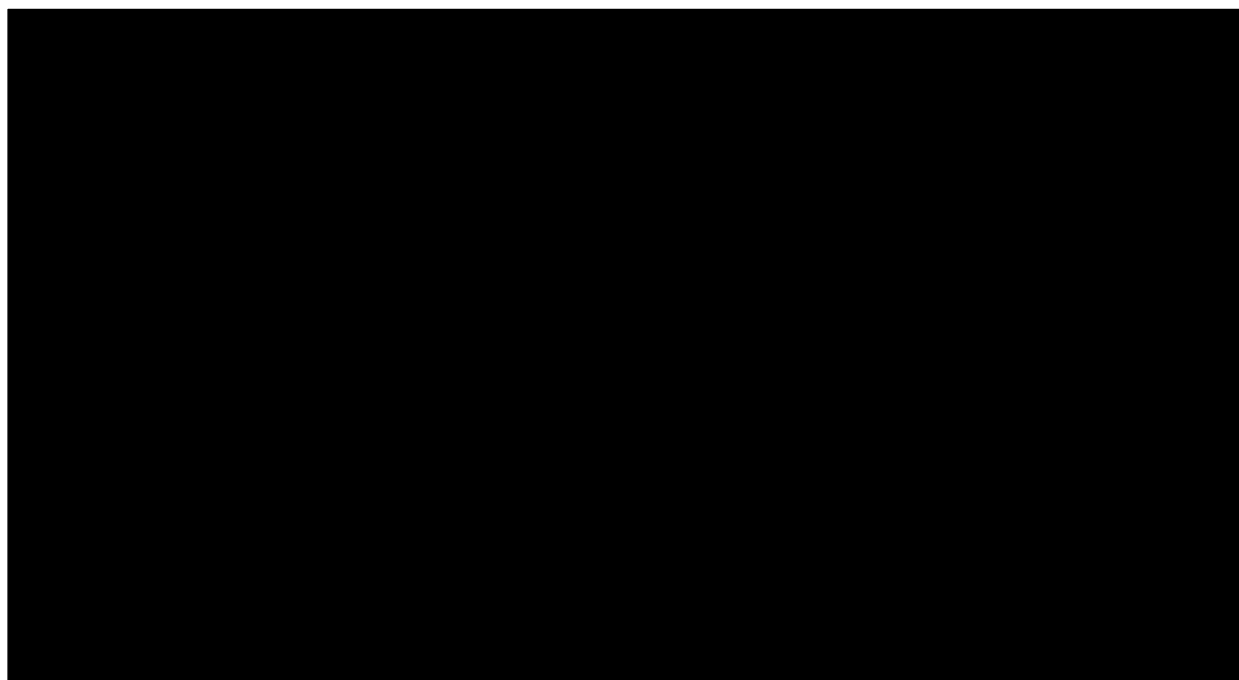


Added value: *Having the existing supplier as part of our consortium enables us to hit the ground running to realise efficient mobilisation and support, swift commencement of delivery, with no additional costs incurred for handovers and making sure no gap in service for you, as the client or LAs.*

How we will support LAs in the run up to key delivery milestones

Our high-level delivery plan demonstrating how we will support LAs in the run up to key delivery milestones (**2.2.2 Appendix B – High-level delivery plan**). Table 2 below summarises the support activities planned, as well as the programme and contract management activities that will feed into this support.

Table 2: Ongoing support activities

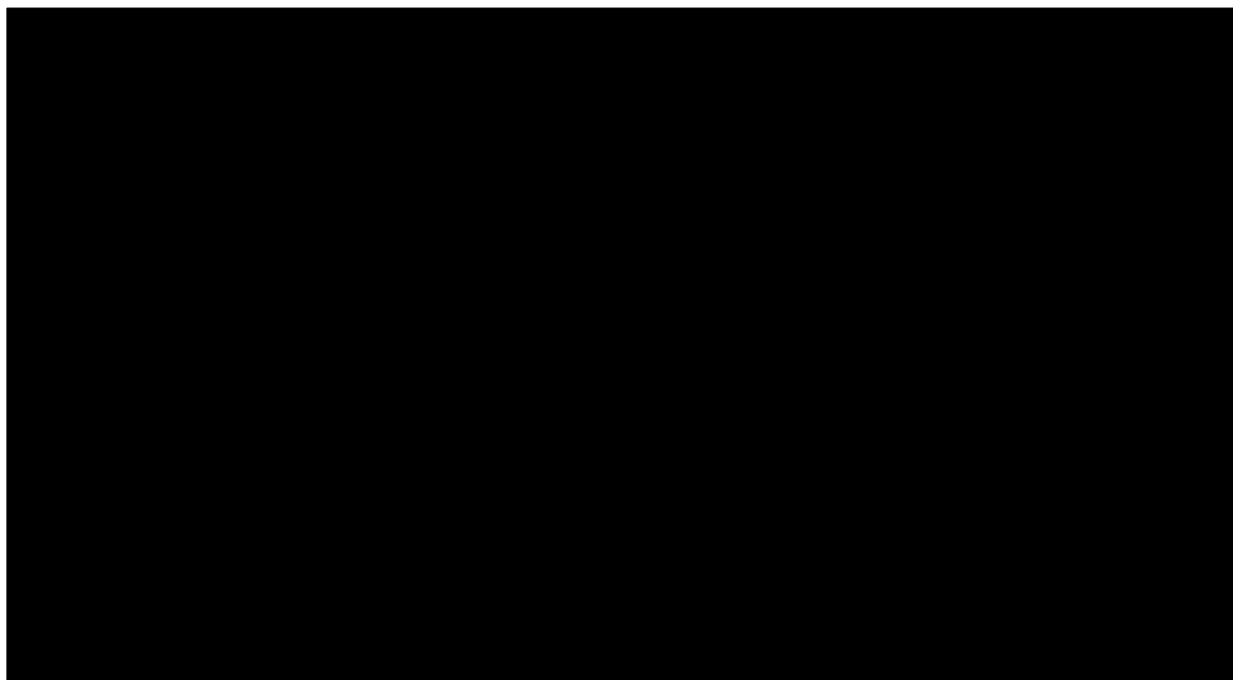


Where support for EY and wraparound will be aligned or will diverge, and why

In Graphic 2 below we have mapped the key EY and WAC support activities which are aligned, divergent or a hybrid. Activities have been aligned to:

- Make sure consistent LA benchmarking processes for each policy area
- Bringing the policy areas together and create collaboration opportunities where appropriate
- Recognise where key staff may hold dual roles which cover both areas
- Create efficiencies in processes / staff time creating value for money
- Share knowledge and intelligence.

Divergent activities are separate to make sure the unique differences of the two policy areas are captured. Hybrid activities include opportunities to align on some aspects, for example thematic support on topics such as IT systems, which could be relevant to both policy areas.



Graphic 2: Aligned, divergent and hybrid activities



"Well done everyone!!! That went really smoothly. Which is a real testament to all the preparation in advance. It's not luck that played out without any hiccups, it's down to the work that has gone on for the past month. A really great showcase of what HAF can do and the impact it can have on children's lives. THANK YOU!"

Lee Turner, Holidays Activities and Food (HAF) and Breakfast Clubs Lead

Graphic 3: HAF quote

Our ability to address and meet the contract KPIs

We will work closely with you to deliver the specification, while addressing and meeting the confirmed KPIs, agreed with you as part of contract award.

As a consortium we bring our strong track record and experience in the childcare sector, where we have delivered similar national roll-out contracts with you. Our delivery experience as a consortium includes providing successful rollout support, effective monitoring, and sufficiency support, where we have consistently met project KPIs.

We have a strong team standing-by to mobilise, highly experienced in increasing LA confidence and readiness for delivery through effective preventative, reactive and targeted support. We understand how implementing an action plan helps to support LAs as they move along the journey. This approach to LA monitoring and progress will enable us to meet relevant contract KPIs.

Supporting the above, we will have robust project management and governance processes in place which enable the early identification of any divergence from the project plan. This will be the responsibility of the Project Manager, who will facilitate proactive escalation to the DfE as required.

Evidence

Under the DfE HAF contract, Childcare Works have met all project KPIs since the project's inception through robust project management, clear mitigations and escalation routes. Our HAF LA Satisfaction Survey in October 2023 showed **over 90% of LAs were satisfied** with the services Childcare Works provided, exceeding our KPI target for LA satisfaction of 75%.

How we will support LAs in building sustainable programmes

To deliver sustainable long-term programmes we will implement viability models such as training of trainers, which we have experience of successfully implementing for you. For example, Hemsall's work to increase the take-up of two-year-old funding through the Changing Lives Through Childcare programme for family-facing professionals.

Through an existing Coram website, we will also establish a sub-site, which will be our Childcare Works **Learning website**, hosting the CW LAB for LAs and HUB for

providers. This will be a one-stop shop for storing and sharing documentation, toolkits and best-practice guidance we create throughout delivery. This will remain available beyond the life of the contract to enable LAs to have continued access to the materials produced and content such as meeting recordings. In addition, we will make use of KnowledgeHub across this contract, supporting the development and nurturing of peer networks through forum discussions.

Effective relationship building will contribute to sustainability. Specifically, we will build peer-to-peer relationships between providers, which we currently see as a challenge in both EY and WAC policy areas. To support the sustainability with LAs, we will conduct networking activities for LAs to enable peer learning and support, which can be taken beyond the life of this contract.

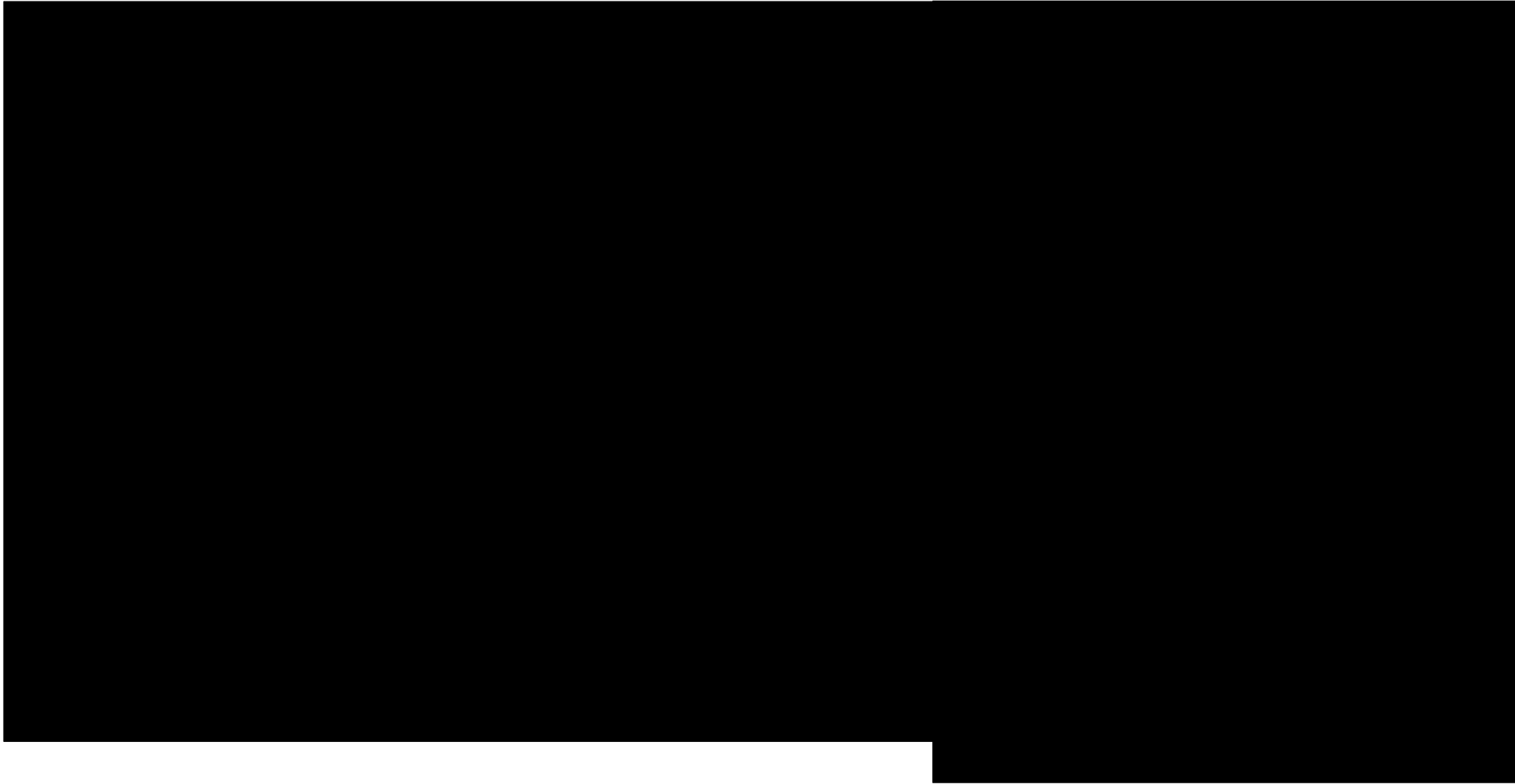
At the end of the contract, we will produce:

- An end of project reflection document, which will form part of an exit toolkit. This document will then be available to use beyond the life of the contract
- A learning document for DfE, which will include the learnings we recommend you take away to support ongoing sustainability.

Evidence

Following the delivery of the DfE 30 hours contract, Childcare Works produced an end of project learning and reflection document called 'What we know', which was developed to support those involved in future policy and strategy of early learning and childcare, as well as those involved in national and local delivery. This enabled learning and outcomes from the project to have a continued impact.

Appendix B: High Level Delivery Plan

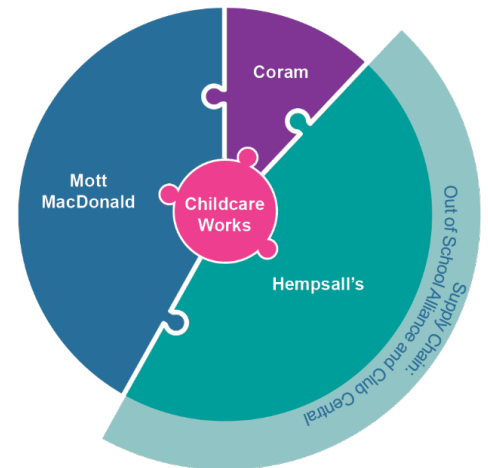


Question 2.2.3: Establishing effective peer support networks

Response:

Since 2006, our tried-and-tested engagement approach has driven significant and evidenced improvements at-pace and on-target implementation of new duties, entitlements, and programmes in Early Years (EY) and school-age childcare. Our **Childcare Works** (CW) consortium members (Graphic 1) have worked alongside you on several key contracts:

- Regional childcare sufficiency duty networks
- 15 hours for two-year-olds
- 30 hours childcare
- Holiday Activities and Food (HAF)
- HMRC increase take-up of Tax-Free Childcare
- Hemsall’s online Coffee Breaks
- National Association of Family Information Services (NAFIS).



Graphic 4: Childcare Works Consortium

Our model is recognised across government, and enjoys high credibility in the sector, building unparalleled engagement with Local Authorities (LAs) EY teams with the mission to **‘deliver change together.’**

Table 1: Our approach

--

Our understanding of peer support

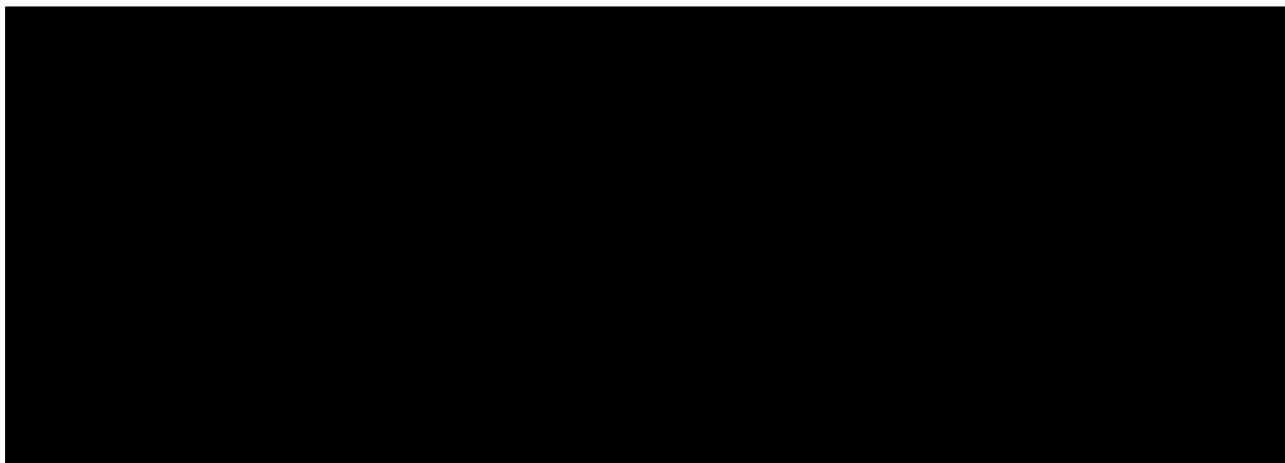
Defined as support given by someone who belongs to the same group or shares the same experience, we know that LAs find well-facilitated, informed peer networking invaluable. The benefits are many: efficiencies, sharing best practice and relationship building, but we appreciate a drawback is the time requirement put onto LAs to participate.

We use Rogers' (1957) model to structure approaches, particularly for targeted peer support, and those likely to need/benefit:

1. **'Innovators'** those 'quick off the block,' or self-started local offers.
2. **'Early adopters'** or early implementer LAs ready and willing to share their experiences (with support), we learn from them.
3. **'Early majority'** the growing body of peer support connecting all aspects of delivery, first tranche of go-to peers, and the early case studies shared across all channels.
4. **'Later majority'** a more confident, interactive, and self-serving phase, where we can stretch ambitions.
5. **'Laggards'** the most reluctant or slowest to engage, need proactive and assertive adviser interventions and peer challenge to achieve participation.

Effective ways of fostering collaboration between LAs

Peer support occupies an important function alongside our expert support and challenge. Adding value to inputs, DfE information and guidance, while establishing legacy and longevity beyond the contract. We find measurable benefits to those providing support and those receiving it with gains in LA skill development, confidence/competence, implementation effectiveness, risk identification, social value and sustainability. We will offer LAs:



Evidence of Successful Collaboration

Hempsall's facilitated peer action learning sets for four LAs '**Rethinking Recruitment and Retention**' (**Sufficiency Support contract**) identifying common experiences to build awareness. Outcomes were positive, one commenting they "changed their perspective on the issue, and it gave them processes to rethink existing strategies."

Two-year-olds: We worked with three LAs via targeted interventions for DfE on two-year-old take-up. In four months LAs received 1:1 input, working through review and action planning, creating short to long-term plans, and forming a peer support group. 18 months after the contract, LAs presented progress at an online event where they outlined continued peer support, innovative progress, and 10% take-up increases above pre-Covid levels.

Building sustainability beyond the contract:

To safeguard the longevity of the policy beyond the contract we will implement the following:

- Mapping of existing local/regional/national networks to maximise added value, avoid duplication, respect current ways of working, and support sustainability.
- Visit existing networks to share best practice, engagement opportunities and points of contact, equipping LAs to do so beyond the contract.
- Childcare Works Learning website, a one-stop shop for live learning, models, resources, and best practice – accessible past contract end. This hosts a CW LAB for LAs and CW HUB for providers.
- Continuing Knowledge Hub for online chat, Q&A, direct LA online resource sharing.

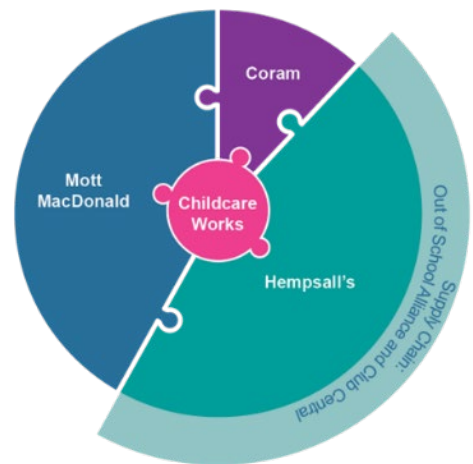
Monitoring the impacts:

We will measure the impact of peer support networks on LA delivery by:

Question 2.2.4: Delivering support to LAs and providers

Response:

Our **Childcare Works** (CW) team (Graphic 1) will implement a tried and tested approach, created for Achieving Two Year Olds in 2012 and evolved through 30-hours childcare and HAF (Holiday Activities and Food) to drive at-pace and on-target implementation. The approach has been highly-praised by LAs, DfE, Cabinet Office, national evaluations, and NAO. It offers the credible and confidence-giving blueprint for all national EY and childcare policy implementation.



Added value: We are early years and childcare specialists. Making sure LAs are ready to deliver these key programmes is what CW was set up to do. Our detailed understanding of the delivery model and your internal processes allow us to mobilise quickly and work at pace in delivery.

Graphic 5: Childcare Works Consortium



"I've been really impressed by your expertise and dedication, and how you've adapted your support over the last couple of years to address emerging issues and meet local needs."

Andy Hudson, Assistant Director, Flexible Childcare and Supporting Families Division about the HAF Contract

Graphic 6: HAF feedback



"Local authorities we visited were positive about the support Childcare Works provided."

National Audit Office about the LA support contract for 30 hours funded childcare (2016 - 2020)

Graphic 7: NAO feedback on 30 hours

Ensuring delivery readiness

Our approach to achieving LA readiness encompasses:

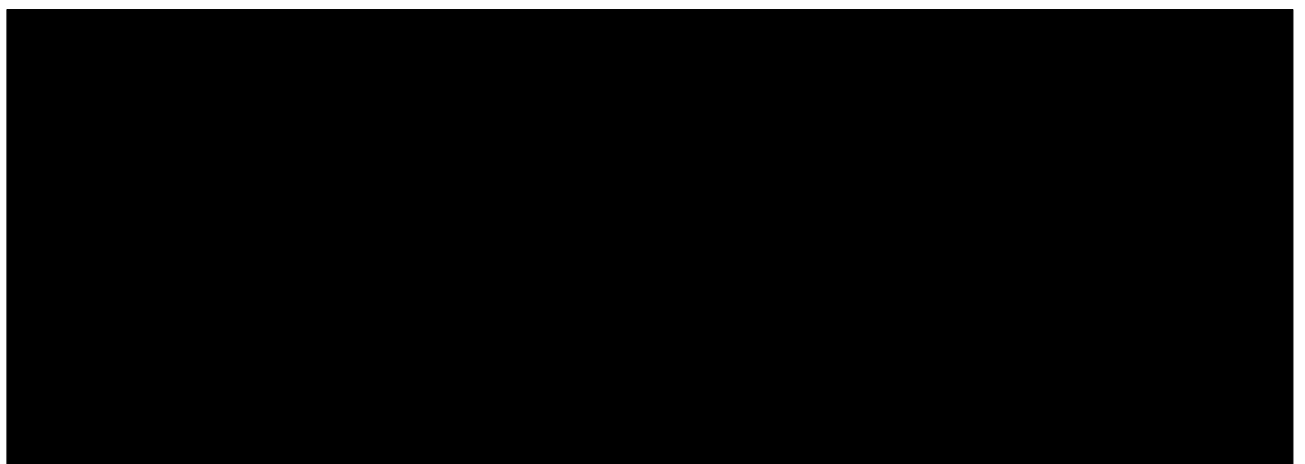


Table 1: Our Approach to LA readiness

These activities will allow us we give LAs the support they value:

- Clear, up-to-date, summarised information
- Having safe places for questions and answers
- Expertly facilitated forums to share best practice
- Route-maps and models to apply national plans within local contexts
- Support from people who understand LA/providers.

Our approach to meeting these support needs will give LAs knowledge and confidence to overcome the **issues and concerns about scaling up EY and WAC** articulated at a Hempsall's Coffee Break after the March 2023 budget:

- LA team capacity and capability are under pressure
- Organisational memory loss means lessons learned from previous EY and OOS (out of school) implementations may not be heeded to save time and avoid mistakes
- There may be increased administration, financial and system burdens requiring change and resources
- Provider capacity is being capped by workforce pressures
- LAs and providers need proven approaches for change and business remodelling
- They need help to better assess supply and demand, using data, and to track impact on parental employment and childcare-use patterns.

In the current Childcare Sufficiency Support contract, we have found some LAs struggle with assertive provider engagement/communications, business support, management and application of local funding formula, the risk of large-scale provider failure, recruitment/retention, and SEND places.

We can help LAs overcome these issues because we have done it before; **we have a clear track record** on major programmes, building a trusted relationship with DfE, all LAs and providers, always delivering positive outcomes:

Examples of where our expertise and knowledge has resulted in a positive outcome for LAs

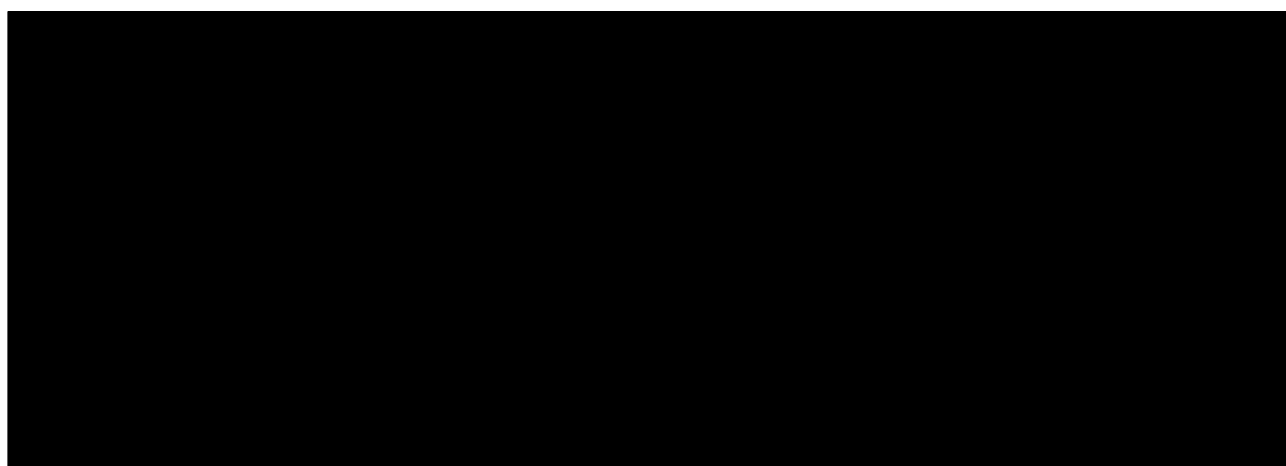


Table 2: Our Track Record

Hempsall's has worked on every OOS initiative since 1993 (National Out of School Initiative, New Opportunities Fund, Sure Start OOS, and extended schools). National support contracts with DfE have allowed Hempsall's to work with all LA EY teams consistently since 2006, supporting and challenging all LAs and creating a legacy of thousands of sustainable EY and OOS places.

It is this longevity and knowledge that gives us **credibility** in the sector; the addition of Mott Macdonald and Coram (with nearly 20,000 employees between them) gives us **capacity** to engage with 153 LAs across both the EY and WAC programmes.

We will build on this base to **create strong relationships with LAs, allowing them to remain on track to deliver**. LAs will have access our whole team, according to their specialist expertise and local needs:

- Co-ordination team and helpdesk
- Regional LA advisers
- Specialist expert advisers
- Provider support team.

Added value: *We hold strong relationships with all LA EY and WAC teams, a sophisticated understanding of all relevant policy areas and initiatives, and the capacity and capability (and tools) to start from day one of the contract.*

The four regional LA advisers (including lead adviser, Steph Douglas), will have relevant/recent LA experience and be LAs' first port-of-call. They will be the LA conduit into the programme, ensuring monthly contacts, and building a relationship through listening, consultation, taking the primary lead on readiness assessments, moderation, and intervention planning. They will be supported by the wider team, drawing on the insights from our data team.



"You understand what LAs are going through and the importance of networking opportunities. Children and families are always kept at the heart of your work and the team are passionate and dedicated."

LA satisfaction survey 2023.

Graphic 8: LA satisfaction feedback

Assessing LAs' WAC readiness - our model

Each LA will receive a one-to-one readiness and progress call each month with a CW team member.

We understand a secure and effective delivery plan is a key marker for LA readiness. In a dual process we will quality assure delivery plans and assess readiness using a Progress Review Form (PRF). It will contain all the elements of robust local delivery planning and implementation from previous programmes, adapted for the WAC context:

- Commitment and leadership
- Project management and resources
- Use of funding
- Providers' role
- Market management.

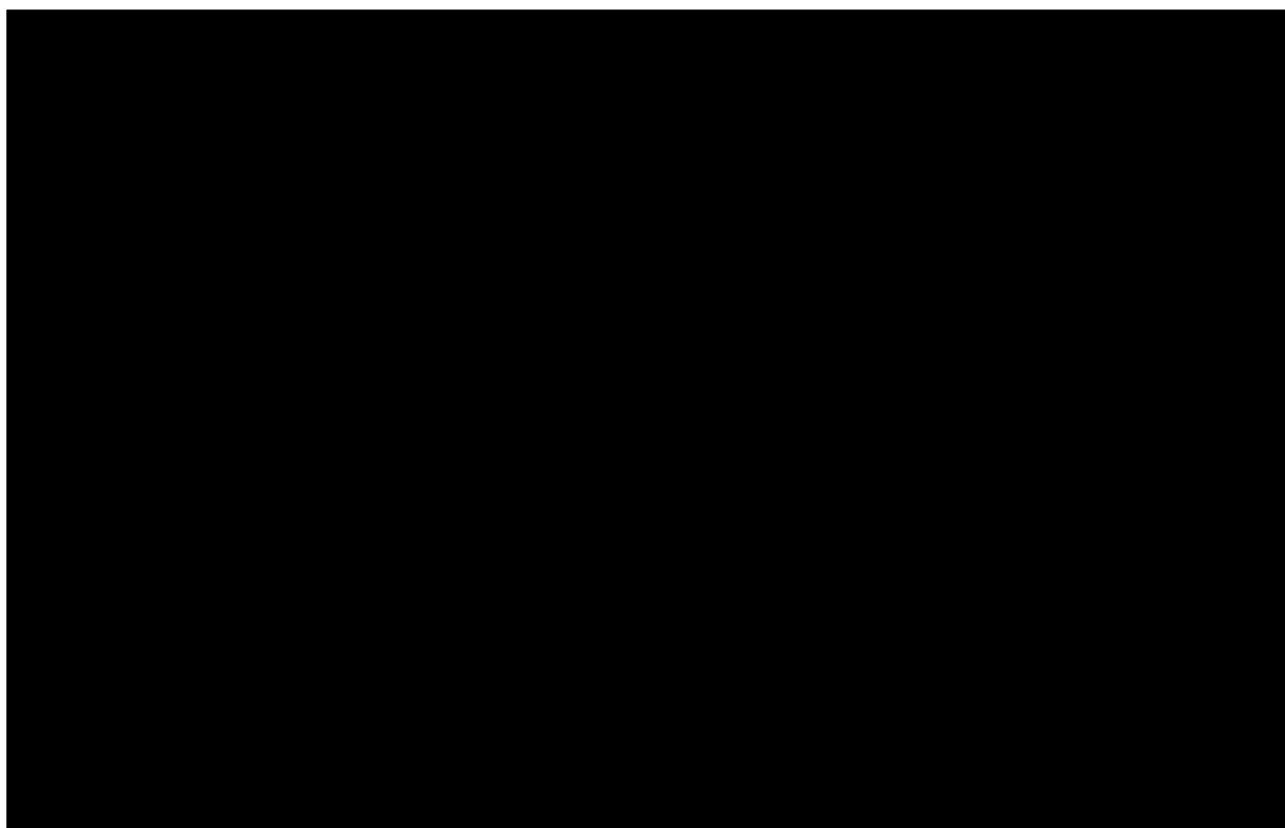
The PRF will raise LAs' awareness, offer challenge, and guide consequential actions through a series of agreed readiness indicators under each heading. LAs will regularly self-assess using it.

The helpdesk will coordinate, chase and support LA data returns (delivery plans and PRFs), and report on monthly contacts.

Returns will be moderated, adding in other intelligence shared by LA advisers, and appraisals of each delivery plan. Our dedicated data analyst will also highlight trends and data synergies to support advisers' readiness assessments. A RAG rated list of LAs will be produced, with evidence, and used to identify universal, differentiated, and targeted work (action plans where needed and if a LA is rated red).

The RAG framework will be co-produced with the DfE, drawing on advice from the Expert Board, and will be regularly reviewed for effectiveness. It will determine the moderating of LAs and stretch-targets. There will be a national monthly report on LA readiness produced for you.

The process is summarised in Graphic 5 below.



Graphic 5: The RAG Framework Process

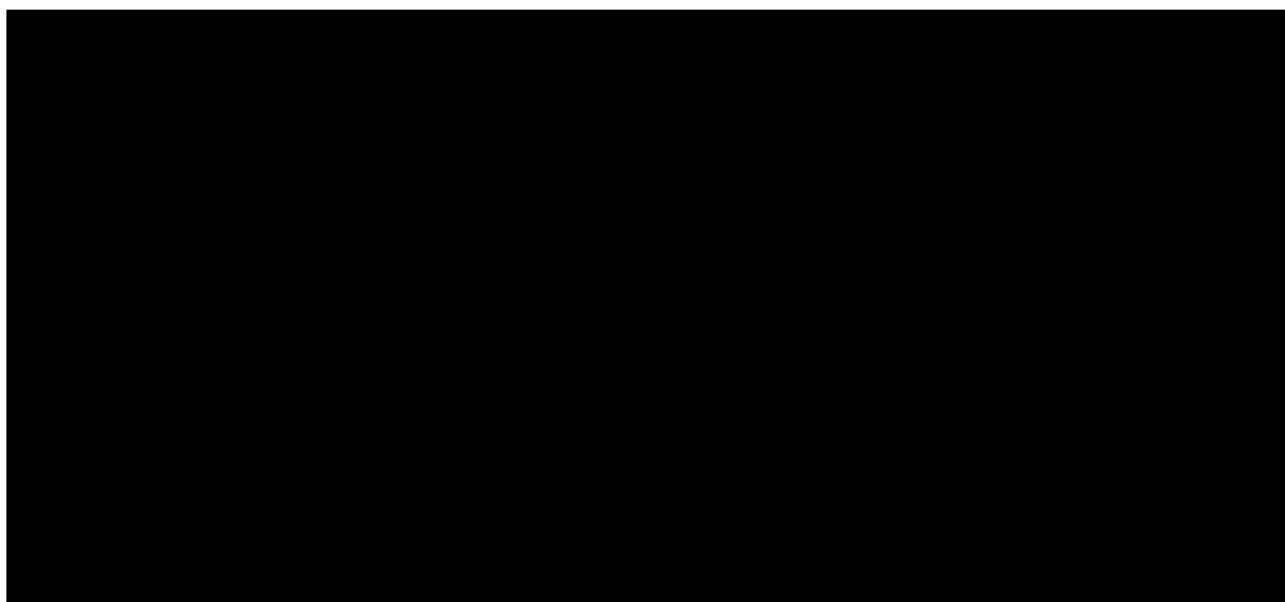
Expertise and data-driven intelligence enabling DfE's accurate LA readiness monitoring for EY expansion and existing entitlements sufficiency

We will deploy a similar approach for the EY aspects of the programme. The key difference will be the need to knit-in with existing and continuing DfE processes and LA relationship personnel. We will work as one team with two parts: CW and DfE. Through our monthly contract meetings, we will run workshops to present data and offer insight so that the partnership to co-develop and enhance processes.

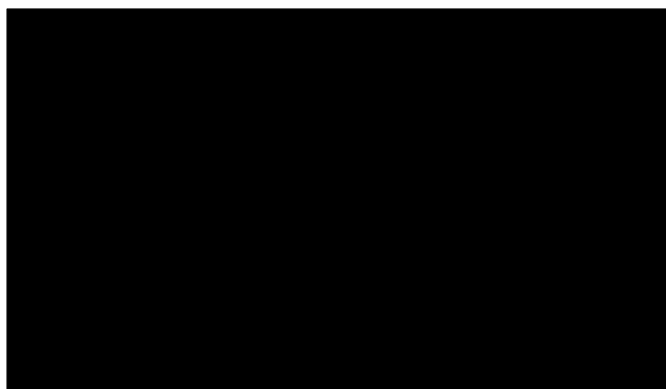
LA EY teams are in a more advanced and sophisticated position than with WAC. We will use a lower-key process to support greater ownership of LA direction. It is not, however, without risk. Therefore, rather than a PRF, we will use a self-assessment form (SEF). Again, asking LAs to self-assess against the measures of an effective market management strategy – the characteristics of which will be used to structure all our activities. The SEF will provide a valuable opportunity to review progress towards targets and consider actions and support (targeted and universal) required to achieve capacity, quality, supply and demand.

We will create a discrete network for the early implementer LAs, under the leadership of the senior LA adviser, and supported by co-ordination team and Coram. Coram will extract lessons learned, and examples of best practice, as-live, to feed into the CW Adviser team, and all activities and networking events, for DfE and LAs to maximise national roll-out success.

Delivering a portal/tool for secure and efficient returns

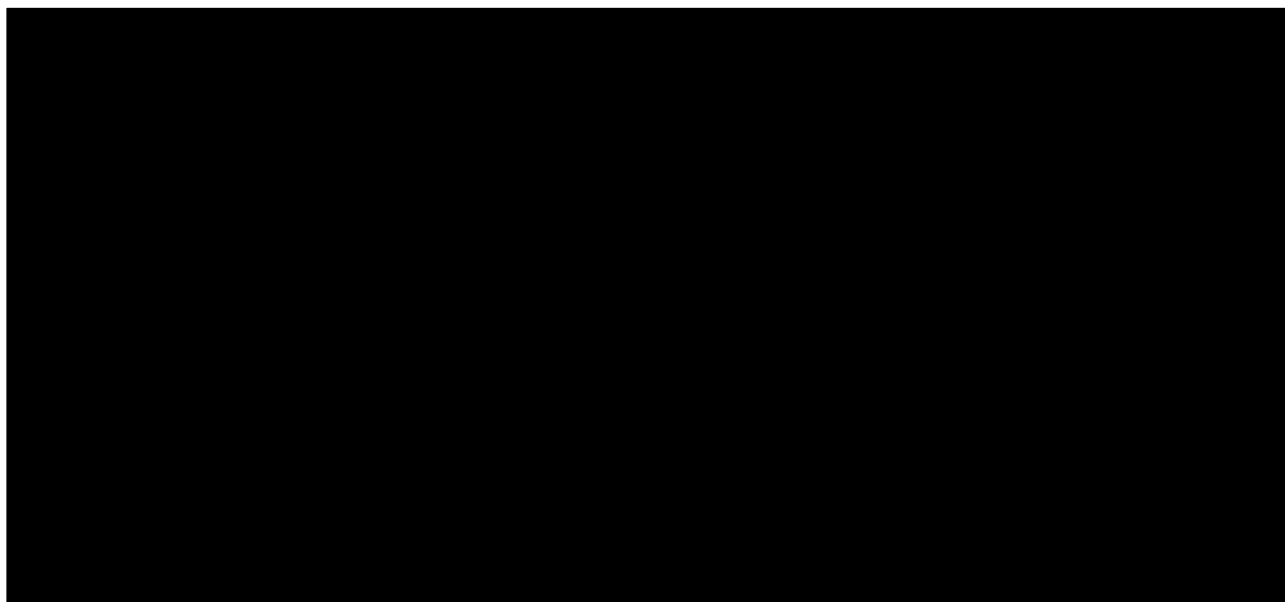


The portal will give efficient access and management of the underlying data from across all LAs, the ability to manage, prioritise and track support/engagement based on a central contact list, and the ability to supplement LA supplied data with expert analysis and additional external data.



Graphic 6: Screenshot of example of proposed home page and [redacted] page on [redacted] dashboard

Diagnosing poor performance/LAs at risk and plans to rectify challenges:



Case study

Swindon believed over 20 settings would close or withdraw from EY funding in 2023, creating a sufficiency failure. Our action plan included: an assessment to quantify risk, new content for provider business support, assessing their CSA outcomes, and addressing provider funding compliance issues. Impacts: increase of team resource agreed by SMT; reduction to two settings at risk; a plan to place children elsewhere; peer support with other regional LAs; new funding arrangements put in place.

Working effectively with DfE to share information/intelligence gathered during support

It will be vital to share information and intelligence quickly and effectively to address and mitigate risks, capitalise on opportunities, and inform strategic thinking. Our information sharing approach is underpinned by robust governance, providing frequent opportunities to contribute and discuss via weekly KIT meetings, monthly contract meetings, workshops, and key LA meetings.

DfE will have easy self-serve access to a rich suite of reports via the dedicated PowerBI Dashboard, hosted within the secure portal. This will give tailored views of the underlying data and expert analysis and enable all to see both big picture and drill down detail.

Reports will draw upon LA data, as well as the information and observations captured throughout adviser support and analysis, giving full visibility. The reports can be customised to meet reporting needs via the programme's dedicated data analyst. You will have the ability to access the underlying data directly for integration with existing reporting processes (as required). Our helpdesk and Adviser team will be available to respond to new, urgent, or high-level requests for information, at short notice.



"... data provided by Childcare Works is invaluable, we use the analysis to report progress across government and to Ministers."

Michelle Dyson, Director 30 Hours Delivery, DfE, November 2017

Graphic 7: 30 Hours feedback

Added value: *If DfE wish, we will be able to triangulate programme-level data from previous contracts (2yo, 30 hours, HAF) to benchmark comparable progress and maturity for EY and WAC*

Delivering the best provider support

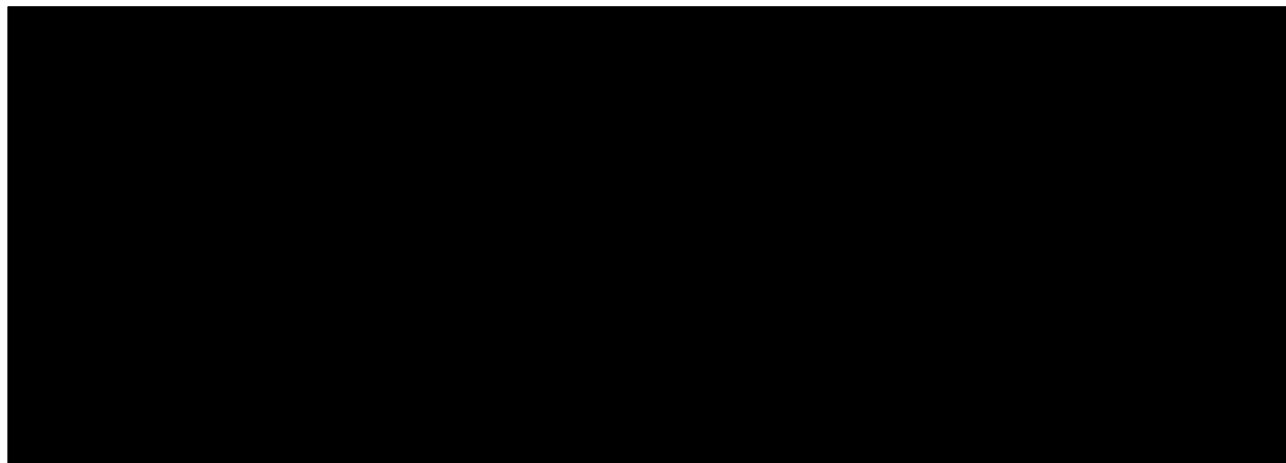
Clear understanding of the EY and WAC markets, and the challenges of scale up for delivery

All consortium members work with EY and childcare providers and understand the opportunities and challenges they face across:

- all models of delivery across the PVI and maintained sectors, including childminders and schools who will be significant for both EY and WAC
- changing EY funding mechanisms, the application of additional fees within guidance and contractual arrangements, and start-up funding
- initial and on-going business planning, sustainability concerns, leading change, and enacting necessary business remodelling
- workforce pressures, including recruitment, retention and ratio deployment

- tackling disadvantage, Covid recovery, safeguarding
- quality, Ofsted registration and inspection
- understanding and responding to the dynamics of parental demand and economic activity.

Our understanding is informed through various live touchpoints:



Working with LAs to support provider market management and engagement, supporting providers directly, in collaboration with relevant LA(s)

Our clear and integrated approach:

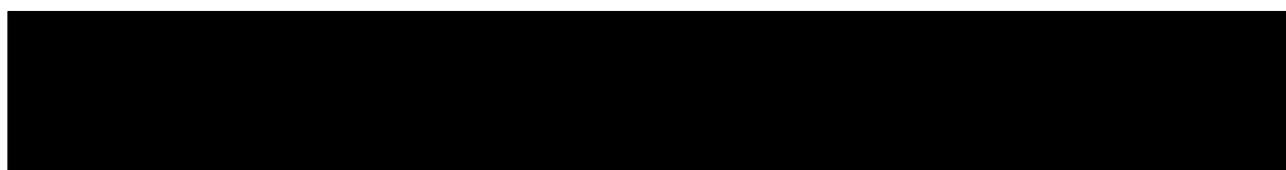


Table 3: Provider market management LA support

Resources will be hosted on the Childcare Works Learning website, with a LAB for LAs and HUB for providers. It will be a one-stop shop for everything needed to achieve the ambition of WAC. Coram will enhance and continuously build the resources through the curation of case studies, and as-live developments and successes. Thematic sections will help providers easily navigate to find the resources most useful to them – and signposting for further actions and support.

Added value: *As the current co-ordinators of the DfE Foundation Years engagement channels, we are best placed to deliver coherent materials made available to providers under this contract, and to make providers aware of, and supported to engage with the programme*

We will help **LAs to support their own provider market** by setting out the spectrum of support and intervention they can offer, from low-intensity lower-cost activities through to high-intensity higher-impact approaches:

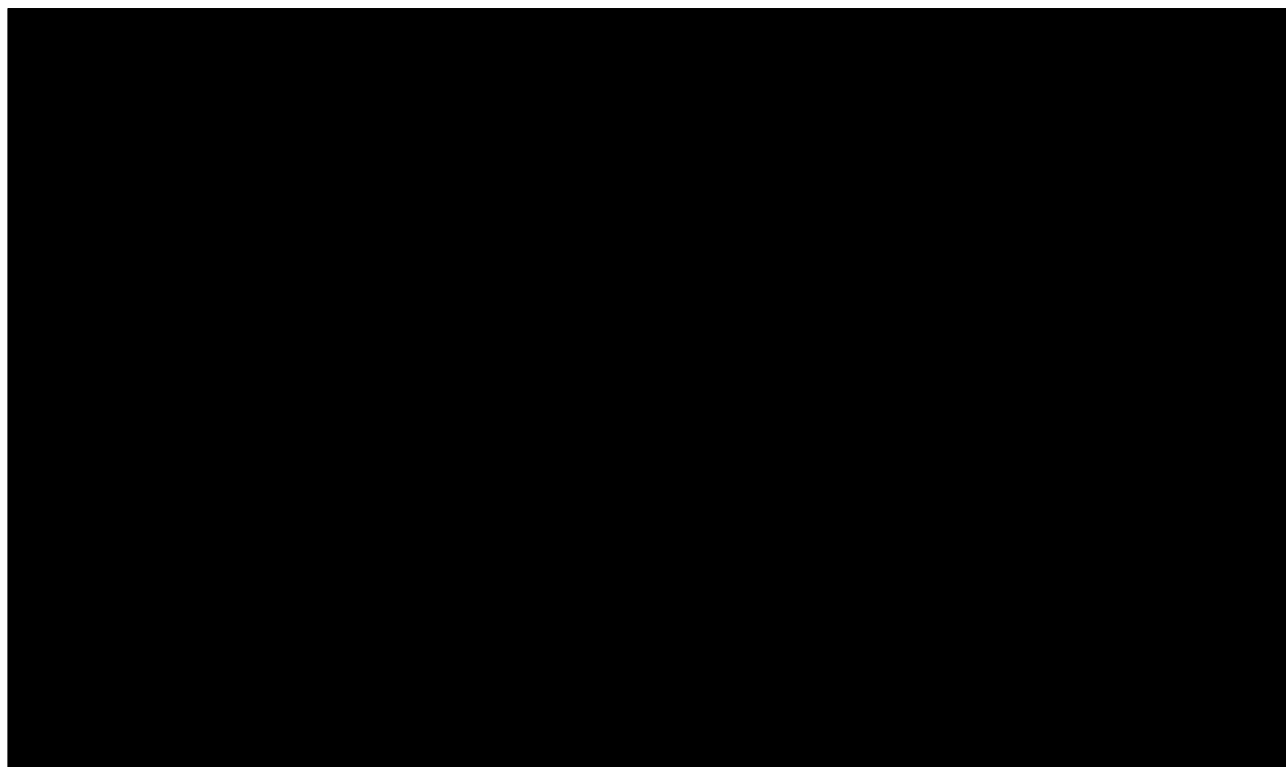


Table 4: Upskilling LAs: the provider support and engagement model – word count 268 included.

For **providers directly** we have already developed and piloted PREPARE, a programme of tools, models, and training for providers for EY expansion – tailored for different models of delivery (including schools and childminders). They build upon our Business Map and other available business support tools funded by DfE.

Added value: *PREPARE tools will be freely shared without IPR for direct use by providers, including access to recorded sections and self-serve content.*

We will offer access to tried-and-tested resources developed by sector experts OOSA, and will develop new tools and models to support providers and schools to be ready for creating or extending WAC places. There will be self-serve access, online sessions, training for trainers and co-delivery with LAs in target areas as part of action plan.

We will refine our understanding of providers' needs not only through our Expert Board, but direct working with three key forums: all types of school (inc. MATs); nursery groups, and WAC chain providers - this innovation has not been done before. It will enable us to reach the parts individual LAs cannot reach alone. We will provide groups that offer dialogue, co-production, action learning sets, and test and trial our resources to deliver the specification required. In return we will support the sharing and dissemination of the materials and outcomes to reach all parts of the sector.

A strong strategy for **engaging schools** will be essential for ensuring the success of both programmes, WAC in particular. The schools' forum, with membership from across the schools' sector which will meet termly and in line with key milestones to push forward this strategy. We will develop the tools that are needed to support both schools and providers to work together to set up provision that works for families. This forum will help to build understanding of what makes for successful provision and enable us to develop the tools that are needed to support a range of different models.

Our priority will be to make sure that LAs have the skills and tools they need to be able to self-manage their market effectively for there to be a **sustainable approach** beyond the life of the contract.

Question 2.2.5: Project Delivery and Contract Management

Response:

Our **Childcare Works** team (Graphic 1) bring extensive experience of delivering projects of national importance for DfE such as: National Early years (EY), Holidays Activities and Food (HAF), Adoption Support Fund (ASF), 30-hours and Achieving 2-Year Olds (A2YO). We will implement the following approach:

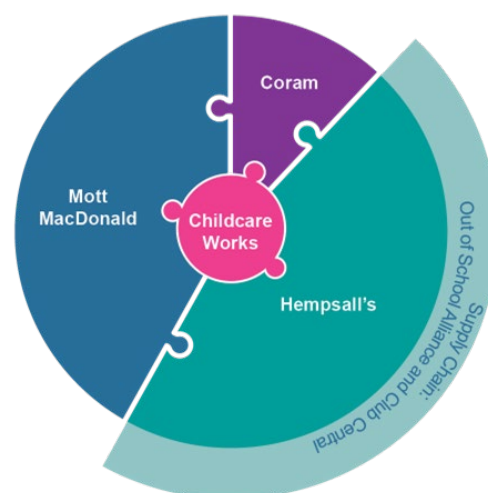
Project management: Our programme delivery specialists will provide a strong governance structure and coordinated programme approach. This will be achieved through development of a comprehensive Project Plan of Works (PPW) following the Association for Project Management (APM) principals and by utilising lessons learned from previous contracts.

Risk management: Our five-step risk management approach (Graphic 2), embedded in programme delivery, will achieve a culture of transparency for the whole programme team. We will actively review risks with you, enabling proactive escalation and mitigation.

Contract management: We will utilise data and digital tools to deliver efficient and effective contract and KPI management, providing you with the right data at the right time.

Project management

Our Project Manager, [REDACTED], will be responsible for the programme delivery and meeting key milestones. He will develop a detailed PPW according to our internal STEP governance process, including the creation of an agreed communication plan, risk register, the approach to budgetary monitoring and the expectations of stakeholders to meet the outlined specifications. He will be supported in the execution of the PPW by the Leadership Team and Programme Office.



Graphic 1: Childcare Works Consortium

LA satisfaction: [REDACTED] has overall responsibility for monitoring stakeholder satisfaction throughout the programme; we will:

- Gather feedback on satisfaction on support provided to LAs twice yearly.
- Seek informal feedback through the LA and Provider Support teams via regular engagement with LAs.
- Gather feedback following events on event experience and feedback on Childcare Works support.

This feedback will inform our delivery through the identification of themes, which LAs are struggling with or need extra information on and help develop agendas for future events, peer-to-peer sessions, and the support our team provides.

Evidence

For ASF, Mott MacDonald ran a consultation on behalf of the DfE on the proposal to introduce a National Cost Framework. Over the 6-week consultation period we received responses from 81 LAs and RAAs and over 200 responses from therapeutic service providers. Feedback identified several themes, which were explored further in focus groups. As a result, steps are being taken to address issues raised and the insight gained is helping support commissioning.

Providing a coordinated approach: Clear lines of escalation and responsibility mapping will contribute to our coordinated approach, allowing for at-pace high-quality deliverables through clear accountability and support. This will be clearly outlined in the PPW and supported by regular internal meetings across the programme.

To inform our delivery and communications approach, we will work with you to conduct a stakeholder mapping exercise and the Expert Board will provide stakeholder advice to support decision making.

Risk management

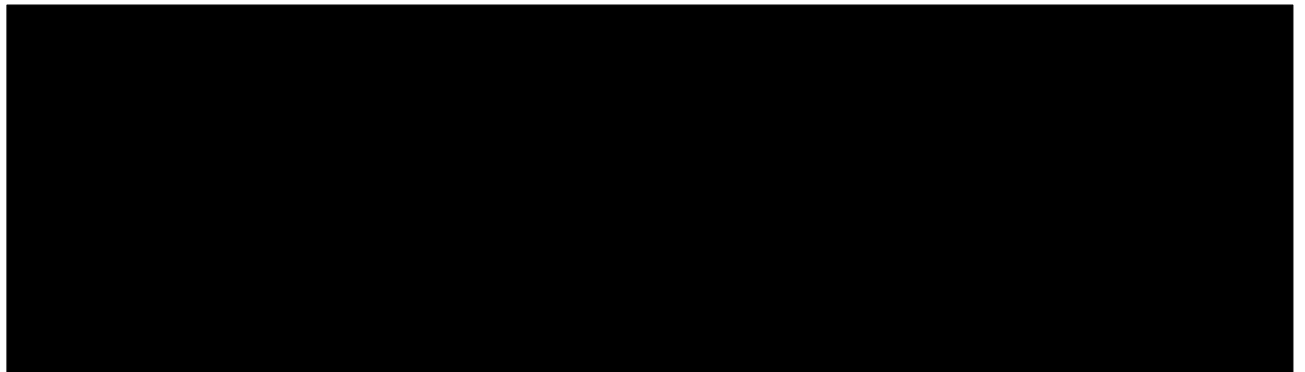
Our staged approach to risk management is outlined in Graphic 2. Our project manager will be responsible for implementing and reviewing the project risk register. **The approach is aligned with the high-level Risk Register we have populated (see 2.2.5 Appendix A – Risk Register), drawing on our extensive experience of LA engagement and policy areas, we have identified the top three risks:**

1. LAs lacking capacity or knowledgeable staff in WAC.
2. Providers ability to recruit and train new staff to meet rise in demand.
3. Economic viability of childcare providers.

We will develop a plan to mitigate the above and communicate the management of these plus other emerging risks throughout the life of the project with you, escalating for support where necessary. The approach to risk and escalation will be documented in the PPW.

We will promote a culture of transparency through early sight of emergent threats, and accountability of risk and mitigation owners. Achieved by embedding risk

mitigation and management within our management of the programme. Risk will be a recurring item at all programme meetings outlined in our governance processes.



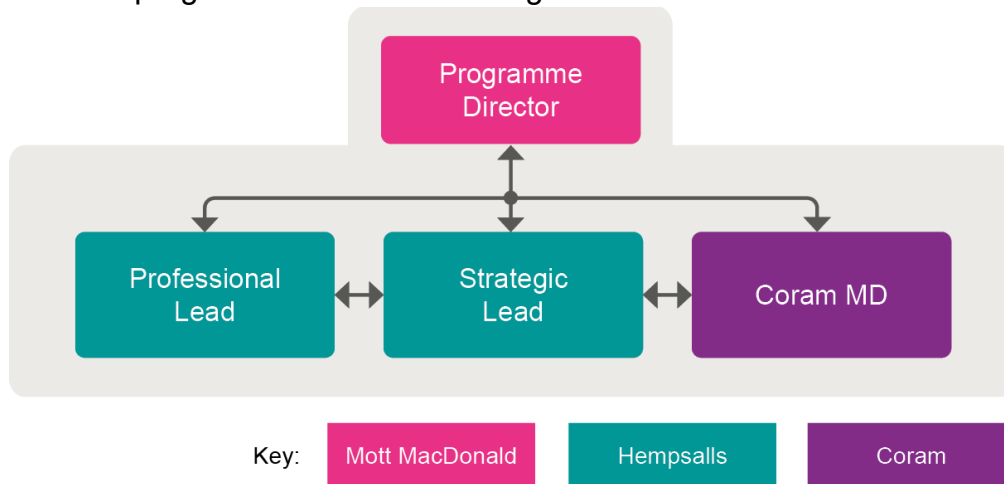
Graphic 2: Risk approach

Contract management

[Redacted], Contract Manager, will lead on contract management of the sub-consultants and with you, providing oversight and escalation.

Proposed governance structure:

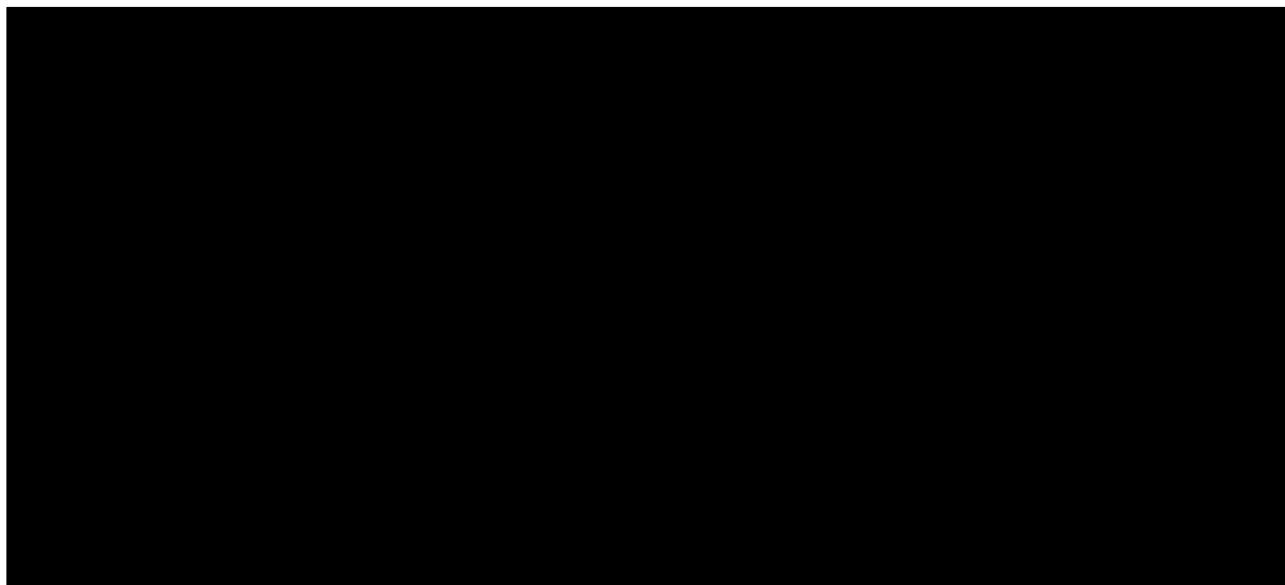
1. **Childcare Works Leadership Team:** This group (Graphic 3) will direct and oversee the programme and track the highest rated risks.



Graphic 3 Childcare Works Leadership Team

2. **Governance meetings:** We have mapped our governance and reporting structure, maintaining a flexible approach for the correct balance of meetings. Graphic 4 provides a summary of our proposed governance meetings for the first 6-months of the contract. Keeping in Touch (KIT) meetings will be held separately (for WAC and EY) during the first six-months, as we recognise the two policy areas are at different stages. From June 2024, we suggest reviewing frequency and if agreed, we can combine and run monthly (alternate biweekly to the monthly Contract meetings).

3.



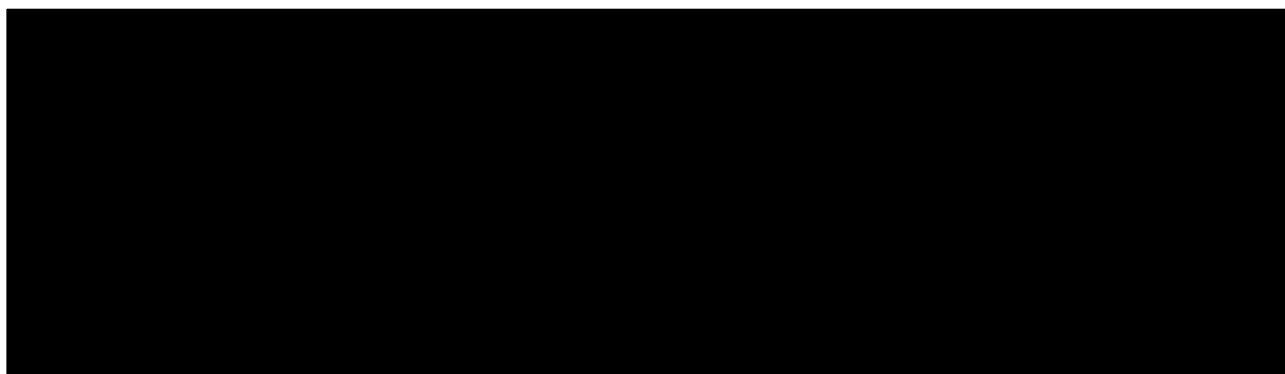
Graphic 4: Governance structure (Jan-June 2024)

4. **Ways of working:** As an established consortium, we have defined shared values, which guide our ways of working. Our Leadership Team are responsible for setting this direction and guiding responses to high level challenges.

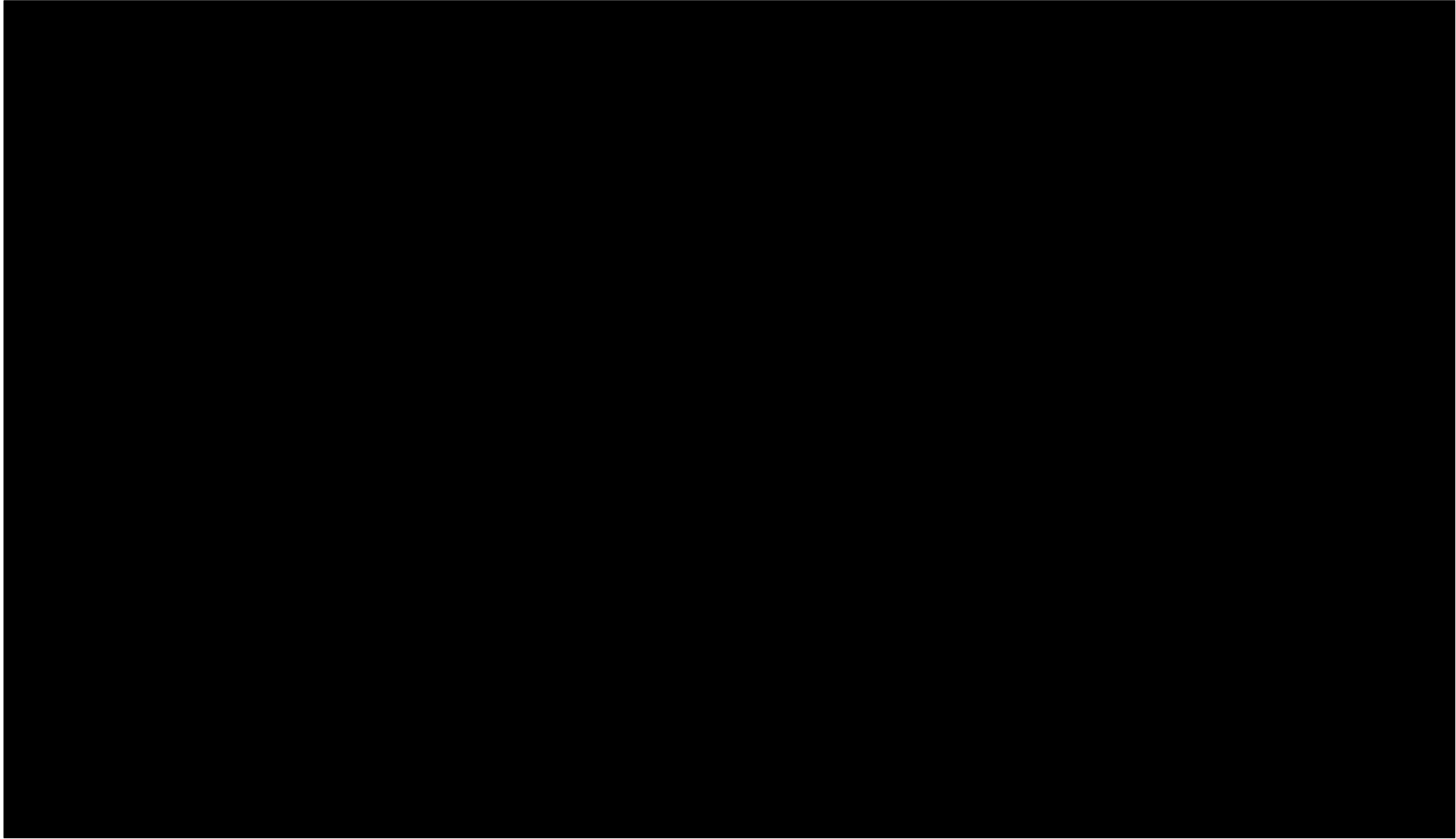
Added value: *We will have the same delivery team to manage both policy areas to continuously find improvement opportunities and synergies.*

Working with the Programme Office, [REDACTED] will **Monitor KPI performance** and maintain open communication with you to inform of any divergence from planned performance, documented in our PPW and KPI achievement plan. The review of KPIs will be a recurring agenda item at Contract Management Meetings and will be included in our monthly reporting.

Providing up-to date information:



Appendix A: Risk Register



Question 2.2.6: Social Value (Tackling Economic Inequality)

Response:

Childcare Works (see Graphic 1) is dedicated to enhancing employment and training opportunities, all our member organisations promote career growth through apprenticeships, graduate schemes, and work experience.

Method statement

Our Project Manager will have overall responsibility for delivering our Social Value commitments, the approach is well-defined and will include:

Strategy: Using the commitments outlined below to develop our **social value action plan (SVAP)** that will allow us to clearly communicate the ambitions, plan, metrics, and requirements for all stakeholders. This plan will define how we will deliver and include monthly reports to update on progress, share lessons learned and promote opportunities. These meetings allow for reporting on performance and sharing of best practice across the supply chain.

Review: We will conduct an annual SVAP review against agreed actions to assess what is working well and to plan any corrective action.

Resources: Mott MacDonald employs several social value subject matter experts to support our delivery team to plan and review social value activity.

Our methodology is based on the model award criteria

Supporting workforce supply challenges: Upon contract award, we will create 2 new apprenticeships directly linked to winning this project and as apprentices progress, we will aim to maintain up to 4 apprentices assigned to project roles, thus enhancing our early careers capacity.



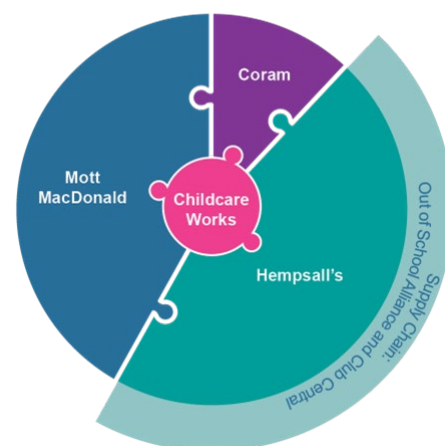
"As an apprentice Mott MacDonald have supported me by giving me opportunities to shadow PM's on tasks that align with my apprenticeship in administration and project management. I have also had the opportunity to have mentors that have been through the same paths as me. Having completed my apprenticeship, I am now a project administrator. Overall my apprenticeship experience with Mott MacDonald has been amazing and they have always supported me in any goal I set."

Former Apprentice (Level 3)

Graphic 2: Apprentice (Level 3) quote

Training and upskilling: We will provide training for our staff, partners, subcontractors, and stakeholders including Local Authorities (LAs) and schools to enhance their understanding and delivery of Early Years (EY) and Wraparound Childcare.

Content curation and utilisation: We will curate relevant materials for sector growth, prioritising knowledge-sharing practices and case studies.



Graphic 9: Childcare Works Consortium

Benefits for equalities and underrepresented groups: We will look to recruit/retain an apprentice from those facing employment barriers, such as ex-prisoners and/or those living in deprived areas.

Evidence

Mott MacDonald are partnered with Breakthrough, the UK’s first apprenticeship provider to recruit directly from prisons. In 2024, four Business Administration Apprentices (Level 3) were recruited, with one employed full-time to our social care projects.

Collaboration with LAs, stakeholders and supply chain

We will support LAs, schools, supply chain and wider stakeholders by offering upskilling opportunities:

- **Four business development training sessions** within **year 1** of the contract.
- **Engagement with LAs** will allow us to share best practice in the development of EY apprenticeships.
- **Offering support on processes and application for chartership** (via APM) to DfE staff and our supply chain staff.



“I have almost completed Business Administration Level 3, and will be starting Project Management Level 6 in May and I’ve learnt that every situation is an opportunity to improve.”

Apprentice (Level 3) Adoption Support Fund

Graphic 3: Apprentice (Level 3) Adoption Support Fund quote

Reporting and data sharing

Monthly reporting on the SVAP will share data on job creation/retention, skill enhancement, and contract impacts with you and stakeholders. Our progress will be reviewed quarterly and yearly.

Achieving KPIs

Tables 1, 2 and 3 set out how we will meet the KPIs, recognising that our SVAP will be used to agree the final KPIs on contract award with you.

Table 1: Number of apprenticeship opportunities (Level 2, 3, and 4+) created or retained under the contract, by UK region

Apprenticeship Pathway/Level	UK Region	No. of Apprentices under the contract	Create	Retain	Role details
L3 Business Administration	Midlands	1		✓	PMO administration support

	TBC*	2	✓		
L4 Business Administration	South-East / Midlands	3		✓	Apprenticeship progression pathways (three options)
L4 Project Management					
L4 Management consultancy					
Apprentice support:	Midlands	All staff L3-7		✓	Support offered by employers to apprentices at L3-7
<ul style="list-style-type: none"> Careers Guidance Mentoring Buddying 	South-East				
Early Career Professionals (ECP) Programme	South-East	All staff L3-7		✓	'Developing your Future' supporting professional development inc. CV, careers talks, curriculum support, social activities

TBC* Between: Midlands, East/South-East & North-West

Table 2: Number of training opportunities beyond apprenticeships (Level 2, 3, and 4+) created or retained under the contract, other than apprentices, provided nationally

Opportunities beyond (Level 2, 3, and 4+)	No. of staff under the contract	Create	Retain	Opportunity Details
Work experience	2	✓		'Finding your Future' 5-day schools programme (14-18yrs). Candidates receive the Prince's Trust Silver Industrial Cadets Accreditation
Association of Project Managers (APM) programme	1	✓		Career progression opportunity APM: <ul style="list-style-type: none"> Project Fundamentals (Level 3) Project Management Qualification (Level 4)
APM Chartership (internal)	1	✓		Career progression opportunity (Level 4+) to complete Chartership programme
Training and Development	Sub-contractors and key stakeholders inc. LA's, Schools and other	✓		Virtual business development sessions/workshops including: <ul style="list-style-type: none"> Developing Early Careers Pathways (2) Project and Risk Management (1) Supply Chain Management and tools (1)

Table 3: Added Value

Other Opportunities	No. of staff	Create	Retain	Opportunity Details
Support for APM Chartership Offer to DfE Staff (Buyer), sub-contractors and partners	2	✓		Supporting candidates achieve APM Chartership
Study skills workshop	4 apprentices and sub-contractor staff DfE (apprentice)	✓		'Lunch and Learn' development session (1)

Timed Action Plan

Below (**Table 4**) we have set out an indicative timeline for delivery of this project, based upon the 27-month contract delivery period. This will be updated as part of the SVAP development on contract award.

Table 4: Timed Action Plan



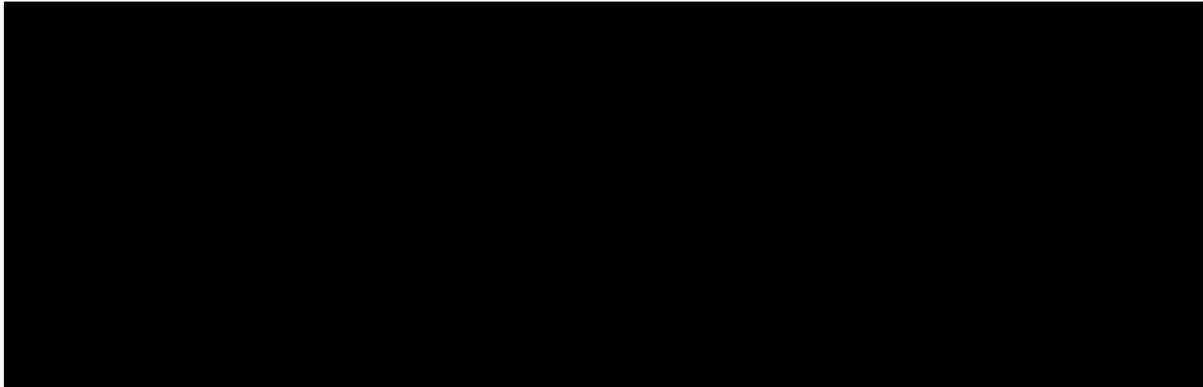
3. Commercial Envelope

Question 3.1.1: Total Tendered Price (see Award Form / Schedule 3 – Charges)

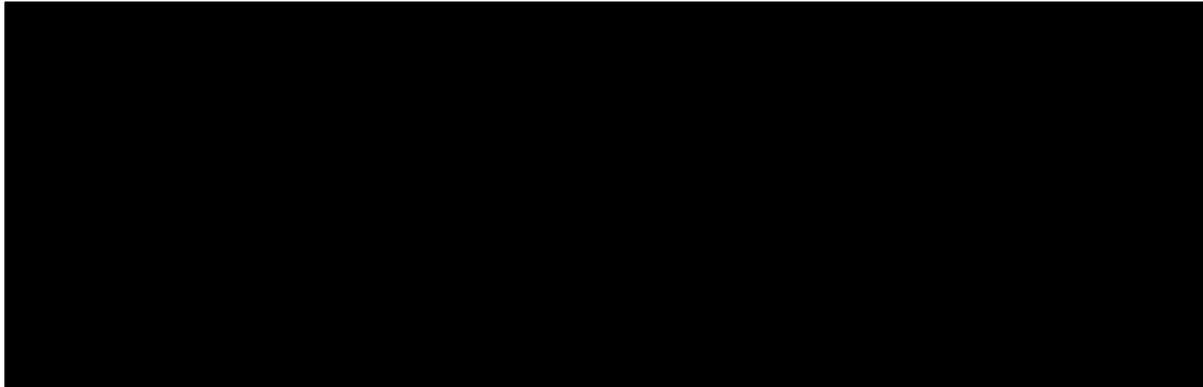
Question 3.2.1: Written Commercial Response

Response:

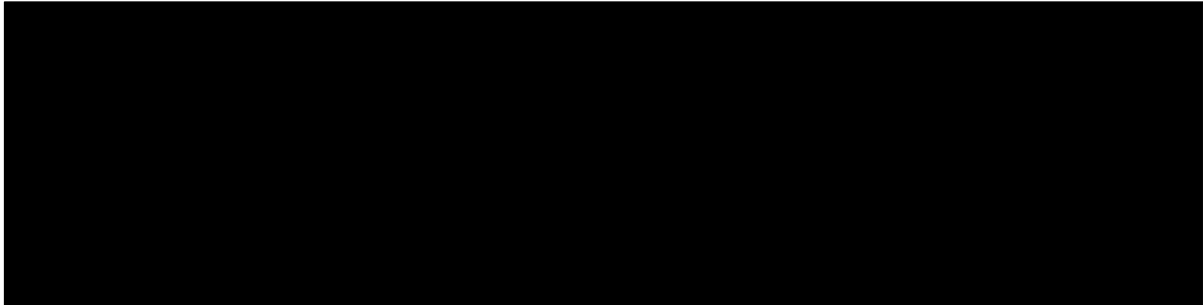
Evidence of understanding the type and amount of support LAs may need



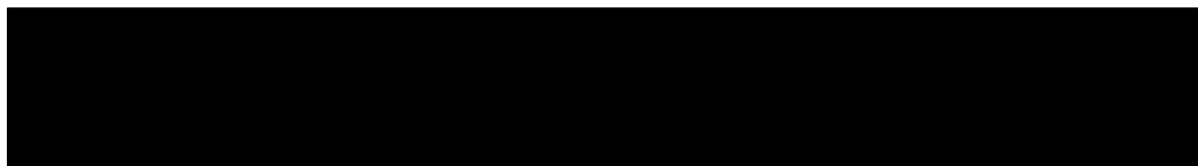
Transparency about how costs have been developed



Costs represent value for money



Activities will provide support as set out within the specification



Question 3.1.3: Pricing Schedule (see *Schedule 3 – Charges*)

Schedule 5 (Commercially Sensitive Information)

1. What is the Commercially Sensitive Information?

- 1.1 In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.
- 1.2 Where possible, the Parties have sought to identify when any relevant information will cease to fall into the category of information to which this Schedule applies in the table below and in the Award Form (which shall be deemed incorporated into the table below).
- 1.3 Without prejudice to the Buyer's obligation to disclose information in accordance with FOIA or Clause 20 (When you can share information), the Buyer will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following information:

No.	Date	Item(s) and Rationale	Duration of Confidentiality
1	04/01/2024	<p style="text-align: center;">Schedule 3 – Charges</p> <p style="text-align: center;">(Contains data which could advantage competitors.)</p>	5 years surviving the contract for commercially sensitive information
2	04/01/2024	<p style="text-align: center;">Schedule 4 – Tender</p> <p style="text-align: center;">(Contains and IPR, information not in public domain. Publication of the solution could advantage competitors.)</p>	5 years surviving the contract for commercially sensitive information

Schedule 6 (Transparency Reports)

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

Annex A: List of Transparency Reports

Title	Content	Format	Frequency
Performance	Supplier performance against the Key Performance Indicators	Drawn from agreed Performance Report format	Quarterly
Key Subcontractors	Summary of activities and costs	Microsoft Excel	Quarterly

Schedule 7 (Staff Transfer)

1. Definitions

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

"Admission Agreement"	either or both of the CSPS Admission Agreement (as defined in Annex D1: CSPS) or the LGPS Admission Agreement) as defined in Annex D3: LGPS), as the context requires;
"Employee Liability"	<p>all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:</p> <ul style="list-style-type: none">(a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;(b) unfair, wrongful or constructive dismissal compensation;(c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;(d) compensation for less favourable treatment of part-time workers or fixed term employees;(e) outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by the Buyer or the Replacement Supplier to a Transferring Supplier Employee which would have been payable by the Supplier or the Subcontractor if such payment should have been made prior to the Service Transfer Date and also including any payments arising in respect of pensions;

- (f) claims whether in tort, contract or statute or otherwise;
 - (g) any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;
- "Fair Deal Employees"** as defined in Part D;
- "Former Supplier"** a supplier supplying the Services to the Buyer before any Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any subcontractor of such supplier (or any subcontractor of any such subcontractor);
- "New Fair Deal"** the revised Fair Deal position set out in the HM Treasury guidance: *"Fair Deal for staff pensions: staff transfer from central government"* issued in October 2013 including:
- (a) any amendments to that document immediately prior to the Relevant Transfer Date;
 - (b) any similar pension protection in accordance with the Annexes D1-D3 inclusive to Part D of this Schedule as notified to the Supplier by the Buyer;
- "Notified Subcontractor"** a Subcontractor identified in the Annex to this Schedule to whom Transferring Buyer Employees and/or Transferring Former Supplier Employees will transfer on a Relevant Transfer Date;
- "Old Fair Deal"** HM Treasury Guidance *"Staff Transfers from Central Government: A Fair Deal for Staff Pensions"* issued in June 1999 including the supplementary guidance *"Fair Deal for Staff pensions: Procurement of Bulk Transfer Agreements and Related Issues"* issued in June 2004;

"Partial Termination"	the partial termination of the relevant Contract to the extent that it relates to the provision of any part of the Services as further provided for in Clause 14.4 (When the Buyer can end this contract) or 14.6 (When the Supplier can end the contract);
"Replacement Subcontractor"	a subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any subcontractor of any such subcontractor);
"Relevant Transfer"	a transfer of employment to which the Employment Regulations applies;
"Relevant Transfer Date"	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place, and for the purposes of Part D and its Annexes, where the Supplier or a Subcontractor was the Former Supplier and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor), references to the Relevant Transfer Date shall become references to the Start Date;
"Service Transfer"	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Subcontractor;
"Service Transfer Date"	the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires;
"Staffing Information"	in relation to all persons identified on the Supplier's Provisional Supplier Staff List or Supplier's Final Supplier Staff List, as the case may be, all information required in Annex E2 (Table of Staffing Information) in the format specified and with the identities of Data Subjects anonymised where possible. The Buyer may acting reasonably make changes to the format or information requested in Annex E2 from time to time.
"Statutory Schemes"	means the CSPS, NHSPS or LGPS as defined in the Annexes to Part D of this Schedule;

"Supplier's Final Supplier Staff List"	a list provided by the Supplier of all Supplier Staff whose will transfer under the Employment Regulations on the Service Transfer Date;
"Supplier's Provisional Supplier Staff List"	a list prepared and updated by the Supplier of all Supplier Staff who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;
"Transferring Buyer Employees"	those employees of the Buyer to whom the Employment Regulations will apply on the Relevant Transfer Date;
"Transferring Former Supplier Employees"	in relation to a Former Supplier, those employees of the Former Supplier to whom the Employment Regulations will apply on the Relevant Transfer Date; and
"Transferring Supplier Employees"	those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Relevant Transfer Date.

2. Interpretation

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

3. Which parts of this Schedule apply

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

- 3.1 Part A – Not Used.
- 3.2 Part B (Staff Transfer At Operational Services Commencement Date – Transfer From Former Supplier) – Not Used.
- 3.3 Part C (No Staff Transfer Expected On Operational Services Commencement Date)
- 3.4 Part D (Pensions)
 - 3.4.1 Annex D1 (CSPS);
 - 3.4.2 Annex D2NHSPS);
 - 3.4.3 Annex D3 (LGPS);

- 3.4.4 Annex D4 (Other Schemes) – Not Used.
- 3.5 Part E (Staff Transfer on Exit) of this Schedule will always apply to this Contract, including:
 - 3.5.1 Annex E1 (List of Notified Subcontractors);
 - 3.5.2 Annex E2 (Staffing Information).

Part A: Not Used

Part B: Not Used.

Part C: No Staff Transfer on the Start Date

1. What happens if there is a staff transfer

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

Supplier may within 5 Working Days give notice to terminate the employment of such person;

and subject to the Supplier's compliance with Paragraphs 1.2.1 to 1.2.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 1.5:

- (a) the Buyer will indemnify the Supplier and/or the relevant Subcontractor against all Employee Liabilities arising out of the termination of the employment of any of the Buyer's employees referred to in Paragraph 1.2 provided that the Supplier takes, or shall procure that the Notified Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities; and
 - (b) the Buyer will procure that the Former Supplier indemnifies the Supplier and/or any Subcontractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Supplier referred to in Paragraph 1.2 provided that the Supplier takes, or shall procure that the relevant Subcontractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 1.3 If any such person as is described in Paragraph 1.2 is neither re employed by the Buyer and/or the Former Supplier as appropriate nor dismissed by the Supplier and/or any Subcontractor within the 15 Working Day period referred to in Paragraph 1.2 such person shall be treated as having transferred to the Supplier and/or the Subcontractor (as appropriate) and the Supplier shall, or shall procure that the Subcontractor shall, (a) comply with such obligations as may be imposed upon it under Law and (b) comply with the provisions of Part D (Pensions) and its Annexes of this Staff Transfer Schedule.
- 1.4 Where any person remains employed by the Supplier and/or any Subcontractor pursuant to Paragraph 1.3, all Employee Liabilities in relation to such employee shall remain with the Supplier and/or the Subcontractor and the Supplier shall indemnify the Buyer and any Former Supplier, and shall procure that the Subcontractor shall indemnify the Buyer and any Former Supplier, against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.
- 1.5 The indemnities in Paragraph 1.2 shall not apply to any claim:
 - 1.5.1 for discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief;
 - 1.5.2 or equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,in relation to any alleged act or omission of the Supplier and/or Subcontractor; or
 - 1.5.3 any claim that the termination of employment was unfair because the Supplier and/or any Subcontractor neglected to follow a fair dismissal procedure; and

- 1.6 The indemnities in Paragraph 1.2 shall not apply to any termination of employment occurring later than 6 Months from the relevant Transfer Date.
- 1.7 If the Supplier and/or the Subcontractor does not comply with Paragraph 1.2, all Employee Liabilities in relation to such employees shall remain with the Supplier and/or the Subcontractor and the Supplier shall (i) comply with the provisions of Part D: Pensions of this Schedule, and (ii) indemnify the Buyer and any Former Supplier against any Employee Liabilities that either of them may incur in respect of any such employees of the Supplier and/or employees of the Subcontractor.

2. Limits on the Former Supplier's obligations

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

Part D: Pensions

1. Definitions

In this Part D and Part E, the following words have the following meanings and they shall supplement Schedule 1 (Definitions), and shall be deemed to include the definitions set out in the Annexes:

"Actuary"	a Fellow of the Institute and Faculty of Actuaries;
"Best Value Direction"	the Best Value Authorities Staff Transfers (Pensions) Direction 2007 or the Welsh Authorities Staff Transfers (Pensions) Direction 2012 (as appropriate);
"Broadly Comparable"	<p>(a) in respect of a pension scheme, a status satisfying the condition that there are no identifiable employees who will suffer material detriment overall in terms of future accrual of pension benefits as assessed in accordance with Annex A of New Fair Deal and demonstrated by the issue by the Government Actuary's Department of a broad comparability certificate; and</p> <p>(b) in respect of benefits provided for or in respect of a member under a pension scheme, benefits that are consistent with that pension scheme's certificate of broad comparability issued by the Government Actuary's Department,</p> <p>and "Broad Comparability" shall be construed accordingly;</p>
"CSPS"	the schemes as defined in Annex D1 to this Part D;
"Direction Letter/Determination"	has the meaning in Annex D2 to this Part D;
"Fair Deal Eligible Employees"	means each of the CSPS Eligible Employees (as defined in Annex D1 to this Part D), the NHSPS Eligible Employees (as defined in Annex D2 to this Part D) and/or the LGPS Eligible Employees (as defined in Annex D3 to this Part D) (as applicable) (and shall include any such employee who has been admitted to and/or remains eligible to join a Broadly Comparable pension scheme at the relevant time in accordance with Paragraph 10 or 11 of this Part D);

<p>"Fair Deal Employees"</p>	<p>those:</p> <ul style="list-style-type: none"> (a) Transferring Buyer Employees; and/or (b) Transferring Former Supplier Employees; and/or (c) employees who are not Transferring Buyer Employees or Transferring Former Supplier Employees but to whom the Employment Regulations apply on the Relevant Transfer Date to transfer their employment to the Supplier or a Subcontractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.3.4 of Parts A or B or Paragraph 1.2.4 of Part C; (d) where the Former Supplier becomes the Supplier those employees; <p>who at the Start Date or Relevant Transfer Date (as appropriate) are or become entitled to New Fair Deal protection in respect of any of the Statutory Schemes as notified by the Buyer;</p>
<p>"Fair Deal Schemes"</p>	<p>means the relevant Statutory Scheme or a Broadly Comparable pension scheme;</p>
<p>"Fund Actuary"</p>	<p>means Fund Actuary as defined in Annex D3 to this Part D;</p>
<p>"LGPS"</p>	<p>the schemes as defined in Annex D3 to this Part D;</p>
<p>"NHSPS"</p>	<p>the schemes as defined in Annex D2 to this Part D; and</p>
<p>"New Fair Deal"</p>	<p>the revised Fair Deal position set out in the HM Treasury guidance: "<i>Fair Deal for Staff Pensions: Staff Transfer from Central Government</i>" issued in October 2013 including:</p> <ul style="list-style-type: none"> (a) any amendments to that document immediately prior to the Relevant Transfer Date; and (b) any similar pension protection in accordance with the subsequent Annex D1-D3 inclusive as notified to the Supplier by the Buyer.

2. Supplier obligations to participate in the pension schemes

- 2.1 In respect of all or any Fair Deal Employees each of Annex D1: CSPS, Annex D2: NHSPS and/or Annex D3: LGPS shall apply, as appropriate.

- 2.2 The Supplier undertakes to do all such things and execute any documents (including any relevant Admission Agreement and/or Direction Letter/Determination, if necessary) as may be required to enable the Supplier to participate in the appropriate Statutory Scheme in respect of the Fair Deal Employees and shall bear its own costs in such regard.
- 2.3 The Supplier undertakes:
- 2.3.1 to pay to the Statutory Schemes all such amounts as are due under the relevant Admission Agreement and/or Direction Letter/Determination or otherwise and shall deduct and pay to the Statutory Schemes such employee contributions as are required; and
 - 2.3.2 subject to Paragraph 5 of Annex D3: LGPS to be fully responsible for all other costs, contributions, payments and other amounts relating to its participation in the Statutory Schemes, including for the avoidance of doubt any exit payments and the costs of providing any bond, indemnity or guarantee required in relation to such participation.
- 2.4 Where the Supplier is the Former Supplier (or a Subcontractor is a subcontractor of the Former Supplier) and there is no Relevant Transfer of the Fair Deal Employees because they remain continuously employed by the Supplier (or Subcontractor) at the Start Date, this Part D and its Annexes shall be modified accordingly so that the Supplier (or Subcontractor) shall comply with its requirements from the Start Date or, where it previously provided a Broadly Comparable pension scheme, from the date it is able to close accrual of its Broadly Comparable pension scheme (following appropriate consultation and contractual changes as appropriate) if later. The Supplier (or Subcontractor) shall make arrangements for a bulk transfer from its Broadly Comparable pension scheme to the relevant Statutory Scheme in accordance with the requirements of the previous contract with the Buyer.

3. Supplier obligation to provide information

- 3.1 The Supplier undertakes to the Buyer:
- 3.1.1 to provide all information which the Buyer may reasonably request concerning matters referred to in this Part D as expeditiously as possible; and
 - 3.1.2 not to issue any announcements to any Fair Deal Employee prior to the Relevant Transfer Date concerning the matters stated in this Part D without the consent in writing of the Buyer (such consent not to be unreasonably withheld or delayed); and
 - 3.1.3 retain such records as would be necessary to manage the pension aspects in relation to any current or former New Deal Eligible Employees arising on expiry or termination of this Contract.

4. Indemnities the Supplier must give

- 4.1 The Supplier undertakes to the Buyer to indemnify and keep indemnified NHS Pensions, the Buyer and/or any Replacement Supplier and/or any Replacement Subcontractor on demand from and against all and any Losses whatsoever suffered or incurred by it or them which:
- 4.1.1 arise out of or in connection with any liability towards all and any Fair Deal Employees in respect of service on or after the Relevant Transfer Date which arises from any Default by the Supplier of this Part D, and/or the CSPA Admission Agreement and/or the Direction Letter/Determination and/or the LGPS Admission Agreement;
 - 4.1.2 relate to the payment of benefits under and/or participation in a pension scheme (as defined in section 150(1) Finance Act 2004) provided by the Supplier or a Subcontractor on and after the Relevant Transfer Date until the date of termination or expiry of this Contract, including the Statutory Schemes or any Broadly Comparable pension scheme provided in accordance with Paragraphs 10 or 11 of this Part D;
 - 4.1.3 relate to claims by Fair Deal Employees of the Supplier and/or of any Subcontractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Fair Deal Employees which Losses:
 - (a) relate to any rights to benefits under a pension scheme (as defined in section 150(1) Finance Act 2004) in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of this Contract;
 - (b) arise out of the failure of the Supplier and/or any relevant Subcontractor to comply with the provisions of this Part D before the date of termination or expiry of this Contract; and/or
 - 4.1.4 arise out of or in connection with the Supplier (or its Subcontractor) allowing anyone who is not an NHSPS Fair Deal Employee to join or claim membership of the NHSPS at any time during the Term.
- 4.2 The indemnities in this Part D and its Annexes:
- 4.2.1 shall survive termination of this Contract; and
 - 4.2.2 shall not be affected by the caps on liability contained in Clause 15 (How much you can be held responsible for).

5. What happens if there is a dispute

- 5.1 The Dispute Resolution Procedure will not apply to this Part D and any dispute (i) between the Buyer and the Supplier or (ii) between their respective actuaries and/or the Fund Actuary about any of the actuarial matters referred to in this Part D and its Annexes shall in the absence of

agreement between the Buyer and the Supplier be referred to an independent Actuary:

- 5.1.1 who will act as an expert and not as an arbitrator;
 - 5.1.2 whose decision will be final and binding on the Buyer and the Supplier; and
 - 5.1.3 whose expenses shall be borne equally by the Buyer and the Supplier unless the independent Actuary shall otherwise direct.
- 5.2 The independent Actuary shall be agreed by the Parties or, failing such agreement the independent Actuary shall be appointed by the President for the time being of the Institute and Faculty of Actuaries on the application by the Parties.

6. Other people's rights

- 6.1 The Parties agree Clause 23 (Other people's rights in this contract) does not apply and that the CRTPA applies to this Part D to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them or it by the Supplier under this Part D, in their or its own right under section 1(1) of the CRTPA.
- 6.2 Further, the Supplier must ensure that the CRTPA will apply to any Sub-Contract to the extent necessary to ensure that any Fair Deal Employee will have the right to enforce any obligation owed to them by the Subcontractor in their or its own right under section 1(1) of the CRTPA.

7. What happens if there is a breach of this Part D

- 7.1 The Supplier agrees to notify the Buyer should it Default any obligations it has under this Part D and agrees that the Buyer shall be entitled to terminate its Contract for Material Default and the consequences of termination set out in Clause 14.5.1 shall apply in the event that the Supplier:
- 7.1.1 commits an irremediable Default of any provision or obligation it has under this Part D; or
 - 7.1.2 commits a Default of any provision or obligation it has under this Part D which, where capable of remedy, it fails to remedy within a reasonable time and in any event within 28 days of the date of a notice from the Buyer giving particulars of the Default and requiring the Supplier to remedy it.

8. Transferring New Fair Deal Employees

- 8.1 Save on expiry or termination of this Contract, if the employment of any Fair Deal Employee transfers to another employer (by way of a transfer under the Employment Regulations or other form of compulsory transfer of employment), the Supplier shall and shall procure that any relevant Subcontractor shall:
- 8.1.1 notify the Buyer as far as reasonably practicable in advance of the transfer to allow the Buyer to make the necessary arrangement for participation with the relevant Statutory Scheme(s);

- 8.1.2 consult with about, and inform those Fair Deal Employees of, the pension provisions relating to that transfer; and
- 8.1.3 procure that the employer to which the Fair Deal Employees are transferred (the "**New Employer**") complies with the provisions of this Part D and its Annexes provided that references to the "Supplier" will become references to the New Employer, references to "Relevant Transfer Date" will become references to the date of the transfer to the New Employer and references to "Fair Deal Employees" will become references to the Fair Deal Employees so transferred to the New Employer.

9. What happens to pensions if this Contract ends

- 9.1 The provisions of Part E: Staff Transfer on Exit (Mandatory) apply in relation to pension issues on expiry or termination of this Contract.
- 9.2 The Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of this Contract provide all such co-operation and assistance (including co-operation and assistance from the Broadly Comparable pension scheme's Actuary) as the Replacement Supplier and/or NHS Pension and/or CSPS and/or the relevant Administering Authority and/or the Buyer may reasonably require, to enable the Replacement Supplier to participate in the appropriate Statutory Scheme in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection following a Service Transfer.

10. Broadly Comparable Pension Schemes On The Relevant Transfer Date

- 10.1 If the terms of any of Paragraphs 4 of Annex D2: NHSPS or 3.1 of Annex D3: LGPS applies, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the Relevant Transfer Date until the day before the Service Transfer Date, the relevant Fair Deal Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.
- 10.2 Such Broadly Comparable pension scheme must be:
 - 10.2.1 established by the Relevant Transfer Date;
 - 10.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
 - 10.2.3 capable of receiving a bulk transfer payment from the relevant Statutory Scheme or from a Former Supplier's Broadly Comparable pension scheme (unless otherwise instructed by the Buyer);
 - 10.2.4 capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and

- 10.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).
- 10.3 Where the Supplier has provided a Broadly Comparable pension pursuant to the provisions of this Paragraph 10, the Supplier shall (and shall procure that any of its Subcontractors shall):
- 10.3.1 supply to the Buyer details of its (or its Subcontractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the Relevant Transfer Date) covering all relevant Fair Deal Employees, as soon as it is able to do so before the Relevant Transfer Date (where possible) and in any event no later than seven (7) days after receipt of the certificate;
- 10.3.2 be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995;
- 10.3.3 instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing bulk transfer process with the Actuary to the Former Supplier's Broadly Comparable pension scheme or the Actuary to the relevant Statutory Scheme (as appropriate) and to provide all such co-operation and assistance with any other Actuary appointed by the Buyer (where applicable). This will be with a view to the bulk transfer terms providing day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme in respect of any Fair Deal Eligible Employee who consents to such a transfer; and
- 10.3.4 provide a replacement Broadly Comparable pension scheme in accordance with this Paragraph 10 with immediate effect for those Fair Deal Eligible Employees who are still employed by the Supplier and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Subcontractor's Broadly Comparable pension scheme is closed to future accrual and/or terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).
- 10.4 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 10, the Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of this Contract:

- 10.4.1 allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be on a past service reserve basis which should be calculated allowing for projected final salary at the assumed date of retirement, leaving service or death (in the case of final salary benefits). The actuarial basis for this past service reserve basis should be aligned to the funding requirements of the Broadly Comparable pension scheme in place at the time the bulk transfer terms are offered. The bulk transfer terms shall be subject to an underpin in relation to any service credits awarded in the Broadly Comparable pension scheme in accordance with Paragraph 10.3.3 such that the element of the past service reserve amount which relates to such service credits shall be no lower than that required by the bulk transfer terms that were agreed in accordance with Paragraph 10.3.3) but using the last day of the Fair Deal Eligible Employees' employment with the Supplier or Subcontractor (as appropriate) as the date used to determine the actuarial assumptions; and
- 10.4.2 if the transfer payment paid by the trustees of the Broadly Comparable pension scheme is less (in the opinion of the Actuary to the Replacement Supplier's Broadly Comparable pension scheme (or to the relevant Statutory Scheme if applicable)) than the transfer payment which would have been paid had Paragraph 10.4.1 been complied with, the Supplier shall (or shall procure that the Subcontractor shall) pay the amount of the difference to the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) or as the Buyer shall otherwise direct. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the difference as required under this Paragraph.

11. Broadly Comparable Pension Schemes In Other Circumstances

- 11.1 If the terms of any of Paragraphs 2.2 of Annex D1: CSPS, 5.2 of Annex D2: NHSPS and/or 3.2 of Annex D3: LGPS apply, the Supplier must (and must, where relevant, procure that each of its Subcontractors will) ensure that, with effect from the cessation of participation in the Statutory Scheme, until the day before the Service Transfer Date, the relevant Fair Deal Eligible Employees will be eligible for membership of a pension scheme under which the benefits are Broadly Comparable to those provided under the relevant Statutory Scheme at the date of cessation of participation in the relevant Statutory Scheme, and then on such terms as may be decided by the Buyer.
- 11.2 Such Broadly Comparable pension scheme must be:

- 11.2.1 established by the date of cessation of participation in the Statutory Scheme;
 - 11.2.2 a registered pension scheme for the purposes of Part 4 of the Finance Act 2004;
 - 11.2.3 capable of receiving a bulk transfer payment from the relevant Statutory Scheme (where instructed to do so by the Buyer);
 - 11.2.4 capable of paying a bulk transfer payment to the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (unless otherwise instructed by the Buyer); and
 - 11.2.5 maintained until such bulk transfer payments have been received or paid (unless otherwise instructed by the Buyer).
- 11.3 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 11, the Supplier shall (and shall procure that any of its Subcontractors shall):
- 11.3.1 supply to the Buyer details of its (or its Subcontractor's) Broadly Comparable pension scheme and provide a full copy of the valid certificate of broad comparability (which remains valid as at the date of cessation of participation in the Statutory Scheme) covering all relevant Fair Deal Eligible Employees, as soon as it is able to do so before the cessation of participation in the Statutory Scheme (where possible) and in any event no later than seven (7) days after receipt of the certificate;
 - 11.3.2 be fully responsible for all costs, contributions, payments and other amounts relating to the setting up, certification of, ongoing participation in and/or withdrawal and exit from the Broadly Comparable pension scheme, including for the avoidance of doubt any debts arising under section 75 or 75A of the Pensions Act 1995; and
 - 11.3.3 where required to do so by the Buyer, instruct any such Broadly Comparable pension scheme's Actuary to provide all such co-operation and assistance in agreeing a bulk transfer process with the Actuary to the relevant Statutory Scheme and to provide all such co-operation and assistance with any other Actuary appointed by the Buyer (where applicable). The Supplier must ensure that day for day and/or pound for pound (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) credits in the Broadly Comparable pension scheme are provided in respect of any Fair Deal Employee who consents to such a transfer from the Statutory Scheme and the Supplier shall be fully responsible for any costs of providing those credits in excess of the bulk transfer payment received by the Broadly Comparable pension scheme; and
 - 11.3.4 provide a replacement Broadly Comparable pension scheme in accordance with this Paragraph 11 with immediate effect for those Fair Deal Eligible Employees who are still employed by the

Supplier and/or relevant Subcontractor and are still eligible for New Fair Deal protection in the event that the Supplier and/or Subcontractor's Broadly Comparable pension scheme is closed to future accrual and/or terminated. The relevant Fair Deal Eligible Employees must be given the option to transfer their accrued benefits from the previous Broadly Comparable pension scheme to the new Broadly Comparable pension scheme on day for day and/or pound for pound terms (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes).

- 11.4 Where the Supplier has provided a Broadly Comparable pension scheme pursuant to the provisions of this Paragraph 11, the Supplier shall (and shall procure that any of its Subcontractors shall) prior to the termination of this Contract allow and make all necessary arrangements to effect, in respect of any Fair Deal Eligible Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such Broadly Comparable pension scheme into the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). The bulk transfer terms provided shall be sufficient to secure day for day and/or pound for pound credits (as applicable) (or actuarially equivalent where there are benefit differences between the two schemes) in the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable). For the avoidance of doubt, should the amount offered by the Broadly Comparable pension scheme be less than the amount required by the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) to fund the required credits ("**the Shortfall**"), the Supplier or the Subcontractor (as agreed between them) must pay the Replacement Supplier's Broadly Comparable pension scheme (or relevant Statutory Scheme if applicable) the Shortfall as required, provided that in the absence of any agreement between the Supplier and any Subcontractor, the Shortfall shall be paid by the Supplier. The Supplier shall indemnify the Buyer or the Replacement Supplier's Broadly Comparable pension scheme (or the relevant Statutory Scheme if applicable) (as the Buyer directs) for any failure to pay the Shortfall under this Paragraph.

12. Right Of Set-Off

- 12.1 The Buyer shall have a right to set off against any payments due to the Supplier under this Contract an amount equal to:
- 12.1.1 any unpaid employer's contributions or employee's contributions or any other financial obligations under the CSPA or any CSPA Admission Agreement in respect of the CSPA Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee;
 - 12.1.2 any unpaid employer's contributions or employee's contributions or any other financial obligations under the NHSPA or any Direction Letter/Determination in respect of the NHSPA Eligible

Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee; or

- 12.1.3 any unpaid employer's contributions or employee's contributions or any other financial obligations under the LGPS or any LGPS Admission Agreement in respect of the LGPS Eligible Employees whether due from the Supplier or from any relevant Subcontractor or due from any third party under any indemnity, bond or guarantee;

and shall pay such set off amount to the relevant Statutory Scheme.

- 12.2 The Buyer shall also have a right to set off against any payments due to the Supplier under this Contract all reasonable costs and expenses incurred by the Buyer as result of Paragraphs 12.1 above.

Annex D1: Civil Service Pensions Schemes (CSPS)

1. Definitions

In this Annex D1: CSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Schedule 1 (Definitions):

"CSPS Admission Agreement"	an admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into for the CSPS in respect of the Services;
"CSPS Eligible Employee"	any Fair Deal Employee who at the relevant time is an eligible employee as defined in the CSPS Admission Agreement;
"CSPS Fair Deal Employee"	a Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the CSPS in accordance with the provisions of New Fair Deal; and
"CSPS"	The "Alpha" pension scheme introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014 available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Arrangements and (ii) Death Benefits Arrangements; the Civil Service Additional Voluntary Contribution Scheme.

2. Access to equivalent pension schemes after transfer

- 2.1 In accordance with New Fair Deal, the Supplier and/or any of its Subcontractors to which the employment of any CSPA Fair Deal Employee compulsorily transfers as a result of either the award of this Contract or a Relevant Transfer, if not an employer which participates automatically in the CSPA, shall each secure a CSPA Admission Agreement to ensure that CSPA Fair Deal Employees or CSPA Eligible Employees as appropriate shall be either admitted into, or offered continued membership of, the relevant section of the CSPA that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date or became eligible to join on the Relevant Transfer Date. The Supplier and/or any of its Subcontractors shall procure that the CSPA Fair Deal Employees continue to accrue benefits in the CSPA in accordance with the provisions governing the relevant section of the CSPA for service from (and including) the Relevant Transfer Date.
- 2.2 If the Supplier and/or any of its Subcontractors enters into a CSPA Admission Agreement in accordance with Paragraph 2.1 but the CSPA Admission Agreement is terminated during the term of this Contract for any reason at a time when the Supplier or Subcontractor still employs any CSPA Eligible Employees, the Supplier shall (and procure that its Subcontractors shall) at no extra cost to the Buyer, offer the remaining CSPA Eligible Employees membership of a pension scheme which is Broadly Comparable to the CSPA on the date those CSPA Eligible Employees ceased to participate in the CSPA in accordance with the provisions of Paragraph 11 of Part D.

Annex D2: NHS Pension Schemes

1. Definitions

In this Annex D2: NHSPS to Part D: Pensions, the following words have the following meanings and they shall supplement Schedule 1 (Definitions):

<p>"Direction Letter/Determination"</p>	<p>an NHS Pensions Direction or Determination (as appropriate) issued by the Secretary of State in exercise of the powers conferred by section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 or by section 25 of the Public Service Pensions Act 2013 (as appropriate) and issued to the Supplier or a Subcontractor of the Supplier (as appropriate) relating to the terms of participation of the Supplier or Subcontractor in the NHSPS in respect of the NHSPS Eligible Employees;</p>
<p>"NHS Broadly Comparable Employees"</p>	<p>means each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their</p>

	<p>compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:</p> <p>(a) their employment with the Buyer, an NHS Body or other employer which participates automatically in the NHSPS; or</p> <p>(b) their employment with a Former Supplier who provides access to either the NHSPS pursuant to a Direction Letter/Determination or to a Broadly Comparable pension scheme in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal (or previous guidance), having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier),</p> <p>but who is now ineligible to participate in the NHSPS under the rules of the NHSPS and in respect of whom the Buyer has agreed are to be provided with a Broadly Comparable pension scheme to provide Pension Benefits that are Broadly Comparable to those provided under the NHSPS;</p>
<p>"NHSPS Eligible Employees"</p>	<p>any NHSPS Fair Deal Employee who at the relevant time is an active member or eligible to participate in the NHSPS under a Direction Letter/Determination Letter;</p>
<p>"NHSPS Fair Deal Employees"</p>	<p>Means other than the NHS Broadly Comparable Employees, each of the Fair Deal Employees who at a Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the NHSPS as a result of either:</p>
	<p>(a) their employment with the Buyer, an NHS Body or other employer which participates automatically in the NHSPS; or</p>
	<p>(b) their employment with a Former Supplier who provides access to the NHSPS pursuant to an NHS Pensions Direction or Determination (as appropriate) issued by the Secretary of State in exercise of the powers conferred by section 7</p>

	<p>of the Superannuation (Miscellaneous Provisions) Act 1967 or by section 25 of the Public Service Pensions Act 2013 (as appropriate) in respect of their employment with that Former Supplier (on the basis that they are entitled to protection under New Fair Deal and were permitted to re-join the NHSPS, having been formerly in employment with the Buyer, an NHS Body or other employer who participated automatically in the NHSPS in connection with the Services, prior to being employed by the Former Supplier),</p>
	<p>and, in each case, being continuously engaged for more than fifty per cent (50%) of their employed time in the delivery of services (the same as or similar to the Services).</p>
	<p>For the avoidance of doubt, an individual who is in or entitled to become a member of the NHSPS as a result of being engaged in the Services and being covered by an "open" Direction Letter or other NHSPS "access" facility but who has never been employed directly by an NHS Body (or other body which participates automatically in the NHSPS) is not an NHSPS Eligible Employee;</p>
"NHS Body"	<p>has the meaning given to it in section 275 of the National Health Service Act 2006 as amended by section 138(2)(c) of Schedule 4 to the Health and Social Care Act 2012;</p>
"NHS Pensions"	<p>NHS Pensions as the administrators of the NHSPS or such other body as may from time to time be responsible for relevant administrative functions of the NHSPS;</p>
"NHSPS"	<p>the National Health Service Pension Scheme for England and Wales, established pursuant to the Superannuation Act 1972 and governed by subsequent regulations under that Act including the NHS Pension Scheme Regulations;</p>
"NHS Pension Scheme Arrears"	<p>any failure on the part of the Supplier or its Subcontractors (if any) to pay employer's contributions or deduct and pay across employee's contributions to the NHSPS or meet any other financial obligations under the NHSPS or any Direction Letter in respect of the NHSPS Eligible Employees;</p>

"NHS Pension Scheme Regulations"	as appropriate, any or all of the National Health Service Pension Scheme Regulations 1995 (SI 1995/300), the National Health Service Pension Scheme Regulations 2008 (SI 2008/653), the National Health Service Pension Scheme Regulations 2015 (2015/94) and any subsequent regulations made in respect of the NHSPS, each as amended from time to time;
"NHS Premature Retirement Rights"	rights to which any Fair Deal Employee (had they remained in the employment of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS) would have been or are entitled under the NHS Pension Scheme Regulations, the NHS Compensation for Premature Retirement Regulations 2002 (SI 2002/1311), the NHS (Injury Benefits) Regulations 1995 (SI 1995/866) and section 45 of the General Whitley Council conditions of service, or any other legislative or contractual provision which replaces, amends, extends or consolidates the same from time to time;
"Pension Benefits"	any benefits payable in respect of an individual (including but not limited to pensions related allowances and lump sums) relating to old age, invalidity or survivor's benefits provided under an occupational pension scheme; and
"Retirement Benefits Scheme"	a pension scheme registered under Chapter 2 of Part 4 of the Finance Act 2004.

2. Membership of the NHS Pension Scheme

- 2.1 In accordance with New Fair Deal, the Supplier and/or any of its Subcontractors to which the employment of any NHSPS Fair Deal Employee compulsorily transfers as a result of either the award of this Contract or a Relevant Transfer, if not an NHS Body or other employer which participates automatically in the NHSPS, shall each secure a Direction Letter/Determination to enable the NHSPS Fair Deal Employees to retain either continuous active membership of or eligibility for the NHSPS for so long as they remain employed in connection with the delivery of the Services under this Contract.
- 2.2 Where it is not possible for the Supplier and/or any of its Subcontractors to secure a Direction Letter/Determination on or before the Relevant Transfer Date, the Supplier must secure a Direction Letter/Determination as soon as possible after the Relevant Transfer Date, and in the period between the Relevant Transfer Date and the date the Direction Letter/Determination is secure, the Provider must ensure that:

- 2.2.1 all employer's and NHSPS Fair Deal Employees' contributions intended to go to the NHSPS are kept in a separate bank account; and
- 2.2.2 the Pension Benefits and Premature Retirement Rights of NHSPS Fair Deal Employees are not adversely affected.
- 2.3 The Supplier must supply to the Buyer a complete copy of each Direction Letter/Determination within 5 Working Days of receipt of the Direction Letter/Determination.
- 2.4 The Supplier must ensure (and procure that each of its Subcontractors (if any) ensures) that all of its NHSPS Fair Deal Employees have a contractual right to continuous active membership of or eligibility for the NHSPS for so long as they have a right to membership or eligibility of that scheme under the terms of the Direction Letter/Determination.
- 2.5 The Supplier will (and will procure that its Subcontractors (if any) will) comply with the terms of the Direction Letter/Determination, the NHS Pension Scheme Regulations (including any terms which change as a result of changes in Law) and any relevant policy issued by the Department of Health and Social Care in respect of the NHSPS Fair Deal Employees for so long as it remains bound by the terms of any such Direction Letter/Determination.
- 2.6 Where any employee omitted from the Direction Letter/Determination supplied in accordance with Paragraph 2 of this Annex are subsequently found to be an NHSPS Fair Deal Employee, the Supplier will (and will procure that its Subcontractors (if any) will) treat that person as if they had been an NHSPS Fair Deal Employee from the Relevant Transfer Date so that their Pension Benefits and NHS Premature Retirement Rights are not adversely affected.
- 2.7 The Supplier will (and will procure that its Subcontractors (if any) will) provide any indemnity, bond or guarantee required by NHS Pensions in relation to a Direction Letter/Determination.

3. Continuation of early retirement rights after transfer

From the Relevant Transfer Date until the Service Transfer Date, the Supplier must provide (and/or must ensure that its Subcontractors (if any) provide) NHS Premature Retirement Rights in respect of the NHSPS Fair Deal Employees that are identical to the benefits they would have received had they remained employees of the Buyer, an NHS Body or other employer which participates automatically in the NHSPS.

4. NHS Broadly Comparable Employees

The Supplier shall (and procure that its Subcontractors shall), with effect from the Relevant Transfer Date, offer the NHSPS Broadly Comparable Employees membership of a pension scheme which is Broadly Comparable to NHSPS on the Relevant Transfer Date in accordance with Paragraph 10 of Part D. For the avoidance of doubt, this requirement is separate from any requirement to offer a Broadly Comparable pension scheme in accordance with Paragraph 5.2 below.

5. What the Buyer will do if the Supplier breaches and/or cancels its pension obligations

- 5.1 The Supplier agrees that the Buyer is entitled to make arrangements with NHS Pensions for the Buyer to be notified if the Supplier (or its Subcontractors) breaches the terms of its Direction Letter/Determination. Notwithstanding the provisions of the foregoing, the Supplier shall notify the Buyer in the event that it (or its Subcontractor) breaches the terms of its Direction Letter/Determination.
- 5.2 If the Supplier (or its Subcontractors, if relevant) ceases to participate in the NHSPS for whatever reason, the Supplier (or any such Subcontractor, as appropriate) shall offer the NHSPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the NHSPS on the date the NHSPS Eligible Employees ceased to participate in the NHSPS in accordance with the provisions of Paragraph 11 of Part D.
- 5.3 If the Buyer is entitled to terminate this Contract or the Supplier (or its Subcontractor, if relevant) ceases to participate in the NHSPS for whatever other reason, the Buyer may in its sole discretion, and instead of exercising its right to terminate this Contract where relevant, permit the Supplier (or any such Subcontractor, as appropriate) to offer Broadly Comparable Pension Benefits, on such terms as decided by the Buyer. The provisions of Paragraph 10 (Bulk Transfer Obligations in relation to any Broadly Comparable pension scheme) of Part D: Pensions shall apply in relation to any Broadly Comparable pension scheme established by the Supplier or its Subcontractors.
- 5.4 In addition to the Buyer's right to terminate this Contract, if the Buyer is notified by NHS Pensions of any NHS Pension Scheme Arrears, the Buyer will be entitled to deduct all or part of those arrears from any amount due to be paid under this Contract or otherwise.

6. Compensation when pension scheme access can't be provided

- 6.1 If the Supplier (or its Subcontractor, if relevant) is unable to provide the NHSPS Eligible Employees with either membership of:
 - 6.1.1 the NHSPS (having used its best endeavours to secure a Direction Letter/Determination); or
 - 6.1.2 a Broadly Comparable pension scheme,the Buyer may in its sole discretion permit the Supplier (or any of its Subcontractors) to compensate the NHSPS Eligible Employees in a manner that is Broadly Comparable or equivalent in cash terms, the Supplier (or Subcontractor as relevant) having consulted with a view to reaching agreement with any recognised trade union or, in the absence of such body, the NHSPS Fair Deal Employees. The Supplier must meet (or must procure that the relevant Subcontractor meets) the costs of the Buyer determining whether the level of compensation offered is reasonable in the circumstances.

- 6.2 This flexibility for the Buyer to allow compensation in place of Pension Benefits is in addition to and not instead of the Buyer's right to terminate this Contract.

7. Indemnities that a Supplier must give

- 7.1 The Supplier must indemnify and keep indemnified the Buyer and any Replacement Supplier against all Losses arising out of any claim by any NHSPS Fair Deal Employee or any NHS Broadly Comparable Employees that the provision of (or failure to provide) Pension Benefits and NHS Premature Retirement Rights from the Relevant Transfer Date, or the level of such benefit provided, constitutes a breach of their employment rights.

Annex D3: Local Government Pension Schemes (LGPS)

1. Definitions

- 1.1 In this Annex D3: LGPS to Part D: Pensions, the following words have the following meanings and they shall supplement Schedule 1 (Definitions):

"2013 Regulations"	the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) (as amended from time to time);
"Administering Authority"	in relation to the Fund [insert name] , the relevant Administering Authority of that Fund for the purposes of the Local Government Pension Scheme Regulations 2013;
"Fund Actuary"	the actuary to a Fund appointed by the Administering Authority of that Fund;
"Fund"	[insert name] , a pension fund within the LGPS;
["Initial Contribution Rate"]	[XX %] of pensionable pay (as defined in the 2013 Regulations);]
"LGPS"	the Local Government Pension Scheme as governed by the LGPS Regulations, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the Local Government Pension Scheme;
"LGPS Admission Agreement"	an admission agreement within the meaning in Schedule 1 of the Local Government Pension Scheme Regulations 2013;

"LGPS Admission Body"	an admission body (within the meaning of Part 3 of Schedule 2 of the Local Government Pension Scheme Regulations 2013);
"LGPS Eligible Employees"	any Fair Deal Employee who at the relevant time is an eligible employee as defined in the LGPS Admission Agreement or otherwise any Fair Deal Employees who immediately before the Relevant Transfer Date was a member of, or was entitled to become a member of, or but for their compulsory transfer of employment would have been entitled to be or become a member of, the LGPS or of a scheme Broadly Comparable to the LGPS; and
"LGPS Fair Deal Employees"	any Fair Deal Employee who at the Relevant Transfer Date is or becomes entitled to protection in respect of the LGPS or a pension scheme that is Broadly Comparable to the LGPS in accordance with the provisions in accordance with the provisions of New Fair Deal and/or the Best Value Direction; and
"LGPS Regulations"	the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) and The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014, and any other regulations (in each case as amended from time to time) which are from time to time applicable to the LGPS.

2. Supplier must become a LGPS admission body

2.1 In accordance with the principles of New Fair Deal and/or the Best Value Direction, the Supplier and/or any of its Subcontractors to which the employment of any LGPS Fair Deal Employee compulsorily transfers as a result of either the award of this Contract or a Relevant Transfer, if not a scheme employer which participates automatically in the LGPS, shall each become an LGPS Admission Body by entering into an LGPS Admission Agreement with effect from the Relevant Transfer Date to enable the LGPS Fair Deal Employees to retain either continuous active membership of or eligibility for the LGPS on and from the Relevant Transfer Date for so long as they remain employed in connection with the delivery of the Services under this Contract.

2.2 Any LGPS Fair Deal Employees who:

2.2.1 were active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant Transfer Date shall be admitted to the LGPS with effect on and from the Relevant Transfer Date; and

2.2.2 were eligible to join the LGPS (or a Broadly Comparable pension scheme) but were not active members of the LGPS (or a Broadly Comparable pension scheme) immediately before the Relevant

Transfer Date shall retain the ability to join the LGPS on or after the Relevant Transfer Date if they wish to do so.

- 2.3 The Supplier will (and will procure that its Subcontractors (if any) will) provide at its own cost any indemnity, bond or guarantee required by an Administering Authority in relation to an LGPS Admission Agreement.

3. Broadly Comparable Scheme

- 3.1 If the Supplier and/or any of its Subcontractors is unable to obtain an LGPS Admission Agreement in accordance with Paragraph 2.1 because the Administering Authority will not allow it to participate in the Fund, the Supplier shall (and procure that its Subcontractors shall), with effect from the Relevant Transfer Date, offer the LGPS Fair Deal Employees membership of a pension scheme which is Broadly Comparable to LGPS on the Relevant Transfer Date in accordance with the provisions of Paragraph 10 of Part D.
- 3.2 If the Supplier and/or any of its Subcontractors becomes an LGPS Admission Body in accordance with Paragraph 2.1 but the LGPS Admission Agreement is terminated during the term of this Contract for any reason at a time when the Supplier or Subcontractors still employs any LGPS Eligible Employees, the Supplier shall (and procure that its Subcontractors shall) at no extra cost to the Buyer, offer the remaining LGPS Eligible Employees membership of a pension scheme which is Broadly Comparable to the LGPS on the date the LGPS Eligible Employees ceased to participate in the LGPS in accordance with the provisions of Paragraph 11 of Part D.

4. Discretionary Benefits

Where the Supplier and/or any of its Subcontractors is an LGPS Admission Body, the Supplier shall (and procure that its Subcontractors shall) comply with its obligations under regulation 60 of the 2013 Regulations in relation to the preparation of a discretionary policy statement.

5. LGPS Risk Sharing

- 5.1 Subject to Paragraphs 5.4 to 5.10, if at any time during the term of this Contract the Administering Authority, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Supplier or any Subcontractor to pay employer contributions or other payments to the Fund in aggregate in excess of the Initial Contribution Rate, the excess of employer contributions above the Initial Contribution Rate for a Contract Year (the "**Excess Amount**") shall be paid by the Supplier or the Subcontractor, as the case may be, and the Supplier shall be reimbursed by the Buyer.
- 5.2 Subject to Paragraphs 5.4 to 5.9 and 5.11, if at any time during the term of this Contract, the Administering Authority, pursuant to the LGPS Admission Agreement or the LGPS Regulations, requires the Supplier or any Subcontractor to pay employer contributions or payments to the Fund in aggregate below the Initial Contribution Rate for a Contract Year, the

Supplier shall reimburse the Buyer an amount equal to A–B (the "**Refund Amount**") where:

- 5.2.1 the amount which would have been paid if contributions and payments had been paid equal to the Initial Contribution Rate for that Contract Year; and
 - 5.2.2 the amount of contributions or payments actually paid by the Supplier or Subcontractor for that Contract Year, as the case may be, to the Fund.
- 5.3 Subject to Paragraphs 5.4 to 5.10, where the Administering Authority obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when the LGPS Admission Agreement ceases to have effect and the Supplier or any Subcontractor is required to pay any exit payment under Regulation 64(2) of the 2013 Regulations (the "**Exit Payment**"), such Exit Payment shall be paid by the Supplier or any Subcontractor (as the case may be) and the Supplier shall be reimbursed by the Buyer.
- 5.4 The Supplier and any Subcontractors shall at all times be responsible for the following costs:
- 5.4.1 any employer contributions relating to the costs of early retirement benefits arising on redundancy or as a result of business efficiency under Regulation 30(7) of the 2013 Regulations or otherwise;
 - 5.4.2 any payment of Fund benefits to active members on the grounds of ill health or infirmity of mind or body under Regulation 35 of the 2013 Regulations or otherwise;
 - 5.4.3 any payment of Fund benefits to deferred or deferred pensioner members on the grounds of ill health or infirmity of mind or body under Regulation 38 of the 2013 Regulations or otherwise;
 - 5.4.4 any employer contributions relating to the costs of early or flexible retirement where the actuarial reduction is waived in whole or in part or a cost neutral reduction is not applied with the consent of the Supplier or any relevant Subcontractor including without limitation any decision made under Regulation 30(8) of the 2013 Regulations or Schedule 2 of The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014;
 - 5.4.5 any employer contributions relating to the costs of enhanced benefits made at the discretion of the Supplier or any relevant Subcontractors including without limitation additional pension awarded under Regulation 31 of the 2013 Regulations or otherwise;
 - 5.4.6 any increase to the employer contribution rate resulting from the award of pay increases by the Supplier or relevant Subcontractors in respect of all or any of the LGPS Eligible Employees in excess of the pay increases assumed in the Fund's most recent actuarial valuation (unless the Supplier and/or any Subcontractor is contractually bound to provide such increases on the Relevant Transfer Date);

- 5.4.7 to the extent not covered above, any other costs arising out of or in connection with the exercise of any discretion or the grant of any consent under the LGPS Regulations by the Supplier or any relevant Subcontractors where a member does not have an absolute entitlement to that benefit under the LGPS;
 - 5.4.8 any cost of the administration of the Fund that are not met through the Supplier's or Subcontractor's employer contribution rate, including without limitation an amount specified in a notice given by the Administering Authority under Regulation 70 of the 2013 Regulations;
 - 5.4.9 the costs of any reports and advice requested by or arising from an instruction given by the Supplier or a Subcontractor from the Fund Actuary; and/or
 - 5.4.10 any interest payable under the 2013 Regulations or LGPS Administration Agreement.
- 5.5 For the purposes of calculating any Exit Payment, Excess Amount or Refund Amount, any part of such an amount which is attributable to any costs which the Supplier or Subcontractors are responsible for in accordance with Paragraph 5.4 above shall be disregarded and excluded from the calculation. In the event of any dispute as to level of any cost that should be excluded from the calculation, the opinion of the Fund Actuary shall be final and binding.
- 5.6 Where the Administering Authority obtains an actuarial valuation and a revised rates and adjustment certificate under the LGPS Regulations and/or the terms of the LGPS Admission Agreement when the LGPS Admission Agreement ceases to have effect and the Supplier or any Subcontractor receives payment of an exit credit payment under Regulation 64(2) of the 2013 Regulations (the "**Exit Credit**"), the Supplier shall (or procure that any Subcontractor shall) reimburse the Buyer an amount equal to the Exit Credit within twenty (20) Working Days of receipt of the Exit Credit.
- 5.7 The Supplier shall (or procure that the Subcontractor shall) notify the Buyer in writing within twenty (20) Working Days:
- 5.7.1 of the end of each Contract Year of any Excess Amount or Refund Amount due in respect of this Contract Year that has just ended and provide a reasonable summary of how the Excess Amount or Refund Amount was calculated; and
 - 5.7.2 of being informed by the Administering Authority of any Exit Payment or Exit Credit that is determined by as being due from or to the Supplier or a Subcontractor and provide a copy of any revised rates and adjustments certificate detailing the Exit Payment or Exit Credit and its calculation.
- 5.8 Within twenty (20) Working Days of receiving the notification under Paragraph 5.7 above, the Buyer shall either:
- 5.8.1 notify the Supplier in writing of its acceptance of the Excess Amount, Refund Amount or Exit Payment;

- 5.8.2 request further information or evidence about the Excess Amount, Refund Amount or Exit Payment from the Supplier; and/or
 - 5.8.3 request a meeting with the Supplier to discuss or clarify the information or evidence provided.
- 5.9 Where the Excess Amount, Refund Amount or Exit Payment is agreed following the receipt of further information or evidence or following a meeting in accordance with Paragraph 5.8 above, the Buyer shall notify the Supplier in writing. In the event that the Supplier and the Buyer are unable to agree the amount of the Excess Amount, Refund Amount or Exit Payment then they shall follow the Dispute Resolution Procedure.
- 5.10 Any Excess Amount or Exit Payment agreed by the Buyer or in accordance with the Dispute Resolution Procedure shall be paid by the Buyer within timescales as agreed between Buyer and Supplier. The amount to be paid by the Buyer shall be an amount equal to the Excess Amount or Exit Payment less an amount equal to any corporation tax relief which has been claimed in respect of the Excess Amount or Exit Payment by the Supplier or a Subcontractor.
- 5.11 Any Refund Amount agreed by the Buyer or in accordance with the Dispute Resolution Procedure as payable by the Supplier or any Subcontractor to the Buyer, shall be paid by the Supplier or any Subcontractor forthwith as the liability has been agreed. In the event the Supplier or any Subcontractor fails to pay any agreed Refund Amount, the Buyer shall demand in writing the immediate payment of the agreed Refund Amount by the Supplier and the Supplier shall make payment within seven (7) Working Days of such demand.
- 5.12 This Paragraph 5 shall survive termination of this Contract.

Annex D4: Other Schemes

Not Used.

Part E: Staff Transfer on Exit

1. Obligations before a Staff Transfer

- 1.1 The Supplier agrees that within twenty (20) Working Days of the earliest of:
- 1.1.1 receipt of a notification from the Buyer of a Service Transfer or intended Service Transfer;
 - 1.1.2 receipt of the giving of notice of early termination or any Partial Termination of the relevant Contract; and
 - 1.1.3 the date which is twelve (12) Months before the end of the Term; or
 - 1.1.4 receipt of a written request of the Buyer at any time (provided that the Buyer shall only be entitled to make one such request in any six (6) Month period),

it shall provide in a suitably anonymised format so as to comply with the Data Protection Legislation, the Supplier's Provisional Supplier Staff List, together with the Staffing Information in relation to the Supplier's Provisional Supplier Staff List and it shall provide an updated Supplier's Provisional Supplier Staff List at such intervals as are reasonably requested by the Buyer.

- 1.2 At least twenty (20) Working Days prior to the Service Transfer Date, the Supplier shall provide to the Buyer or at the direction of the Buyer to any Replacement Supplier and/or any Replacement Subcontractor
- 1.2.1 the Supplier's Final Supplier Staff List, which shall identify the basis upon which they are Transferring Supplier Employees and
 - 1.2.2 the Staffing Information in relation to the Supplier's Final Supplier Staff List (insofar as such information has not previously been provided).
- 1.3 The Buyer shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier and/or Replacement Subcontractor.
- 1.4 The Supplier warrants, for the benefit of The Buyer, any Replacement Supplier, and any Replacement Subcontractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in Paragraphs 1.1.1, 1.1.2 and 1.1.3, the Supplier agrees that it shall not assign any person to the provision of the Services who is not listed on the Supplier's Provisional

Supplier Staff List and shall, unless otherwise instructed by the Buyer (acting reasonably):

- 1.5.1 not replace or re-deploy any Supplier Staff listed on the Supplier Provisional Supplier Staff List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person they replace
- 1.5.2 not make, promise, propose, permit or implement any material changes to the terms and conditions of (i) employment and/or (ii) pensions, retirement and death benefits (including not to make pensionable any category of earnings which were not previously pensionable or reduce the pension contributions payable) of the Supplier Staff (including any payments connected with the termination of employment);
- 1.5.3 not increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Staff save for fulfilling assignments and projects previously scheduled and agreed;
- 1.5.4 not introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Supplier's Provisional Supplier Staff List;
- 1.5.5 not increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services);
- 1.5.6 not terminate or give notice to terminate the employment or contracts of any persons on the Supplier's Provisional Supplier Staff List save by due disciplinary process;
- 1.5.7 not dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Buyer and/or the Replacement Supplier and/or Replacement Subcontractor;
- 1.5.8 give the Buyer and/or the Replacement Supplier and/or Replacement Subcontractor reasonable access to Supplier Staff and/or their consultation representatives to inform them of the intended transfer and consult any measures envisaged by the Buyer, Replacement Supplier and/or Replacement Subcontractor in respect of persons expected to be Transferring Supplier Employees;
- 1.5.9 co-operate with the Buyer and the Replacement Supplier to ensure an effective consultation process and smooth transfer in respect of Transferring Supplier Employees in line with good employee relations and the effective continuity of the Services, and to allow for participation in any pension arrangements to be put in place to comply with New Fair Deal;
- 1.5.10 promptly notify the Buyer or, at the direction of the Buyer, any Replacement Supplier and any Replacement Subcontractor of any

- notice to terminate employment given by the Supplier or received from any persons listed on the Supplier's Provisional Supplier Staff List regardless of when such notice takes effect;
- 1.5.11 not for a period of twelve (12) Months from the Service Transfer Date re-employ or re-engage or entice any employees, suppliers or Subcontractors whose employment or engagement is transferred to the Buyer and/or the Replacement Supplier (unless otherwise instructed by the Buyer (acting reasonably));
 - 1.5.12 not to adversely affect pension rights accrued by all and any Fair Deal Employees in the period ending on the Service Transfer Date;
 - 1.5.13 fully fund any Broadly Comparable pension schemes set up by the Supplier;
 - 1.5.14 maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Subcontractor in the provision of the Services on the expiry or termination of this Contract (including identification of the Fair Deal Employees);
 - 1.5.15 promptly provide to the Buyer such documents and information mentioned in Paragraph 3.1.1 of Part D: Pensions which the Buyer may reasonably request in advance of the expiry or termination of this Contract; and
 - 1.5.16 fully co-operate (and procure that the trustees of any Broadly Comparable pension scheme shall fully co-operate) with the reasonable requests of the Supplier relating to any administrative tasks necessary to deal with the pension aspects of any onward transfer of any person engaged or employed by the Supplier or any Subcontractor in the provision of the Services on the expiry or termination of this Contract.
- 1.6 On or around each anniversary of the Start Date and up to four times during the last twelve (12) Months of the Term, the Buyer may make written requests to the Supplier for information relating to the manner in which the Services are organised. Within twenty (20) Working Days of receipt of a written request the Supplier shall provide such information as the Buyer may reasonably require which shall include:
 - 1.6.1 the numbers of Supplier Staff engaged in providing the Services;
 - 1.6.2 the percentage of time spent by each Supplier Staff engaged in providing the Services;
 - 1.6.3 the extent to which each employee qualifies for membership of any of the Fair Deal Schemes (as defined in Part D: Pensions); and
 - 1.6.4 a description of the nature of the work undertaken by each Supplier Staff by location.
 - 1.7 The Supplier shall provide all reasonable cooperation and assistance to the Buyer, any Replacement Supplier and/or any Replacement Subcontractor to ensure the smooth transfer of the Transferring Supplier Employees on the

Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within five (5) Working Days following the Service Transfer Date, the Supplier shall provide to the Buyer or, at the direction of the Buyer, to any Replacement Supplier and/or any Replacement Subcontractor (as appropriate), in respect of each person on the Supplier's Final Supplier Staff List who is a Transferring Supplier Employee:

- 1.7.1 the most recent month's copy pay slip data;
 - 1.7.2 details of cumulative pay for tax and pension purposes;
 - 1.7.3 details of cumulative tax paid;
 - 1.7.4 tax code;
 - 1.7.5 details of any voluntary deductions from pay;
 - 1.7.6 a copy of any personnel file and/or any other records regarding the service of the Transferring Supplier Employee;
 - 1.7.7 a complete copy of the information required to meet the minimum recording keeping requirements under the Working Time Regulations 1998 and the National Minimum Wage Regulations 1998; and
 - 1.7.8 bank/building society account details for payroll purposes.
- 1.8 From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3 the Supplier agrees that following within twenty (20) Working Days of a request from the Authority it shall and shall procure that each Sub-contractor shall use reasonable endeavours to comply with any [reasonable] request to align and assign Supplier Staff to any future delivery model proposed by the Authority for Replacement Services within thirty (30) Working Days or such longer timescale as may be agreed.
- 1.9 Any changes necessary to this Contract as a result of alignment referred to in Paragraph 1.8 shall be agreed in accordance with the Variation Procedure.

2. Staff Transfer when the contract ends

- 2.1 The Buyer and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Subcontractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations will apply. The Buyer and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to

any contract terms disapplied through operation of regulation 10 of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Subcontractor (as the case may be) and each such Transferring Supplier Employee

- 2.2 The Supplier shall, and shall procure that each Subcontractor shall, comply with all its obligations under the Employment Regulations and in particular obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (but excluding) the Service Transfer Date and shall perform and discharge, and procure that each Subcontractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Staff List arising in respect of the period up to (but excluding) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Statutory Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part to the period ending on (but excluding) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Supplier and/or the Subcontractor (as appropriate); and (ii) the Replacement Supplier and/or Replacement Subcontractor.
- 2.3 Subject to Paragraph 2.4, the Supplier shall indemnify the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor against any Employee Liabilities arising from or as a result of:
- 2.3.1 any act or omission of the Supplier or any Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date.
- 2.3.2 the breach or non-observance by the Supplier or any Subcontractor occurring before but excluding the Service Transfer Date of:
- (a) any collective agreement applicable to the Transferring Supplier Employees; and/or
- (b) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Subcontractor is contractually bound to honour;
- 2.3.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Subcontractor to comply with any legal obligation to such trade union, body or person arising before but excluding the Service Transfer Date;
- 2.3.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not

limited to, PAYE and primary and secondary national insurance contributions:

- (a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before but excluding the Service Transfer Date; and
 - (b) in relation to any employee who is not identified in the Supplier's Final Supplier Staff List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer their employment from the Supplier to the Buyer and/or Replacement Supplier and/or any Replacement Subcontractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before but excluding the Service Transfer Date;
 - 2.3.5 a failure of the Supplier or any Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (but excluding) the Service Transfer Date);
 - 2.3.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Subcontractor other than a Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List for whom it is alleged the Buyer and/or the Replacement Supplier and/or any Replacement Subcontractor may be liable by virtue of this Contract and/or the Employment Regulations; and
 - 2.3.7 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Subcontractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Buyer and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.
- 2.4 The indemnity in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier and/or any Replacement Subcontractor whether occurring or having its origin before, on or after the Service Transfer Date, Including any Employee Liabilities:
- 2.4.1 arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to their working conditions proposed by the Replacement Supplier and/or any Replacement Subcontractor to occur in the period on or after the Service Transfer Date); or

- 2.4.2 arising from the Replacement Supplier's failure, and/or Replacement Subcontractor's failure, to comply with its obligations under the Employment Regulations.
- 2.5 Subject to Paragraphs 2.6 and 2.7, if any employee of the Supplier who is not identified in the Supplier's Final Transferring Supplier Employee List claims, or it is determined in relation to any employees of the Supplier, that their contract of employment has been transferred from the Supplier to the Replacement Supplier and/or Replacement Subcontractor pursuant to the Employment Regulations then:
- 2.5.1 the Replacement Supplier and/or Replacement Subcontractor will, within five (5) Working Days of becoming aware of that fact, notify the Buyer and the Supplier in writing;
- 2.5.2 the Supplier may offer employment to such person, or take such other steps as it considered appropriate to resolve the matter, within fifteen (15) Working Days of receipt of notice from the Replacement Supplier and/or Replacement Subcontractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law;
- 2.5.3 if such offer of employment is accepted, or if the situation has otherwise been resolved by the Supplier or a Subcontractor, the Replacement Supplier and/or Replacement Subcontractor shall immediately release the person from its employment or alleged employment;
- 2.5.4 if after the period referred to in Paragraph 2.5.2 no such offer has been made, or such offer has been made but not accepted, or the situation has not otherwise been resolved, the Replacement Supplier and/or Replacement Subcontractor may within 5 Working Days give notice to terminate the employment of such person;

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

- 2.6 The indemnity in Paragraph 2.5 shall not apply to:

- 2.6.1 any claim for:
- (a) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - (b) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

- arising as a result of any alleged act or omission of the Replacement Supplier and/or Replacement Subcontractor; or
- 2.6.2 any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Subcontractor neglected to follow a fair dismissal procedure.
- 2.7 The indemnity in Paragraph 2.5 shall not apply to any termination of employment occurring later than six (6) Months from the Service Transfer Date.
- 2.8 If at any point the Replacement Supplier and/or Replacement Subcontractor accepts the employment of any such person as is described in Paragraph 2.5, such person shall be treated as a Transferring Supplier Employee and Paragraph 2.5 shall cease to apply to such person.
- 2.9 The Supplier shall comply, and shall procure that each Subcontractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Subcontractor shall perform and discharge, all its obligations in respect of any person identified in the Supplier's Final Supplier Staff List before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:
- 2.9.1 the Supplier and/or any Subcontractor; and
- 2.9.2 the Replacement Supplier and/or the Replacement Subcontractor.
- 2.10 The Supplier shall promptly provide the Buyer and any Replacement Supplier and/or Replacement Subcontractor, in writing such information as is necessary to enable the Buyer, the Replacement Supplier and/or Replacement Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Buyer shall procure that the Replacement Supplier and/or Replacement Subcontractor, shall promptly provide to the Supplier and each Subcontractor in writing such information as is necessary to enable the Supplier and each Subcontractor to carry out their respective duties under regulation 13 of the Employment Regulations.
- 2.11 Subject to Paragraph 2.12, the Buyer shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Subcontractor and its Subcontractors against any Employee Liabilities arising from or as a result of:
- 2.11.1 any act or omission, whether occurring before, on or after the Service Transfer Date, of the Replacement Supplier and/or Replacement Subcontractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined

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

- (b) in relation to any employee who is not a Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer their employment from the Supplier or Subcontractor, to the Replacement Supplier or Replacement Subcontractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and after the Service Transfer Date;
- 2.11.7 a failure of the Replacement Supplier or Replacement Subcontractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees identified in the Supplier's Final Supplier Staff List in respect of the period from (and including) the Service Transfer Date; and
- 2.11.8 any claim made by or in respect of a Transferring Supplier Employee identified in the Supplier's Final Supplier Staff List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Subcontractor in relation to obligations under regulation 13 of the Employment Regulations.
- 2.12 The indemnity in Paragraph 2.11 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Subcontractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Subcontractor (as applicable) to comply with its obligations under the Employment Regulations, or to the extent the Employee Liabilities arise out of the termination of employment of any person who is not identified in the Supplier's Final Supplier Staff List in accordance with Paragraph 2.5 (and subject to the limitations set out in Paragraphs 2.6 and 2.7 above).

Annex E1: List of Notified Subcontractors

Name (Registered name if registered): **Coram Hemsall's Ltd**

Registration number (if registered): **4746844**

Role of Subcontractor: **Leading Local Authority (LA) and provider support.**

Name (Registered name if registered): **Coram**

Registration number (if registered): **09361384**

Role of Subcontractor: **Leading Learning and Evidence.**

Annex E2: Staffing Information

EMPLOYEE INFORMATION (ANONYMISED)

Name of Transferor: [**Insert** name of Transferor]

Number of Employees in-scope to transfer: []

{Guidance notes

- 1** *If you have any Key Subcontractors, please complete all the above information for any staff employed by such Key Subcontractor(s) in a separate spreadsheet.*

- 2** *This spreadsheet is used to collect information from the current employer (transferor) about employees performing the relevant services to help plan for a potential TUPE transfer. Some or all of this information may be disclosed to bidders as part of a procurement process. The information should not reveal the employees' identities.*

- 3** *If the information cannot be included on this form, attach the additional information, such as relevant policies, and cross reference to the item number and employee number where appropriate.]*

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

EMPLOYEE DETAILS & KEY TERMS							
Details	Contract end date (if fixed term contract or temporary contract)	Contractual notice period	Contractual weekly hours	Regular overtime hours per week	Mobility or flexibility clause in contract?	Previously TUPE transferred to organisation? If so, please specify (i) date of transfer, (ii) name of transferor, and (iii) whether ex public sector	Any collective agreements?
Emp No 1							
Emp No 2							
Emp No							
Emp No							
Emp No							
Emp No							

Emp No								
ASSIGNMENT	CONTRACTUAL PAY AND BENEFITS							
% of working time dedicated to the provision of services under the contract	Salary (or hourly rate of pay)	Payment interval (weekly / fortnightly / monthly)	Bonus payment for previous 12 months (please specify whether contractual or discretionary entitlement)	Pay review method	Frequency of pay reviews	Agreed pay increases	Next pay review date	
CONTRACTUAL PAY AND BENEFITS								

Any existing or future commitment to training that has a time-off or financial implication	Car allowance (£ per year)	Lease or company car details	Any other allowances paid (e.g. shift allowance, standby allowance, travel allowance)	Private medical insurance (please specify whether single or family cover)	Life assurance (xSalary)	Long Term Disability / PHI (% of Salary)	Any other benefits in kind

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

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

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

OTHER			
Details	Security Check Level	Security Clearance Expiry date	Additional info or comments
Emp No 1			
Emp No 2			
Emp No			
Emp No			
Emp No			
Emp No			
Emp No			

Schedule 8 (Implementation Plan and Testing)

Part A – Implementation

1. Definitions

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

"Delay"	(a) a delay in the Achievement of a Milestone by its Milestone Date; or (b) a delay in the design, development, testing or implementation of a Deliverable by the relevant date set out in the Implementation Plan;
"Deliverable Item"	an item or feature in the supply of the Deliverables delivered or to be delivered by the Supplier at or before a Milestone Date listed in the Implementation Plan;
"Implementation Period"	has the meaning given to it in Paragraph 7.1;
"Milestone Payment"	a payment identified in the Implementation Plan to be made following the issue of a Satisfaction Certificate in respect of Achievement of the relevant Milestone;

2. Agreeing and following the Implementation Plan

- 2.1 Key milestones for Implementation are set out in the Annex to this Schedule.
- 2.2 A draft of the Implementation Plan will be provided by the Supplier at tender stage and will be inserted at Annex A.
- 2.3 The Supplier shall provide a revised draft Implementation Plan, if required, no later than 5 days after the Effective Date.
- 2.4 The draft Implementation Plan:
 - 2.4.1 must contain information at the level of detail necessary to manage the implementation stage effectively and as the Buyer may otherwise require; and
 - 2.4.2 it shall take account of all dependencies known to, or which should reasonably be known to, the Supplier.
- 2.5 Following receipt of the draft Implementation Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the Implementation Plan. If the Parties are unable to agree the contents of the Implementation Plan within twenty (20) Working Days of its submission,

then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

- 2.6 The Supplier shall provide each of the Deliverable Items identified in the Implementation Plan by the date assigned to that Deliverable Item in the Implementation Plan so as to ensure that each Milestone identified in the Implementation Plan is Achieved on or before its Milestone Date.
- 2.7 The Supplier shall monitor its performance against the Implementation Plan and Milestones (if any) and report to the Buyer on such performance.

3. Reviewing and changing the Implementation Plan

- 3.1 Subject to Paragraph 4.3, the Supplier shall keep the Implementation Plan under review in accordance with the Buyer's instructions and ensure that it is updated on a regular basis.
- 3.2 The Buyer shall have the right to require the Supplier to include any reasonable changes or provisions in each version of the Implementation Plan.
- 3.3 Changes to any Milestones, Milestone Payments and Delay Payments shall only be made in accordance with the Variation Procedure.
- 3.4 Time in relation to compliance with the Implementation Plan shall be of the essence and failure of the Supplier to comply with the Implementation Plan shall be a Material Default.

4. Security requirements before the Start Date

- 4.1 The Supplier shall note that it is incumbent upon them to understand the lead-in period for security clearances and ensure that all Supplier Staff have the necessary security clearance in place before the Start Date. The Supplier shall ensure that this is reflected in their Implementation Plan.
- 4.2 The Supplier shall ensure that all Supplier Staff and Subcontractors do not access the Buyer's IT systems, or any IT systems linked to the Buyer, unless they have satisfied the Buyer's security requirements.
- 4.3 The Supplier shall be responsible for providing all necessary information to the Buyer to facilitate security clearances for Supplier Staff and Subcontractors in accordance with the Buyer's requirements.
- 4.4 The Supplier shall provide the names of all Supplier Staff and Subcontractors and inform the Buyer of any alterations and additions as they take place throughout the Contract Period.
- 4.5 The Supplier shall ensure that all Supplier Staff and Subcontractors requiring access to the Buyer Premises have the appropriate security clearance. It is the Supplier's responsibility to establish whether or not the level of clearance will be sufficient for access. Unless prior approval has been received from the Buyer, the Supplier shall be responsible for meeting the costs associated with the provision of security cleared escort services.
- 4.6 If a property requires Supplier Staff or Subcontractors to be accompanied by the Buyer's Authorised Representative, the Buyer must be given reasonable notice of such a requirement, except in the case of emergency access.

5. What to do if there is a Delay

- 5.1 If the Supplier becomes aware that there is, or there is reasonably likely to be, a Delay under this Contract it shall:
- 5.1.1 notify the Buyer as soon as practically possible and no later than within two (2) Working Days from becoming aware of the Delay or anticipated Delay;
 - 5.1.2 include in its notification an explanation of the actual or anticipated impact of the Delay;
 - 5.1.3 comply with the Buyer's instructions in order to address the impact of the Delay or anticipated Delay; and
 - 5.1.4 use all reasonable endeavours to eliminate or mitigate the consequences of any Delay or anticipated Delay.

6. Compensation for a Delay

- 6.1 If Delay Payments have been included in the Implementation Plan and a Milestone has not been achieved by the relevant Milestone Date, the Supplier shall pay to the Buyer such Delay Payments (calculated as set out by the Buyer in the Implementation Plan) and the following provisions shall apply:
- 6.1.1 the Supplier acknowledges and agrees that any Delay Payment is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to Achieve the corresponding Milestone;
 - 6.1.2 Delay Payments shall be the Buyer's exclusive financial remedy for the Supplier's failure to Achieve a Milestone by its Milestone Date except where:
 - (a) the Buyer is also entitled to or does terminate this Contract pursuant to Clause 14.4 (When the Buyer can end the contract); or
 - (b) the delay exceeds the number of days (the "**Delay Period Limit**") specified in the Implementation Plan commencing on the relevant Milestone Date;
 - 6.1.3 the Delay Payments will accrue on a daily basis from the relevant Milestone Date until the date when the Milestone is Achieved;
 - 6.1.4 no payment or other act or omission of the Buyer shall in any way affect the rights of the Buyer to recover the Delay Payments or be deemed to be a waiver of the right of the Buyer to recover any such damages; and
 - 6.1.5 Delay Payments shall not be subject to or count towards any limitation on liability set out in Clause 15 (How much you can be held responsible for).

7. Implementation Plan

- 7.1 The Implementation Period will be a three (3) Month period (8th January 2024 – 31st March 2024).
- 7.2 During the Implementation Period, the incumbent supplier shall retain full responsibility for all existing services until the Start Date or as otherwise formally agreed with the Buyer. The Supplier's full service obligations shall formally be assumed on the Start Date as set out in Award Form.
- 7.3 In accordance with the Implementation Plan, the Supplier shall:
 - 7.3.1 work cooperatively and in partnership with the Buyer and incumbent supplier, where applicable, to understand the scope of Services to ensure a mutually beneficial handover of the Services;
 - 7.3.2 work with the incumbent supplier and Buyer to assess the scope of the Services and prepare a plan which demonstrates how they will mobilise the Services;
 - 7.3.3 liaise with the incumbent supplier to enable the full completion of the Implementation Period activities; and
 - 7.3.4 produce an Implementation Plan, to be agreed by the Buyer, for carrying out the requirements within the Implementation Period including, key Milestones and dependencies.
- 7.4 The Implementation Plan will include detail stating:
 - 7.4.1 how the Supplier will work with the incumbent supplier and the Buyer Authorised Representative to capture and load up information such as asset data; and
 - 7.4.2 a communications plan, to be produced and implemented by the Supplier, but to be agreed with the Buyer, including the frequency, responsibility for and nature of communication with the Buyer and end users of the Services.
- 7.5 In addition, the Supplier shall:
 - 7.5.1 appoint a Supplier Authorised Representative who shall be responsible for the management of the Implementation Period, to ensure that the Implementation Period is planned and resourced adequately, and who will act as a point of contact for the Buyer;
 - 7.5.2 mobilise all the Services specified in the Specification within this Contract;
 - 7.5.3 produce an Implementation Plan report for each Buyer Premises to encompass programmes that will fulfil all the Buyer's obligations to landlords and other tenants:
 - (a) the format of reports and programmes shall be in accordance with the Buyer's requirements and particular attention shall be paid to establishing the operating requirements of the occupiers when preparing these programmes which are subject to the Buyer's approval; and

- (b) the Parties shall use reasonable endeavours to agree the contents of the report but if the Parties are unable to agree the contents within twenty (20) Working Days of its submission by the Supplier to the Buyer, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 7.5.4 manage and report progress against the Implementation Plan;
- 7.5.5 construct and maintain an Implementation risk and issue register in conjunction with the Buyer detailing how risks and issues will be effectively communicated to the Buyer in order to mitigate them;
- 7.5.6 attend progress meetings (frequency of such meetings shall be as set out in the Award Form) in accordance with the Buyer's requirements during the Implementation Period. Implementation meetings shall be chaired by the Buyer and all meeting minutes shall be kept and published by the Supplier; and
- 7.5.7 ensure that all risks associated with the Implementation Period are minimised to ensure a seamless change of control between incumbent supplier and the Supplier.

Part B – Testing

1. Definitions

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

"Component"	any constituent parts of the Deliverables;
"Material Test Issue"	a Test Issue of Severity Level 1 or Severity Level 2;
"Satisfaction Certificate"	a certificate materially in the form of the document contained in Annex 2 issued by the Buyer when a Deliverable and/or Milestone has satisfied its relevant Test Success Criteria;
"Severity Level"	the level of severity of a Test Issue, the criteria for which are described in Annex 1;
"Test Issue Management Log"	a log for the recording of Test Issues as described further in Paragraph 8.1 of this Schedule;
"Test Issue Threshold"	in relation to the Tests applicable to a Milestone, a maximum number of Severity Level 3, Severity Level 4 and Severity Level 5 Test Issues as set out in the relevant Test Plan;
"Test Reports"	the reports to be produced by the Supplier setting out the results of Tests;
"Test Specification"	the specification that sets out how Tests will demonstrate that the Test Success Criteria have been satisfied, as described in more detail in Paragraph 6.2 of this Schedule;
"Test Strategy"	a strategy for the conduct of Testing as described further in Paragraph 3.2 of this Schedule;
"Test Success Criteria"	in relation to a Test, the test success criteria for that Test as referred to in Paragraph 5 of this Schedule;

"Test Witness"	any person appointed by the Buyer pursuant to Paragraph 9 of this Schedule; and
"Testing Procedures"	the applicable testing procedures and Test Success Criteria set out in this Schedule.

2. How testing should work

- 2.1 All Tests conducted by the Supplier shall be conducted in accordance with the Test Strategy, Test Specification and the Test Plan.
- 2.2 The Supplier shall not submit any Deliverable for Testing:
 - 2.2.1 unless the Supplier is reasonably confident that it will satisfy the relevant Test Success Criteria;
 - 2.2.2 until the Buyer has issued a Satisfaction Certificate in respect of any prior, dependant Deliverable(s); and
 - 2.2.3 until the Parties have agreed the Test Plan and the Test Specification relating to the relevant Deliverable(s).
- 2.3 The Supplier shall use reasonable endeavours to submit each Deliverable for Testing or re-Testing by or before the date set out in the Implementation Plan for the commencement of Testing in respect of the relevant Deliverable.
- 2.4 Prior to the issue of a Satisfaction Certificate, the Buyer shall be entitled to review the relevant Test Reports and the Test Issue Management Log.

3. Planning for testing

- 3.1 The Supplier shall develop the final Test Strategy as soon as practicable after the Effective Date but in any case, no later than twenty (20) Working Days after the Effective Date.
- 3.2 The final Test Strategy shall include:
 - 3.2.1 an overview of how Testing will be conducted in relation to the Implementation Plan;
 - 3.2.2 the process to be used to capture and record Test results and the categorisation of Test Issues;
 - 3.2.3 the procedure to be followed should a Deliverable fail a Test, fail to satisfy the Test Success Criteria or where the Testing of a Deliverable produces unexpected results, including a procedure for the resolution of Test Issues;
 - 3.2.4 the procedure to be followed to sign off each Test;
 - 3.2.5 the process for the production and maintenance of Test Reports and a sample plan for the resolution of Test Issues;
 - 3.2.6 the names and contact details of the Buyer and the Supplier's Test representatives;

- 3.2.7 a high level identification of the resources required for Testing including Buyer and/or third party involvement in the conduct of the Tests;
- 3.2.8 the technical environments required to support the Tests; and
- 3.2.9 the procedure for managing the configuration of the Test environments.

4. Preparing for Testing

- 4.1 The Supplier shall develop Test Plans for the relevant Testing as specified in the Implementation Plan and submit these for Approval as soon as practicable but in any case, no later than twenty (20) Working Days prior to the date of the relevant Test.
- 4.2 Each Test Plan shall include as a minimum:
 - 4.2.1 the relevant Test definition and the purpose of the Test, the Milestone to which it relates, the requirements being Tested and, for each Test, the specific Test Success Criteria to be satisfied; and
 - 4.2.2 a detailed procedure for the Tests to be carried out.
- 4.3 The Buyer shall not unreasonably withhold or delay its approval of the Test Plan provided that the Supplier shall implement any reasonable requirements of the Buyer in the Test Plan.

5. Passing Testing

- 5.1 The Test Success Criteria for all Tests shall be agreed between the Parties as part of the relevant Test Plan pursuant to Paragraph 4.

6. How Deliverables will be tested

- 6.1 Following approval of a Test Plan, the Supplier shall develop the Test Specification for the relevant Deliverables as soon as reasonably practicable and in any event at least 10 Working Days prior to the start of the relevant Testing (as specified in the Implementation Plan).
- 6.2 Each Test Specification shall include as a minimum:
 - 6.2.1 the specification of the Test data, including its source, scope, volume and management, a request (if applicable) for relevant Test data to be provided by the Buyer and the extent to which it is equivalent to live operational data;
 - 6.2.2 a plan to make the resources available for Testing;
 - 6.2.3 Test scripts;
 - 6.2.4 Test pre-requisites and the mechanism for measuring them; and
 - 6.2.5 expected Test results, including:
 - a) a mechanism to be used to capture and record Test results; and
 - b) a method to process the Test results to establish their content.

7. Performing the tests

- 7.1 Before submitting any Deliverables for Testing the Supplier shall subject the relevant Deliverables to its own internal quality control measures.
- 7.2 The Supplier shall manage the progress of Testing in accordance with the relevant Test Plan and shall carry out the Tests in accordance with the relevant Test Specification. Tests may be witnessed by the Test Witnesses in accordance with Paragraph 9.3.
- 7.3 The Supplier shall notify the Buyer at least 10 Working Days in advance of the date, time and location of the relevant Tests and the Buyer shall ensure that the Test Witnesses attend the Tests.
- 7.4 The Buyer may raise and close Test Issues during the Test witnessing process.
- 7.5 The Supplier shall provide to the Buyer in relation to each Test:
 - 7.5.1 a draft Test Report not less than 2 Working Days prior to the date on which the Test is planned to end; and
 - 7.5.2 the final Test Report within 5 Working Days of completion of Testing.
- 7.6 Each Test Report shall provide a full report on the Testing conducted in respect of the relevant Deliverables, including:
 - 7.6.1 an overview of the Testing conducted;
 - 7.6.2 identification of the relevant Test Success Criteria that have/have not been satisfied together with the Supplier's explanation of why any criteria have not been met;
 - 7.6.3 the Tests that were not completed together with the Supplier's explanation of why those Tests were not completed;
 - 7.6.4 the Test Success Criteria that were satisfied, not satisfied or which were not tested, and any other relevant categories, in each case grouped by Severity Level in accordance with Paragraph 8.1; and
 - 7.6.5 the specification for any hardware and software used throughout Testing and any changes that were applied to that hardware and/or software during Testing.
- 7.7 When the Supplier has completed a Milestone it shall submit any Deliverables relating to that Milestone for Testing.
- 7.8 Each party shall bear its own costs in respect of the Testing. However, if a Milestone is not Achieved the Buyer shall be entitled to recover from the Supplier, any reasonable additional costs it may incur as a direct result of further review or re-Testing of a Milestone.
- 7.9 If the Supplier successfully completes the requisite Tests, the Buyer shall issue a Satisfaction Certificate as soon as reasonably practical following such successful completion. Notwithstanding the issuing of any Satisfaction Certificate, the Supplier shall remain solely responsible for ensuring that the Deliverables are implemented in accordance with this Contract.

8. Discovering Problems

- 8.1 Where a Test Report identifies a Test Issue, the Parties shall agree the classification of the Test Issue using the criteria specified in Annex 1 and the Test Issue Management Log maintained by the Supplier shall log Test Issues reflecting the Severity Level allocated to each Test Issue.
- 8.2 The Supplier shall be responsible for maintaining the Test Issue Management Log and for ensuring that its contents accurately represent the current status of each Test Issue at all relevant times. The Supplier shall make the Test Issue Management Log available to the Buyer upon request.
- 8.3 The Buyer shall confirm the classification of any Test Issue unresolved at the end of a Test in consultation with the Supplier. If the Parties are unable to agree the classification of any unresolved Test Issue, the Dispute shall be dealt with in accordance with the Dispute Resolution Procedure using the Expedited Dispute Timetable.

9. Test witnessing

- 9.1 The Buyer may, in its sole discretion, require the attendance at any Test of one or more Test Witnesses selected by the Buyer, each of whom shall have appropriate skills to fulfil the role of a Test Witness.
- 9.2 The Supplier shall give the Test Witnesses access to any documentation and Testing environments reasonably necessary and requested by the Test Witnesses to perform their role as a Test Witness in respect of the relevant Tests.
- 9.3 The Test Witnesses:
 - 9.3.1 shall actively review the Test documentation;
 - 9.3.2 will attend and engage in the performance of the Tests on behalf of the Buyer so as to enable the Buyer to gain an informed view of whether a Test Issue may be closed or whether the relevant element of the Test should be re-Tested;
 - 9.3.3 shall not be involved in the execution of any Test;
 - 9.3.4 shall be required to verify that the Supplier conducted the Tests in accordance with the Test Success Criteria and the relevant Test Plan and Test Specification;
 - 9.3.5 may produce and deliver their own, independent reports on Testing, which may be used by the Buyer to assess whether the Tests have been Achieved;
 - 9.3.6 may raise Test Issues on the Test Issue Management Log in respect of any Testing; and
- 9.4 may require the Supplier to demonstrate the modifications made to any defective Deliverable before a Test Issue is closed.

10. Auditing the quality of the test

- 10.1 The Buyer or an agent or contractor appointed by the Buyer may perform on-going quality audits in respect of any part of the Testing (each a "**Testing Quality Audit**") subject to the provisions set out in the agreed Quality Plan.
- 10.2 The Supplier shall allow sufficient time in the Test Plan to ensure that adequate responses to a Testing Quality Audit can be provided.
- 10.3 The Buyer will give the Supplier at least 5 Working Days' written notice of the Buyer's intention to undertake a Testing Quality Audit.
- 10.4 The Supplier shall provide all reasonable necessary assistance and access to all relevant documentation required by the Buyer to enable it to carry out the Testing Quality Audit.
- 10.5 If the Testing Quality Audit gives the Buyer concern in respect of the Testing Procedures or any Test, the Buyer shall prepare a written report for the Supplier detailing its concerns and the Supplier shall, within a reasonable timeframe, respond in writing to the Buyer's report.
- 10.6 In the event of an inadequate response to the written report from the Supplier, the Buyer (acting reasonably) may withhold a Satisfaction Certificate until the issues in the report have been addressed to the reasonable satisfaction of the Buyer.

11. Outcome of the testing

- 11.1 The Buyer will issue a Satisfaction Certificate when the Deliverables satisfy the Test Success Criteria in respect of that Test without any Test Issues.
- 11.2 If the Deliverables (or any relevant part) do not satisfy the Test Success Criteria then the Buyer shall notify the Supplier and:
 - 11.2.1 the Buyer may issue a Satisfaction Certificate conditional upon the remediation of the Test Issues;
 - 11.2.2 the Buyer may extend the Test Plan by such reasonable period or periods as the Parties may reasonably agree and require the Supplier to rectify the cause of the Test Issue and re-submit the Deliverables (or the relevant part) to Testing; or
 - 11.2.3 where the failure to satisfy the Test Success Criteria results, or is likely to result, in the failure (in whole or in part) by the Supplier to meet a Milestone, then without prejudice to the Buyer's other rights and remedies, such failure shall constitute a Material Default.
- 11.3 The Buyer shall be entitled, without prejudice to any other rights and remedies that it has under this Contract, to recover from the Supplier any reasonable additional costs it may incur as a direct result of further review or re-Testing which is required for the Test Success Criteria for that Deliverable to be satisfied.

- 11.4 The Buyer shall issue a Satisfaction Certificate in respect of a given Milestone as soon as is reasonably practicable following:
- 11.4.1 the issuing by the Buyer of Satisfaction Certificates and/or conditional Satisfaction Certificates in respect of all Deliverables related to that Milestone which are due to be Tested; and
 - 11.4.2 performance by the Supplier to the reasonable satisfaction of the Buyer of any other tasks identified in the Implementation Plan as associated with that Milestone.
- 11.5 The grant of a Satisfaction Certificate shall entitle the Supplier to the receipt of a payment in respect of that Milestone in accordance with the provisions of any Implementation Plan and Clause 4 (Pricing and payments).
- 11.6 If a Milestone is not Achieved, the Buyer shall promptly issue a report to the Supplier setting out the applicable Test Issues and any other reasons for the relevant Milestone not being Achieved.
- 11.7 If there are Test Issues but these do not exceed the Test Issues Threshold, then provided there are no Material Test Issues, the Buyer shall issue a Satisfaction Certificate.
- 11.8 If there is one or more Material Test Issue(s), the Buyer shall refuse to issue a Satisfaction Certificate and, without prejudice to the Buyer's other rights and remedies, such failure shall constitute a Material Default.
- 11.9 If there are Test Issues which exceed the Test Issues Threshold but there are no Material Test Issues, the Buyer may at its discretion (without waiving any rights in relation to the other options) choose to issue a Satisfaction Certificate conditional on the remediation of the Test Issues in accordance with an agreed Rectification Plan provided that:
- 11.9.1 any Rectification Plan shall be agreed before the issue of a conditional Satisfaction Certificate unless the Buyer agrees otherwise (in which case the Supplier shall submit a Rectification Plan for approval by the Buyer within 10 Working Days of receipt of the Buyer's report pursuant to Paragraph 10.5); and
 - 11.9.2 where the Buyer issues a conditional Satisfaction Certificate, it may (but shall not be obliged to) revise the failed Milestone Date and any subsequent Milestone Date.

12. Risk

- 12.1 The issue of a Satisfaction Certificate and/or a conditional Satisfaction Certificate shall not:
- 12.1.1 operate to transfer any risk that the relevant Deliverable or Milestone is complete or will meet and/or satisfy the Buyer's requirements for that Deliverable or Milestone; or
 - 12.1.2 affect the Buyer's right subsequently to reject all or any element of the Deliverables and/or any Milestone to which a Satisfaction Certificate relates.

Annex 1: Test Issues – Severity Levels

1. Severity 1 Error

- 1.1 This is an error that causes non-recoverable conditions, e.g. it is not possible to continue using a Component.

2. Severity 2 Error

- 2.1 This is an error for which, as reasonably determined by the Buyer, there is no practicable workaround available, and which:
 - 2.1.1 causes a Component to become unusable;
 - 2.1.2 causes a lack of functionality, or unexpected functionality, that has an impact on the current Test; or
 - 2.1.3 has an adverse impact on any other Component(s) or any other area of the Deliverables.

3. Severity 3 Error

- 3.1 This is an error which:
 - 3.1.1 causes a Component to become unusable;
 - 3.1.2 causes a lack of functionality, or unexpected functionality, but which does not impact on the current Test; or
 - 3.1.3 has an impact on any other Component(s) or any other area of the Deliverables;but for which, as reasonably determined by the Buyer, there is a practicable workaround available;

4. Severity 4 Error

- 4.1 This is an error which causes incorrect functionality of a Component or process, but for which there is a simple, Component based, workaround, and which has no impact on the current Test, or other areas of the Deliverables.

5. Severity 5 Error

- 5.1 This is an error that causes a minor problem, for which no workaround is required, and which has no impact on the current Test, or other areas of the Deliverables.

Annex 2: Satisfaction Certificate

To: [insert name of Supplier]

From: [insert name of Buyer]

[insert Date dd/mm/yyyy]

Dear Sirs,

Satisfaction Certificate

Deliverable/Milestone(s): [Insert relevant description of the agreed Deliverables/Milestones].

We refer to the agreement ("**Contract**") [insert Contract reference number] relating to the provision of the [insert description of the Deliverables] between the [insert Buyer name] ("**Buyer**") and [insert Supplier name] ("**Supplier**") dated [insert Effective Date dd/mm/yyyy].

The definitions for any capitalised terms in this certificate are as set out in this Contract.

[We confirm that all the Deliverables relating to [insert relevant description of Deliverables/agreed Milestones and/or reference number(s) from the Implementation Plan] have been tested successfully in accordance with the Test Plan [or that a conditional Satisfaction Certificate has been issued in respect of those Deliverables that have not satisfied the relevant Test Success Criteria].

[OR]

[This Satisfaction Certificate is granted on the condition that any Test Issues are remedied in accordance with the Rectification Plan attached to this certificate.]

[You may now issue an invoice in respect of the Milestone Payment associated with this Milestone in accordance with Clause 4 (Pricing and payments)].

Yours faithfully

[insert Name]

[insert Position]

acting on behalf of [insert name of Buyer]

Schedule 10 (Service Levels)

1. Definitions

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

"Critical Service Level Failure"	has the meaning given to it in the Award Form;
"Service Credits"	any service credits specified in Annex A to Part A of this Schedule being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels;
"Service Credit Cap"	has the meaning given to it in the Award Form;
"Key Performance Indicator Failure"	means a failure to meet the Service Level Performance Measure in respect of a Service Level;
"Key Performance Indicator Measure"	shall be as set out against the relevant Service Level in Annex A to Part A of this Schedule; and
"Key Performance Indicator Threshold"	shall be as set out against the relevant Service Level in Annex B to Part A of this Schedule.

"Key Performance Indicator" will be abbreviated as **"KPI"** throughout.

2. What happens if you don't meet the Key Performance Indicators

- 2.1 The Supplier shall at all times provide the Deliverables to meet or exceed the KPI Measure for each KPI.
- 2.2 The Supplier acknowledges that any KPI Failure shall entitle the Buyer to the rights set out in Part A of this Schedule including the right to any Service Credits and that any Service Credit is a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier's failure to meet any KPI Measure.
- 2.3 The Supplier shall send Performance Monitoring Reports to the Buyer detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Schedule.
- 2.4 A Service Credit shall be the Buyer's exclusive financial remedy for a KPI Failure except where:
- 2.4.1 the Supplier has over the previous twelve (12) Month period exceeded the Service Credit Cap; and/or

- 2.4.2 the KPI Failure:
- (a) exceeds the relevant KPI Threshold;
 - (b) has arisen due to a Prohibited Act or wilful Default by the Supplier;
 - (c) results in the corruption or loss of any Government Data; and/or
 - (d) results in the Buyer being required to make a compensation payment to one or more third parties; and/or
- 2.4.3 the Buyer is also entitled to or does terminate this Contract pursuant to Clause 14.4 of the Core Terms (When the Buyer can end the contract).
- 2.5 Not more than once in each Contract Year, the Buyer may, on giving the Supplier at least three (3) Months' notice, change the weighting of KPI Measure in respect of one or more KPIs and the Supplier shall not be entitled to object to, or increase the Charges as a result of such changes, provided that:
- 2.5.1 the total number of KPIs for which the weighting is to be changed does not exceed the number applicable as at the Start Date;
 - 2.5.2 the principal purpose of the change is to reflect changes in the Buyer's business requirements and/or priorities or to reflect changing industry standards; and
 - 2.5.3 there is no change to the Service Credit Cap.

3. Critical Service Level Failure

On the occurrence of a Critical Service Level Failure:

- 3.1 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and
- 3.2 the Buyer shall (subject to the Service Credit Cap) be entitled to withhold and retain as compensation a sum equal to any Charges which would otherwise have been due to the Supplier in respect of that Service Period ("**Compensation for Critical Service Level Failure**"),

provided that the operation of this Paragraph 3 shall be without prejudice to the right of the Buyer to terminate this Contract and/or to claim damages from the Supplier for Material Default.

Part A: Key Performance Indicators and Service Credits

1. Key Performance Indicators (KPIs)

If the level of performance of the Supplier:

1.1 is likely to or fails to meet any KPI Measure; or

1.2 is likely to cause or causes a Critical Service Level Failure to occur,

the Supplier shall immediately notify the Buyer in writing and the Buyer, in its absolute discretion and without limiting any other of its rights, may:

1.2.1 require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer and to rectify or prevent a KPI Failure or Critical Service Level Failure from taking place or recurring;

1.2.2 instruct the Supplier to comply with the Rectification Plan Process;

1.2.3 if a KPI Failure has occurred, deduct the applicable Service Credits payable by the Supplier to the Buyer; and/or

1.2.4 if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including the right to terminate for Material Default and the consequences of termination in Clause 14.5.1 shall apply).

2. Service Credits

2.1 The Buyer shall use the Performance Monitoring Reports supplied by the Supplier to verify the calculation and accuracy of the Service Credits, if any, applicable to each Service Period.

2.2 Service Credits are a reduction of the amounts payable in respect of the Deliverables and do not include VAT. The Supplier shall set-off the value of any Service Credits against the appropriate invoice in accordance the "Service Credits" KPI Table in Annex A to Part A of this Schedule.

Annex A to Part A: Key Performance Indicators and Service Credits Table

<u>Financial Incentives</u>				
KPI	Sub-KPI	Output / Outcome	KPI Descriptor	Measure
1	A (WA)	Wraparound Outcome	Effective rollout support: Delivery confidence improves for those LAs that are agreed as requiring support.	<p>Full incentive paid when over 90% of LAs agreed as requiring additional support (through an agreed action plan) throughout the contract due to low confidence ratings, meet sufficient confidence rating (rating definitions to be confirmed by DfE) within 6 months or, when identified after August 2025, the end of the contract period.</p> <p>The total value of this KPI is £50,000, to be paid at the end of the contract period. Payment for performance below 100% will tapered according to performance:</p> <ul style="list-style-type: none"> • 50% payment if 75-89% of relevant LAs meet sufficient confidence rating • 20% payment if 50-74% of relevant LAs meet sufficient confidence rating • 0% payment below 50% of relevant LAs meet sufficient confidence rating
1	B (EY)	Early Years Outcome	Effective rollout support: 90% of LAs referred or self-referred for rollout support meet sufficiency criteria agreed between DfE and the Supplier when rollout milestone is met.	<p>Full incentive paid if 90% or above of LAs who have received support from the Supplier, through an agreed action plan, meet sufficiency criteria agreed between DfE and the Supplier for the term following the relevant rollout stage identified in their package of support (e.g., Sept 2024 and/or Sept 2025).</p> <p>The sufficiency criterion for these LAs is as follows: 90% of ECS codes are validated within 5 weeks of the cut-off date for the relevant term, in the LA receiving support agreed through an action plan.</p> <p>The KPI has a maximum value of £50,000 over the contract lifespan, split as follows:</p>

				<ul style="list-style-type: none"> • If KPI is met within 5 weeks of the cut-off date for the Sept 2024 rollout stage, the maximum incentive payment available will be £25,000. • If KPI is met within 5 weeks of the cut-off date for the Sept 2025 rollout stage, the maximum incentive payment available will be £25,000. <p>Payment for performance below 90% will tapered according to performance:</p> <ul style="list-style-type: none"> • 80% payment if 80-89% of relevant LAs meet sufficiency duty within 5 weeks of the cut-off date for the relevant rollout stage (Sept 2024 or Sept 2025). • 60% payment if 60-79% of relevant LAs meet sufficiency duty within 5 weeks of the cut-off date for the relevant rollout stage (Sept 2024 or Sept 2025) • 50% payment if 50-59% of relevant LAs meet sufficiency duty within 5 weeks of the cut-off date for the relevant rollout stage (Sept 2024 or Sept 2025) • 0% payment below 50% of relevant LAs meeting their sufficiency duty within 5 weeks of the cut-off date for the relevant rollout stage (Sept 2024 or Sept 2025). <p>Where an LA has more than one rollout stage identified in their action plan (e.g., Sept 2024 and Sept 2025), their sufficiency will count towards the KPI at both points. For example, where an LA meets the sufficiency criteria agreed between DfE and the Supplier in the two months following September 2024, that will contribute to the fulfilment of the % target for Sept 2024; if they do not meet those sufficiency criteria for Sept 2025, they will not contribute to the fulfilling the % target. This will be measured at the closest reporting month to the relevant termly cut-off.</p> <p>The exact start and end of the ‘term’ following the rollout stage will be agreed between DfE and the Supplier. In exceptional circumstances, DfE may agree a different time period for the measurement of success against this KPI.</p>
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2	N/A	Wraparound Outcome	<p>National reporting: Effective monitoring of all LAs</p>	<p>Full incentive paid when 100% of LAs receive contact from Childcare Works each month that enables effective and evidenced confidence rating to be applied by the Supplier, on a monthly basis, that identifies those LAs requiring further support and enables specific actions to be taken.</p> <p>The total value of this KPI is £25,000 across the life of this contract and will be measured at the end of each financial year, taking into account work done in the full financial year. The KPI will be measured at 2 points (March 2025 and March 2026) with payment made in the following month. Payment will be split equal into 2 payments of £12,500, one in April 2025 and one in April 2026.</p> <p>Payment for performance below 100% will be tapered according to performance:</p> <ul style="list-style-type: none"> • 50% payment when 95-99% of all LAs receive contact and evidenced rating. • 20% payment when 90-94% of all LAs receive contact and evidenced rating. • 0% payment if less than 90% of all LAs receive contact and evidenced rating.
3	N/A	Early Years Outcome	<p>Effective sufficiency support: Sufficiency achieved according to agreed sufficiency criteria for all LAs referred or self-referred as requiring support to ensure they manage and meet their current sufficiency duty (i.e., as the duty stands at the point of referral or self-referral).</p>	<p>Full incentive paid if 90% or above of LAs, who have received support from the Supplier, through an agreed action plan, meet sufficiency criteria agreed between DfE and the Supplier.</p> <p>The sufficiency criterion for these LAs is as follows: 90% of ECS codes are validated within 5 weeks of the cut-off date for the term immediately following the end of the support package, in the LA receiving support agreed through an action plan.</p> <p>The total value of this KPI is £50,000 across the life of this contract. The KPI will be measured in February 2025 and February 2026, looking cumulatively at all relevant support packages, and paid in March 2025 and March 2026 (up to £25,000 per payment).</p>

				<p>Payment for performance below 90% will tapered according to performance:</p> <ul style="list-style-type: none"> • 80% payment if 80-89% of relevant LAs meet sufficiency duty within 5 weeks of the cut-off date for the term immediately following the end of the support package • 60% payment if 60-79% of relevant LAs meet sufficiency duty within 5 weeks of the cut-off date for the term immediately following the end of the support package • 50% payment if 50-59% of relevant LAs meet sufficiency duty within 5 weeks of the cut-off date for the term immediately following the end of the support package • 0% payment below 50% of relevant LAs meet sufficiency duty within 5 weeks of the cut-off date for the term immediately following the end of the support package. <p>Payment will be divided equally between the financial years (e.g., if the KPI is met across the first financial year, £25,000 will be due at the end of FY24/25; however, if less than 50% of eligible LAs meet the sufficiency criteria across FY25/26, then no payment will be due to the Supplier).</p>
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Where an LA is eligible for both KPI 1B and 3, DfE will decide which KPIs apply on a case-by-case basis. Similarly, where an LA was previously eligible for KPI 1B, and subsequently becomes eligible for KPI 3, DfE will decide which KPIs apply on a case-by-case basis.

Service Credits				
KPI	Sub-KPI	Output / Outcome	KPI Descriptor	Measure
4	A (WA)	Wraparound Output	Support given: All delivery plans received are of a required completeness and quality within set timeframe.	<p>100% of delivery plan submissions received (plan and reporting) are completed to required completeness and quality as agreed by DfE and Childcare Works within the set timeframe.</p> <p>This KPI will be measured four times across the life of the contract: Spring/Summer 2024 (initial delivery plans); February 2025, November 2025, March 2026 (updated delivery plans).</p> <p>There will be a 0.5% reduction to the total quarterly payment for every LA that does not have a return to the required standard within set timeframe (both to Supplier and DfE), which will be applied in the month within which the submission deadline sits.</p>
4	B (EY)	Early Years Output	Support given: Supplier completes support package according to DfE's criteria* (agreed between the Supplier and DfE), for all LAs who are referred by DfE or approved via the Supplier's self-referral route.	<p>100% of support packages to LAs completed in line with criteria agreed between DfE and the Supplier, within the timeframe agreed with DfE (noting that timeframes and criteria may vary between LAs on a case-by-case basis, reflecting their differing needs).</p> <p>This KPI will be measured four times across the life of the contract: September 2024, March 2025, September 2025 and March 2026.</p> <p>There will be a 1% reduction to the total quarterly payment for every LA who does not receive support aligning to agreed criteria, which will apply in the month subsequent to measurement.</p>

5	N/A	Early Years and Wraparound Output	<p>Customer satisfaction: Majority of LAs who receive a package of support are satisfied with the support received.</p>	<p>Over 75% of LAs who have received a package of support from the Supplier are satisfied with the support provided, according to satisfaction criteria agreed between the Supplier and DfE. Data will be collected twice per Contract Year (measurement points to be agreed between DfE and the Supplier).</p> <p>This KPI applies to LAs who complete a customer satisfaction form. The Supplier must make a demonstrable effort to gather customer satisfaction forms from all LAs who receive a package of support – including a minimum of four attempts to ask the LA to return the form. If an LA does not return the form after these three attempts, they are exempt from this KPI.</p> <p>Where the satisfaction scores are below 75%, there will be a 1% reduction to the total quarterly payment for each percentage point below 75%.</p>
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***Criteria for Support Package Completion (KPI 4B)**

We anticipate using criteria similar to the below to assess whether the support packages have been completed in line with our expectations. These criteria will remain under review as delivery progresses.

Phase 1: Mobilisation, engagement and diagnosis

1. Mobilise within 2 working days (Mon-Fri) of a request for intervention being received from the DfE contract manager, or after a support package has been agreed by DfE following notification from the Supplier that a request for support has been received by them.
2. In the event of DfE recommending a local authority for support from the Supplier, or identification of the need for intervention by the Supplier directly during the course of their work (e.g. if receiving a request for support directly from an LA), the Supplier should work with the DfE contract manager to agree whether a support package is appropriate, and the content of that support package.
3. Using a referral form which clearly outlines the issue the LA is experiencing and the level of support that should be / has been offered to the LA, the DfE contract manager and other relevant colleagues will discuss the referral with the Supplier (and, if necessary, the LA). DfE will consider the rationale for support being requested, along with any supporting information provided. The Supplier should mobilise within 2 working days (Mon-Fri, excluding bank holidays) of DfE confirming that the LA should receive reactive support.
4. Establish working relationships with LA officials, including to discuss any internal actions taken to date by the LA and further mitigations that could be considered. Routinely, we would expect this to include early years leads but with engagement with Directors of Children's Services and/or Directors of Education, where appropriate.
5. If agreed that a support package is required, the Supplier will share their preliminary findings with the LA and the DfE contract manager in an initial report within 3 working days of their first conversation with the LA. Reports must, where appropriate, include:
 - An initial assessment of the nature of sufficiency challenges being experienced by the LA, including a detailed summary of the overall problem(s) and the specific issue(s) that will be supported by the intervention by the Supplier and against which success will be measured in the final report - the 'sufficiency issue'.
 - The level, immediacy and nature of the sufficiency issue measured against red/amber/green (RAG) risk ratings to indicate the level of the assessed sufficiency issue and the LA's ability and willingness to engage in the proposed intervention.
 - Details of any immediate actions that the LA may be able to take to address pressing sufficiency issues whilst work towards a more sustainable, strategic solution is carried out by the LA.
 - A work plan for engagement between the Supplier, the LA and potentially other partners, detailing the nature and expected duration of work required to diagnose the 'sufficiency issue' and make recommendations. The plan will be agreed with the LA, DfE contract manager and other partners, where applicable, and should include a date for completion of the recommendation report.
 - An estimate of the overall cost and expected duration of the support package required, profiled by month over the expected duration.

Phase 2: Recommendation and support

6. Following initial engagement and diagnostic work with the LA, produce a recommendation report by the date agreed with the DfE contract manager. The report will be agreed with the LA, DfE contract manager and other partners (where applicable), and should include:
 - A series of recommendations agreed with the LA, including details of any immediate actions and any ongoing actions to work towards a more sustainable, strategic solution (where applicable). All recommendations agreed should be supported by key milestones and success criteria.
 - A record of any recommendations made to the LA but not accepted by the LA.
 - The estimated amount of expert support required from the Supplier during the LA's agreed support period. This should include a breakdown of the support to be provided, by who and an estimate of the overall cost.
 - Setting a provisional support end date and an evaluation meeting which is to be undertaken at an appropriate point following the end of the intervention (date to be agreed with the LA and DfE contract manager).
 - A provisional date for completion of the evaluation report of the LA's progress and success and sustainability of the intervention. This should be within 5 working days of the evaluation meeting.
7. Monitor and report to DfE regarding progress towards milestones, proposing resolutions or further interventions where appropriate, as per programme reporting requirements.

Phase 3: Evaluation

8. Carry out an evaluation meeting following the end of the intervention and by the date agreed with the LA and DfE contract manager. The Supplier and LA should discuss whether there has been an improvement in the local sufficiency situation (including whether the improvement is due to the agreed support), or whether the LA is on track to achieve an improvement by following agreed actions, e.g., if the benefits of certain recommendations have not yet been realised but are expected to be realised. If there has been no improvement or if there is evidence of slippage against key milestones, the Supplier should discuss realistic ways in which the LA might get back on schedule and capture these in the final report. The DfE contract manager and/or regional lead will also be invited to attend the evaluation meeting.
9. Produce a final report to be submitted to the DfE contract manager within 5 working days (Mon-Fri) of the final evaluation meeting including:
 - An assessment of the impact of the support on sufficiency and risk levels a) at the time of writing, b) in the following term and c) for the next calendar year. This assessment should either be agreed with the LA, or note any substantive differences of view between the views of the Supplier and the LA.
 - A summary of support provided by the Supplier, including LA progress already made against key milestones.
 - An outline of any agreed recommendations still to be actioned by the LA, including whether these milestones are expected to be completed to schedule or there is slippage, any reasons for slippage, and how progress will be monitored (e.g., regular update reports by the LA to Supplier and/or DfE regional lead).
 - Where slippage is identified, an outline of proposed mitigations that the LA can implement to get back on track with its plans.
 - An evaluation of the success and sustainability of the intervention.

- An outcome statement to be signed by the Supplier and LA (to be signed by DfE on submission) agreeing progress on addressing the ‘sufficiency issue’. The outcome for the LA (described in more detail in the body of the report) will be summarised by one of the following statements:
 - The ‘sufficiency issue’ for which support was provided is now considered resolved and the ongoing position is sustainable.
 - The ‘sufficiency issue’ for which support was provided is considered to be on track to be resolved within agreed timeframes subject to the LA continuing to act on the Supplier’s recommendations.
 - The LA has made some progress in addressing the ‘sufficiency issue’ but is unlikely to meet the milestones for the recommendations agreed between the Supplier and the LA.
 - Minimal progress has been made in addressing the ‘sufficiency issue’ due to factors explained in the report and the sufficiency issue for which support was provided has not been resolved.
10. Share the evaluation reports with DfE and, with the LA’s permission, disseminate case studies highlighting good practice to other LAs for consideration throughout the year.

Social Value:

Social Value: “Tackling Economic Inequality”		
KPI	KPI Descriptor	Measure
6A	Number of apprenticeship opportunities (Level 2, 3, and 4+) created or retained under the contract, by UK region.	As per Table 1 below. To be measured at the end of each Contract Year.
6B	Number of training opportunities (Level 2, 3, and 4+) created or retained under the contract, other than apprentices, by UK region.	As per Table 2 below. To be measured at the end of each Contract Year.

Table 1: Number of apprenticeship opportunities (Level 2, 3, and 4+) created or retained under the contract, by UK region.

Apprenticeship Pathway/Level	UK Region	No. of Apprentices under the contract	Create	Retain	Role details
L3 Business Administration	Midlands	1		✓	PMO administration support
	TBC*	2	✓		
L4 Business Administration	South-East / Midlands	3		✓	Apprenticeship progression pathways (three options)
L4 Project Management					
L4 Management consultancy					

Apprentice support: <ul style="list-style-type: none"> Careers Guidance Mentoring Buddying 	Midlands	All staff L3-7		✓	Support offered by employers to apprentices at L3-7
	South-East				
Early Career Professionals (ECP) Programme	South-East	All staff L3-7		✓	'Developing your Future' supporting professional development inc. CV, careers talks, curriculum support, social activities

TBC* Between: Midlands, East/South-East & North-West

Table 2: Number of training opportunities beyond apprenticeships (Level 2, 3, and 4+) created or retained under the contract, other than apprentices, provided nationally.

Opportunities beyond (Level 2, 3, and 4+)	No. of staff under the contract	Create	Retain	Opportunity Details
Work experience	2	✓		'Finding your Future' 5-day schools programme (14-18yrs). Candidates receive the Prince's Trust Silver Industrial Cadets Accreditation
Association of Project Managers (APM) programme	1	✓		Career progression opportunity APM: <ul style="list-style-type: none"> Project Fundamentals (Level 3) Project Management Qualification (Level 4)
APM Chartership (internal)	1	✓		Career progression opportunity (Level 4+) to complete Chartership programme
Training and Development	Sub-contractors and key stakeholders inc. LA's, Schools and other	✓		Virtual business development sessions/workshops including: <ul style="list-style-type: none"> Developing Early Careers Pathways (2) Project and Risk Management (1) Supply Chain Management and tools (1)

Annex B to Part A: Key Performance Indicator Thresholds

In addition to formal measurement points, all KPIs will be monitored regularly through Contract Management.

Financial Incentive KPIs:

KPI	Good Target	Approaching Target Threshold	Requires Improvement Threshold	Inadequate Threshold	Measurement Frequency
1A	> 90%	75% to 89%	50% to 74%	< 50%	Once: March 2026.
1B	> 90%	50% to 89%	25% to 49%	< 24%	Twice: <ul style="list-style-type: none"> • Within 5 weeks of the cut-off date for the Sept 2024 rollout stage • Within 5 weeks of the cut-off date for the Sept 2025 rollout stage
2	100%	95% to 99%	90% to 94%	< 90%	Twice: <ul style="list-style-type: none"> • March 2025 • March 2026
3	> 90%	50% to 89%	25% to 49%	< 24%	Once: <p>Within 5 weeks of the cut-off date for the term immediately following the end of the support package.</p>

Service Credit KPIs:

KPI	Good Target	Approaching Target Threshold	Requires Improvement Threshold	Inadequate Threshold	Measurement Frequency
4A	100%	85% to 99%	70% to 84%	< 70%	Four times: <ul style="list-style-type: none"> • Spring / Summer 2024 • February 2025 • November 2025 • March 2026
4B	100%	85% to 99%	70% to 84%	< 70%	Twice per Contract Year: <ul style="list-style-type: none"> • September 2024 • March 2025 • September 2025 • March 2026

5	> 85%	75% to 84%	65% to 74%	< 65%	Twice per contract year.
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Social Value KPIs:

KPI	Good Target	Approaching Target Threshold	Requires Improvement Threshold	Inadequate Threshold	Measurement Frequency
6A	6 apprentices (2 roles created, 4 retained)	5 apprentices (any combination created / retained)	3 to 4 apprentices (any combination created / retained)	2 or fewer apprentices (any combination created / retained)	Twice: <ul style="list-style-type: none"> • March 2025 • March 2026
6B	4 key staff training opportunities created: <ul style="list-style-type: none"> • 2x Work Experience • 1x APM Programme • 1x APM Chartership 	3 key staff training opportunities created (any combination)	2 key staff training opportunities created (any combination)	1 or 0 key staff training opportunities created	Twice: <ul style="list-style-type: none"> • March 2025 • March 2026

Part B: Performance Monitoring

1. Performance Monitoring and Performance Review

- 1.1 Within twenty (20) Working Days of the Effective Date the Supplier shall provide the Buyer with details of how the process in respect of the monitoring and reporting of KPIs will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.
- 1.2 The Supplier shall provide the Buyer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to Paragraph 1.1 of Part B of this Schedule which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
 - 1.2.1 for each KPI, the actual performance achieved over the KPI for the relevant Service Period;
 - 1.2.2 a summary of all failures to achieve KPIs that occurred during that Service Period;
 - 1.2.3 details of any Critical Service Level Failures;

- 1.2.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
 - 1.2.5 the Service Credits to be applied in respect of the relevant period indicating the failures and KPIs to which the Service Credits relate; and
 - 1.2.6 such other details as the Buyer may reasonably require from time to time.
- 1.3 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**Performance Review Meetings**") on a Monthly basis. The Performance Review Meetings will be the forum for the review by the Supplier and the Buyer of the Performance Monitoring Reports. The Performance Review Meetings shall:
 - 1.3.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier at such location and time (within normal business hours) as the Buyer shall reasonably require;
 - 1.3.2 be attended by the Supplier's Representative and the Buyer's Representative; and
 - 1.3.3 be fully minuted by the Supplier and the minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Buyer's Representative and any other recipients agreed at the relevant meeting.
- 1.4 The minutes of the preceding Month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Buyer's Representative at each meeting.
- 1.5 The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified Service Period.

2. Satisfaction Surveys

The Buyer may undertake satisfaction surveys in respect of the Supplier's provision of the Deliverables. The Buyer shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Deliverables which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Contract.

Schedule 11 (Continuous Improvement)

1. Supplier's Obligations

- 1.1 The Supplier must, throughout the Contract Period, identify new or potential improvements to the provision of the Deliverables with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables and their supply to the Buyer.
- 1.2 The Supplier must adopt a policy of continuous improvement in relation to the Deliverables, which must include regular reviews with the Buyer of the Deliverables and the way it provides them, with a view to reducing the Buyer's costs (including the Charges) and/or improving the quality and efficiency of the Deliverables. The Supplier and the Buyer must provide each other with any information relevant to meeting this objective.
- 1.3 In addition to Paragraph 1.1, the Supplier shall produce at the start of each Contract Year a plan for improving the provision of Deliverables and/or reducing the Charges (without adversely affecting the performance of this Contract) during that Contract Year ("**Continuous Improvement Plan**") for the Buyer's Approval. The Continuous Improvement Plan must include, as a minimum, proposals:
 - 1.3.1 identifying the emergence of relevant new and evolving technologies;
 - 1.3.2 changes in business processes of the Supplier or the Buyer and ways of working that would provide cost savings and/or enhanced benefits to the Buyer (such as methods of interaction, supply chain efficiencies, reduction in energy consumption and methods of sale);
 - 1.3.3 new or potential improvements to the provision of the Deliverables including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Deliverables; and
 - 1.3.4 measuring and reducing the sustainability impacts of the Supplier's operations and supply-chains relating to the Deliverables, and identifying opportunities to assist the Buyer in meeting their sustainability objectives.
- 1.4 The initial Continuous Improvement Plan for the first (1st) Contract Year shall be submitted by the Supplier to the Buyer for Approval within six (6) Months following the Effective Date.
- 1.5 The Buyer shall notify the Supplier of its Approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Working Days of receipt. If it is rejected then the Supplier shall, within ten (10) Working Days of receipt of notice of rejection, submit a revised Continuous Improvement Plan reflecting the changes required. Once Approved, it becomes the Continuous Improvement Plan for the purposes of this Contract.

- 1.6 The Supplier must provide sufficient information with each suggested improvement to enable a decision on whether to implement it. The Supplier shall provide any further information as requested.
- 1.7 If the Buyer wishes to incorporate any improvement into this Contract, it must request a Variation in accordance with the Variation Procedure and the Supplier must implement such Variation at no additional cost to the Buyer.
- 1.8 Once the first Continuous Improvement Plan has been Approved in accordance with Paragraph 1.5:
 - 1.8.1 the Supplier shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and
 - 1.8.2 the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the Parties) to review the Supplier's progress against the Continuous Improvement Plan.
- 1.9 The Supplier shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1st) Contract Year) in accordance with the procedure and timescales set out in Paragraph 1.3.
- 1.10 All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Charges.
- 1.11 Should the Supplier's costs in providing the Deliverables to the Buyer be reduced as a result of any changes implemented, all of the cost savings shall be passed on to the Buyer by way of a consequential and immediate reduction in the Charges for the Deliverables.
- 1.12 At any time during the Contract Period of this Contract, the Supplier may make a proposal for gainshare. If the Buyer deems gainshare to be applicable then the Supplier shall update the Continuous Improvement Plan so as to include details of the way in which the proposal shall be implemented in accordance with an agreed gainshare ratio.

Schedule 13 (Contract Management)

1. Definitions

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

"Operational Board"	the board established in accordance with Paragraph 4.1 of this Schedule;
"Project Manager"	the manager appointed in accordance with Paragraph 2.1 of this Schedule;

2. Project Management

- 2.1 The Supplier and the Buyer shall each appoint a Project Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.
- 2.2 The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.
- 2.3 Without prejudice to Paragraph 4 below, the Parties agree to operate the boards specified as set out in the Annex to this Schedule.

3. Role of the Supplier Project Manager

- 3.1 The Supplier Project Manager shall be:
 - 3.1.1 the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;
 - 3.1.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Project Manager's responsibilities and obligations;
 - 3.1.3 able to cancel any delegation and recommence the position himself; and
 - 3.1.4 replaced only after the Buyer has received notification of the proposed change.
- 3.2 The Buyer may provide revised instructions to the Supplier's Project Manager in regards to this Contract and it will be the Supplier Project Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.
- 3.3 Receipt of communication from the Supplier Project Manager by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under this Contract.

4. Role of The Operational Board

- 4.1 The Operational Board shall be established by the Buyer for the purposes of this Contract on which the Supplier and the Buyer shall be represented.
- 4.2 The Operational Board members, frequency and location of board meetings and planned start date by which the board shall be established are set out in Annex to the Schedule.
- 4.3 In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably withheld or delayed). Each Buyer board member shall have at all times a counterpart Supplier board member of equivalent seniority and expertise.
- 4.4 Each Party shall ensure that its board members shall make all reasonable efforts to attend board meetings at which that board member's attendance is required. If any board member is not able to attend a board meeting, that person shall use all reasonable endeavours to ensure that a delegate attends the Operational Board meeting in his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.
- 4.5 The purpose of the Operational Board meetings will be to review the Supplier's performance under this Contract. The agenda for each meeting shall be set by the Buyer and communicated to the Supplier in advance of that meeting.

5. Contract Risk Management

- 5.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Contract.
- 5.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:
 - 5.2.1 the identification and management of risks;
 - 5.2.2 the identification and management of issues; and
 - 5.2.3 monitoring and controlling project plans.
- 5.3 The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.
- 5.4 The Supplier will maintain a risk register of the risks relating to this Contract which the Buyer and the Supplier have identified.

Annex: Operational Boards

The Parties agree to operate the following boards at the locations and at the frequencies set out in this Annex.

Contract Management

- The Supplier shall attend, as a minimum, one contract management meeting every month during the contract term with DfE and this must include one face to face meeting every quarter, at an agreed location, to discuss progress and any issues. These meetings must differentiate between the activity provided to support the EY entitlements expansion, EY sufficiency and wraparound programme.
- The Supplier shall attend, as a minimum, a weekly ‘keep in touch’ meeting and monthly progress review meeting with DfE for each programme, EY and wraparound, to ensure the department is fully sighted on recent developments. These meetings should be held jointly between EY and wraparound, with progress reporting differentiated between the two, unless DfE and the supplier agree otherwise.
- The Supplier shall attend, and supply information for, governance boards deemed appropriate by DfE.
- The Supplier's day-to-day contact with DfE will be with the contract managers working on the EY and Wraparound teams in DfE. Ultimate responsibility for the programmes will sit with the Senior Responsible Officer.
- The Supplier will be required to adhere to the financial transparency requirements, including the maintenance and retention of Open Book data, as set out in Schedule 6 Transparency Reports.
- Meetings will also provide an opportunity for the Department to share information about policy developments and priorities.
- The tables below set out the regular reporting and meetings that will be required throughout the contract. Note that these timelines are subject to amendment and revision by DfE.

Table 1: Contract management meetings

Meetings	Purpose	Frequency
Check in meeting between supplier and DfE team – EY and wraparound	Keep in touch meeting between supplier and DfE team to raise questions and concerns and provide update on progress, take decisions on targeted support to LAs.	Weekly

Progress review meeting – EY and wraparound	Formal progress review meeting between DfE team and supplier. To review monthly activity reports and agree actions to take to ensure programme delivery remains on track.	Monthly
Contract management meeting – EY and wraparound	Formal contract management meeting between supplier and DfE to review delivery against contract KPIs and deliverables.	Monthly

Monthly contract management meeting documentation

- It is expected that the Supplier will provide relevant documentation to attendees at least one week before monthly contract management meetings to enable advance reading of the documents.
- Specifically, at each monthly meeting the Supplier shall provide:
 - Management information to demonstrate support provided, and to show whether progress is being made at a local and national level. This will clearly detail progress (including against relevant KPIs), challenges, risks, and appropriate mitigating actions. This information must differentiate between the activity provided to support the EY entitlements expansion, EY sufficiency and wraparound programme.
 - An ongoing contract risk and issues log.
 - One-off / bespoke papers as agreed, e.g., relating to particular emerging risks or themes.
- Additionally, on a quarterly basis, the Supplier shall provide a report detailing their progress against the social value KPI, including the number of apprenticeship and training opportunities created or retained under the contract.

Table 4: Reporting

Reporting	Purpose	Frequency
Ad-hoc reporting as required (EY and wraparound)	Ensure up to date outputs from reporting system as required to cover – contact with LAs, support provided, issues and challenges and confidence assessment.	Ad-hoc
Summary reports (EY and wraparound)	To provide summary of activity undertaken to support LAs, queries received and response times, issues and challenges and confidence assessments, including changes from previous month. To include specific activities	Weekly

	undertaken to support those LAs requiring additional support.	
Monthly update report (EY and wraparound)	<p>Detailed report for discussion at monthly progress review meeting. To be agreed with DfE following contract award but likely to include:</p> <ul style="list-style-type: none"> • broken down by LA – contact made, activities undertaken to provide support, issues and concerns, confidence assessment • recommendations for LAs requiring additional support and actions to take • summary of additional activities undertaken to support sharing of good practice • details of provider engagement or support <p>Reports should cover a calendar month.</p>	Monthly
Data summaries – supply and demand mapping, delivery plan and reporting returns (wraparound)	Summary of LA completed returns and actions taken to support LAs.	Weekly within return windows
Data summaries – MI data return (wraparound)	Summary of LA data return – to be agreed with DfE following contract award but to include data from LAs on number of places available, forecast and taken up. To be collected via portal and provided in format compatible with DfE system is CSV and PowerBi.	Termly – with weekly progress report within return window

The results of the customer satisfaction survey shall be reported to DfE in line with the timescales outlined in the KPIs.

Schedule 14 (Business Continuity and Disaster Recovery)

1. Definitions

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

"BCDR Plan"	has the meaning given to it in Paragraph 2.1 of this Schedule;
"Business Continuity Plan"	has the meaning given to it in Paragraph 2.2.2 of this Schedule;
"Disaster Recovery Plan"	has the meaning given to it in Paragraph 2.2.3 of this Schedule;
"Related Supplier"	any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time;
"Review Report"	has the meaning given to it in Paragraph 6.3 of this Schedule; and
"Supplier's Proposals"	has the meaning given to it in Paragraph 6.3 of this Schedule,

2. BCDR Plan

- 2.1 At least forty (40) Working Days after the Effective Date the Supplier shall prepare and deliver to the Buyer for the Buyer's written approval a plan (a **"BCDR Plan"**), which shall detail the processes and arrangements that the Supplier shall follow to:
- 2.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and
 - 2.1.2 the recovery of the Deliverables in the event of a Disaster.
- 2.2 The BCDR Plan shall be divided into three sections:
- 2.2.1 Section 1 which shall set out general principles applicable to the BCDR Plan;
 - 2.2.2 Section 2 which shall relate to business continuity (the **"Business Continuity Plan"**); and
 - 2.2.3 Section 3 which shall relate to disaster recovery (the **"Disaster Recovery Plan"**).
- 2.3 Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

3. General Principles of the BCDR Plan (Section 1)

- 3.1 Section 1 of the BCDR Plan shall:
- 3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
 - 3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Buyer by a Related Supplier;
 - 3.1.3 contain an obligation upon the Supplier to liaise with the Buyer and any Related Suppliers with respect to business continuity and disaster recovery;
 - 3.1.4 detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Buyer and any of its other Related Supplier in each case as notified to the Supplier by the Buyer from time to time;
 - 3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
 - 3.1.6 contain a risk analysis, including:
 - (a) failure or disruption scenarios and assessments of likely frequency of occurrence;
 - (b) identification of any single points of failure within the provision of Deliverables and processes for managing those risks;
 - (c) identification of risks arising from an Insolvency Event of the Supplier, any Key Subcontractors and/or Supplier Group member;
 - (d) identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and
 - (e) a business impact analysis of different anticipated failures or disruptions;
 - 3.1.7 provide for documentation of processes, including business processes, and procedures;
 - 3.1.8 set out key contact details for the Supplier (and any Subcontractors) and for the Buyer;
 - 3.1.9 identify the procedures for reverting to "normal service";
 - 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
 - 3.1.11 identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the BCDR Plan; and

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

4. Business Continuity (Section 2)

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

5. Disaster Recovery (Section 3)

- 5.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Buyer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Supplier's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:
 - 5.2.1 loss of access to the Buyer Premises;
 - 5.2.2 loss of utilities to the Buyer Premises;
 - 5.2.3 loss of the Supplier's helpdesk or CAFM system;
 - 5.2.4 loss of a Subcontractor;
 - 5.2.5 emergency notification and escalation process;
 - 5.2.6 contact lists;
 - 5.2.7 staff training and awareness;
 - 5.2.8 BCDR Plan testing;
 - 5.2.9 post implementation review process;
 - 5.2.10 any applicable Service Levels with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;
 - 5.2.11 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
 - 5.2.12 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and
 - 5.2.13 testing and management arrangements.

6. Review and changing the BCDR Plan

- 6.1 The Supplier shall review the BCDR Plan:
 - 6.1.1 on a regular basis and as a minimum once every six (6) Months;
 - 6.1.2 within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 7; and
 - 6.1.3 where the Buyer requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Buyer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the total costs payable by the Buyer for the Buyer's approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the

Buyer for any costs that it may incur above any estimate without the Buyer's prior written approval.

- 6.2 Each review of the BCDR Plan pursuant to Paragraph 6.1 shall assess its suitability having regard to any change to the Deliverables or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within such period as the Buyer shall reasonably require.
- 6.3 The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Buyer a report (a **"Review Report"**) setting out the Supplier's proposals (the **"Supplier's Proposals"**) for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.
- 6.4 Following receipt of the Review Report and the Supplier's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Supplier's Proposals. If the Parties are unable to agree Review Report and the Supplier's Proposals within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 6.5 The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Deliverables.

7. Testing the BCDR Plan

- 7.1 The Supplier shall test the BCDR Plan:
 - 7.1.1 regularly and in any event not less than once in every Contract Year;
 - 7.1.2 in the event of any major reconfiguration of the Deliverables;
 - 7.1.3 at any time where the Buyer considers it necessary (acting in its sole discretion).
- 7.2 If the Buyer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Buyer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Buyer unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.
- 7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Buyer and shall liaise with

the Buyer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Buyer.

- 7.4 The Supplier shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Buyer. Copies of live test data used in any such testing shall be (if so required by the Buyer) destroyed or returned to the Buyer on completion of the test.
- 7.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Buyer a report setting out:
 - 7.5.1 the outcome of the test;
 - 7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
 - 7.5.3 the Supplier's proposals for remedying any such failures.
- 7.6 Following each test, the Supplier shall take all measures requested by the Buyer to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at its own cost, by the date reasonably required by the Buyer.

8. Invoking the BCDR Plan

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

9. Circumstances beyond your control

The Supplier shall not be entitled to relief under Clause 24 (Circumstances beyond your control) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

Schedule 16 (Buyer Specific Security Requirements)

1. Definitions

1.1. In this Schedule, the following words shall have the following meanings and they shall supplement the other definitions in the Contract:

<p>“BPSS” “Baseline Personnel Security Standard”</p>	<p>the Government’s HMG Baseline Personal Security Standard. Further information can be found at: https://www.gov.uk/government/publications/government-baseline-personnel-security-standard</p>
<p>“CCSC” “Certified Cyber Security Consultancy”</p>	<p>is the National Cyber Security Centre’s (NCSC) approach to assessing the services provided by consultancies and confirming that they meet NCSC's standards. See website: https://www.ncsc.gov.uk/scheme/certified-cyber-consultancy</p>
<p>“CCP” “Certified Professional”</p>	<p>is a NCSC scheme in consultation with government, industry and academia to address the growing need for specialists in the cyber security profession. See website: https://www.ncsc.gov.uk/information/about-certified-professional-scheme</p>
<p>“Cyber Essentials” “Cyber Essentials Plus”</p>	<p>Cyber Essentials is the government backed, industry supported scheme to help organisations protect themselves against common cyber-attacks. Cyber Essentials and Cyber Essentials Plus are levels within the scheme. There are a number of certification bodies that can be approached for further advice on the scheme; the link below points to these providers: https://www.cyberessentials.ncsc.gov.uk/getting-certified/#what-is-an-accreditation-body</p>
<p>“Data” “Data Controller” “Data Protection Officer” “Data Processor” “Personal Data” “Personal Data requiring Sensitive Processing”</p>	<p>shall have the meanings given to those terms by the Data Protection Legislation</p>

<p>“Data Subject”, “Process” and “Processing”</p>	
<p>“Buyer’s Data” “Buyer’s Information”</p>	<p>is any data or information owned or retained to meet departmental business objectives and tasks, including:</p> <p>(a) any data, text, drawings, diagrams, images or sounds (together with any repository or database made up of any of these components) which are embodied in any electronic, magnetic, optical or tangible media, and which are:</p> <p style="padding-left: 40px;">(i) supplied to the Supplier by or on behalf of the Buyer; or</p> <p style="padding-left: 40px;">(ii) which the Supplier is required to generate, process, store or transmit pursuant to this Contract; or</p> <p>(b) any Personal Data for which the Buyer is the Data Controller;</p>
<p>“Departmental Security Requirements”</p>	<p>the Buyer’s security policy or any standards, procedures, process or specification for security that the Supplier is required to deliver.</p>
<p>“Digital Marketplace / G-Cloud”</p>	<p>the Digital Marketplace is the online framework for identifying and procuring cloud technology and people for digital projects.</p>
<p>“End User Devices”</p>	<p>the personal computer or consumer devices that store or process information.</p>
<p>“Good Industry Standard” “Industry Good Standard”</p>	<p>the implementation of products and solutions, and the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector.</p>
<p>“GSC” “GSCP”</p>	<p>the Government Security Classification Policy which establishes the rules for classifying HMG information. The policy is available at: https://www.gov.uk/government/publications/government-security-classifications</p>
<p>“HMG”</p>	<p>Her Majesty’s Government</p>
<p>“ICT”</p>	<p>Information and Communications Technology (ICT) and is used as an extended synonym for information technology (IT), used to describe the bringing</p>

	together of enabling technologies used to deliver the end-to-end solution
“ISO/IEC 27001” “ISO 27001”	is the International Standard for Information Security Management Systems Requirements
“ISO/IEC 27002” “ISO 27002”	is the International Standard describing the Code of Practice for Information Security Controls.
“ISO 22301”	is the International Standard describing for Business Continuity
“IT Security Health Check (ITSHC)” “IT Health Check (ITHC)” “Penetration Testing”	an assessment to identify risks and vulnerabilities in systems, applications and networks which may compromise the confidentiality, integrity or availability of information held on that ICT system.
“Need-to-Know”	the Need-to-Know principle employed within HMG to limit the distribution of classified information to those people with a clear ‘need to know’ in order to carry out their duties.
“NCSC”	the National Cyber Security Centre (NCSC) is the UK government’s National Technical Authority for Information Assurance. The NCSC website is https://www.ncsc.gov.uk
“OFFICIAL”	the term ‘OFFICIAL’ is used to describe the baseline level of ‘security classification’ described within the Government Security Classification Policy (GSCP).
“OFFICIAL-SENSITIVE”	the term ‘OFFICIAL–SENSITIVE is used to identify a limited subset of OFFICIAL information that could have more damaging consequences (for individuals, an organisation or government generally) if it were lost, stolen or published in the media, as described in the GSCP.
“RBAC” “Role Based Access Control”	Role Based Access Control, a method of restricting a person’s or process’ access to information depending on the role or functions assigned to them.
“Storage Area Network” “SAN”	an information storage system typically presenting block based storage (i.e. disks or virtual disks) over a network interface rather than using physically connected storage.
“Secure Sanitisation”	the process of treating data held on storage media to reduce the likelihood of retrieval and reconstruction to an acceptable level. NCSC Guidance can be found at: https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media

	The disposal of physical documents and hardcopy materials advice can be found at: https://www.cpni.gov.uk/secure-destruction-0
“Security and Information Risk Advisor” “CCP SIRA” “SIRA”	the Security and Information Risk Advisor (SIRA) is a role defined under the NCSC Certified Professional (CCP) Scheme. See also: https://www.ncsc.gov.uk/articles/about-certified-professional-scheme
“Senior Information Risk Owner” “SIRO”	the Senior Information Risk Owner (SIRO) responsible on behalf of the DfE Accounting Officer for overseeing the management of information risk across the organisation. This includes its executive agencies, arm’s length bodies (ALBs), non-departmental public bodies (NDPBs) and devolved information held by third parties.
“SPF” “HMG Security Policy Framework”	the definitive HMG Security Policy which describes the expectations of the Cabinet Secretary and Government’s Official Committee on Security on how HMG organisations and third parties handling HMG information and other assets will apply protective security to ensure HMG can function effectively, efficiently and securely. https://www.gov.uk/government/publications/security-policy-framework
"Supplier Staff"	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier’s obligations under the Contract.

Operative Provisions

- 1.1. The Supplier shall be aware of and comply with the relevant [HMG security policy framework](#), [NCSC guidelines](#) and where applicable these Departmental Security Requirements which include but are not constrained to the following paragraphs.
- 1.2. Where the Supplier will provide products or Services or otherwise handle information at OFFICIAL for the Buyer, the requirements of [Cabinet Office Procurement Policy Note – Use of Cyber Essentials Scheme certification](#) - [Action Note 09/14](#) dated 25 May 2016, or any subsequent updated document, are mandated, namely that “contractors supplying products or services to HMG shall have achieved, and will be expected to retain Cyber Essentials certification at the appropriate level for the duration of the contract”. The certification scope shall be relevant to the Services supplied to, or on behalf of, the Buyer.

- 1.3. Where paragraph 1.2 above has not been met, the Supplier shall have achieved, and be able to maintain, independent certification to ISO/IEC 27001 (Information Security Management Systems Requirements). The ISO/IEC 27001 certification must have a scope relevant to the Services supplied to, or on behalf of, the Buyer. The scope of certification and the statement of applicability must be acceptable, following review, to the Buyer, including the application of controls from ISO/IEC 27002 (Code of Practice for Information Security Controls).
- 1.4. The Supplier shall follow the UK Government Security Classification Policy (GSCP) in respect of any Buyer's Data being handled in the course of providing the Services and will handle all data in accordance with its security classification. (In the event where the Supplier has an existing Protective Marking Scheme then the Supplier may continue to use this but must map the HMG security classifications against it to ensure the correct controls are applied to the Buyer's Data).
- 1.5. Buyer's Data being handled while providing an ICT solution or service must be separated from all other data on the Supplier's or sub-contractor's own IT equipment to protect the Buyer's Data and enable the data to be identified and securely deleted when required in line with paragraph 1.14. For information stored digitally, this must be at a minimum logically separated. Physical information (e.g., paper) must be physically separated.
- 1.6. The Supplier shall have in place and maintain physical security to premises and sensitive areas used in relation to the delivery of the products or Services, and that store or process Buyer's Data, in line with ISO/IEC 27002 including, but not limited to, entry control mechanisms (e.g. door access), CCTV, alarm systems, etc.
- 1.7. The Supplier shall have in place, implement and maintain an appropriate user access control policy for all ICT systems to ensure only authorised personnel have access to Buyer's Data. This policy should include appropriate segregation of duties and if applicable role based access controls (RBAC). User credentials that give access to Buyer's Data or systems shall be considered to be sensitive data and must be protected accordingly.
- 1.8. The Supplier shall have in place and shall maintain procedural, personnel, physical and technical safeguards to protect Buyer's Data, including but not limited to:
 - 1.8.1. physical security controls;
 - 1.8.2. good industry standard policies and processes;
 - 1.8.3. malware protection;
 - 1.8.4. boundary access controls including firewalls, application gateways, etc;

- 1.8.5. maintenance and use of fully supported software packages in accordance with vendor recommendations;
- 1.8.6. use of secure device configuration and builds;
- 1.8.7. software updates and patching regimes including malware signatures, for operating systems, network devices, applications and services;
- 1.8.8. user identity and access controls, including the use of multi-factor authentication for sensitive data and privileged account accesses;
- 1.8.9. any services provided to the Buyer must capture audit logs for security events in an electronic format at the application, service and system level to meet the Buyer's logging and auditing requirements, plus logs shall be:
 - 1.8.9.1. retained and protected from tampering for a minimum period of six months;
 - 1.8.9.2. made available to the Buyer on request.
- 1.9. The Supplier shall ensure that any Buyer's Data (including email) transmitted over any public network (including the Internet, mobile networks or unprotected enterprise network) or to a mobile device shall be encrypted when transmitted.
- 1.10. The Supplier shall ensure that any Buyer's Data which resides on a mobile, removable or physically uncontrolled device is stored encrypted using a product or system component which has been formally assured through a recognised certification process agreed with the Buyer except where the Buyer has given its prior written consent to an alternative arrangement.
- 1.11. The Supplier shall ensure that any device which is used to process Buyer's Data meets all of the security requirements set out in the NCSC End User Devices Platform Security Guidance, a copy of which can be found at: <https://www.ncsc.gov.uk/guidance/end-user-device-security> and <https://www.ncsc.gov.uk/collection/end-user-device-security/eud-overview/eud-security-principles>.
- 1.12. Whilst in the Supplier's care all removable media and hardcopy paper documents containing Buyer's Data must be handled securely and secured under lock and key when not in use and shall be securely destroyed when no longer required, using either a cross-cut shredder or a professional secure disposal organisation.

The term 'lock and key' is defined as: "securing information in a lockable desk drawer, cupboard or filing cabinet which is under the user's sole control and to which they hold the keys".

- 1.13. When necessary to hand carry removable media and/or hardcopy paper documents containing Buyer's Data, the media or documents being carried shall be kept under cover and transported in such a way as to ensure that no unauthorised person has either visual or physical access to the material being carried. This paragraph shall apply equally regardless of whether the material is being carried inside or outside of company premises.

The term 'under cover' means that the information is carried within an opaque folder or envelope within official premises and buildings and within a closed briefcase or other similar bag or container when outside official premises or buildings.

- 1.14. In the event of termination of Contract due to expiry, as a result of an Insolvency Event or for breach by the Supplier, all information assets provided, created or resulting from provision of the Services shall not be considered as the Supplier's assets and must be returned to the Buyer and written assurance obtained from an appropriate officer of the Supplier that these assets regardless of location and format have been fully sanitised throughout the Supplier's organisation in line with paragraph 1.15.

- 1.15. In the event of termination, equipment failure or obsolescence, all Buyer's Data and Buyer's Information, in either hardcopy or electronic format, that is physically held or logically stored by the Supplier must be accounted for and either physically returned or securely sanitised or destroyed in accordance with the current HMG policy using an NCSC-approved product or method.

Where sanitisation or destruction is not possible for legal, regulatory or technical reasons, such as data stored in a cloud system, Storage Area Network (SAN) or on shared backup tapes, then the Supplier shall protect (and ensure that any sub-contractor protects) the Buyer's Information and Buyer's Data until such time, which may be long after termination or expiry of the Contract, when it can be securely cleansed or destroyed.

Evidence of secure destruction will be required in all cases.

- 1.16. Access by Supplier Staff to Buyer's Data, including user credentials, shall be confined to those individuals who have a "need-to-know" in order to carry out their role; and have undergone mandatory pre-employment screening, to a minimum of HMG Baseline Personnel Security Standard (BPSS); or hold an appropriate National Security Vetting clearance as required by the Buyer. All Supplier Staff must complete this process before access to Buyer's Data is permitted. [Any Supplier Staff who will be in contact with children or vulnerable adults

must, in addition to any security clearance, have successfully undergone an Enhanced DBS (Disclosure and Barring Service) check prior to any contact].

- 1.17. All Supplier Staff who handle Buyer's Data shall have annual awareness training in protecting information.
- 1.18. Notwithstanding any other provisions as to business continuity and disaster recovery in the Contract, the Supplier shall, as a minimum, have in place robust business continuity arrangements and processes including IT disaster recovery plans and procedures that conform to ISO 22301 to ensure that the delivery of the Contract is not adversely affected in the event of an incident. An incident shall be defined as any situation that might, or could lead to, a disruption, loss, emergency or crisis to the Services delivered. If an ISO 22301 certificate is not available the supplier will provide evidence of the effectiveness of their ISO 22301 conformant business continuity arrangements and processes including IT disaster recovery plans and procedures. This must include evidence that the Supplier has tested or exercised these plans within the last 12 months and produced a written report of the outcome, including required actions.
- 1.19. Any suspected or actual breach of the confidentiality, integrity or availability of Buyer's Data, including user credentials, used or handled while providing the Services shall be recorded as a Security Incident. This includes any non-compliance with the Departmental Security Requirements and these provisions, or other security standards pertaining to the solution.

Security Incidents shall be reported to the Buyer immediately, wherever practical, even if unconfirmed or when full details are not known, but always within 24 hours of discovery. If Security Incident reporting has been delayed by more than 24 hours, the Supplier should provide an explanation about the delay.

Security Incidents shall be reported through the Buyer's nominated system or service owner.

Security Incidents shall be investigated by the Supplier with outcomes being notified to the Buyer.

- 1.20. The Supplier shall ensure that any Supplier ICT systems and hosting environments that are used to handle, store or process Buyer's Data, including Supplier ICT connected to Supplier ICT systems used to handle, store or process Buyer's Data, shall be subject to independent IT Health Checks (ITHC) using an NCSC CHECK Scheme ITHC provider before go-live and periodically (at least annually) thereafter. The findings of the ITHC relevant to the Services being provided are to be shared with the Buyer in full without modification or redaction and all necessary remedial work carried out. In the event of significant security

issues being identified, a follow up remediation test may be required, to be determined by the Buyer upon review of the ITHC findings.

- 1.21. The Supplier or sub-contractors providing the Services will provide the Buyer with full details of any actual or future intent to develop, manage, support, process or store Buyer's Data outside of the UK mainland. The Supplier or sub-contractor shall not go ahead with any such proposal without the prior written agreement from the Buyer.
- 1.22. The Buyer reserves the right to audit the Supplier or sub-contractors providing the Services within a mutually agreed timeframe but always within seven days of notice of a request to audit being given. The audit shall cover the overall scope of the Services being supplied and the Supplier's, and any sub-contractors', compliance with the paragraphs contained in this Schedule.
- 1.23. The Supplier and sub-contractors shall undergo appropriate security assurance activities and shall provide appropriate evidence including the production of the necessary security documentation as determined by the Buyer. This will include obtaining any necessary professional security resources required to support the Supplier's and sub-contractor's security assurance activities such as: a Security and Information Risk Advisor (SIRA) certified to NCSC Certified Cyber Security Consultancy (CCSC) or NCSC Certified Cyber Professional (CCP) schemes.
- 1.24. Where the Supplier is delivering an ICT solution to the Buyer they shall design and deliver solutions and services that are compliant with the HMG Security Policy Framework in conjunction with current NCSC Information Assurance Guidance and Buyer's Policy. The Supplier will provide the Buyer with evidence of compliance for the solutions and services to be delivered. The Buyer's expectation is that the Supplier shall provide written evidence of:
 - 1.24.1. compliance with HMG Minimum Cyber Security Standard.
 - 1.24.2. any existing security assurance for the Services to be delivered, such as: ISO/IEC 27001 / 27002 or an equivalent industry level certification (e.g. United Kingdom Accreditation Service).
 - 1.24.3. any existing HMG security accreditations or assurance that are still valid including: details of the awarding body; the scope of the accreditation; any caveats or restrictions to the accreditation; the date awarded, plus a copy of the residual risk statement.
 - 1.24.4. documented progress in achieving any security assurance or accreditation activities including whether documentation has been produced and submitted. The Supplier shall provide details of who the awarding body or organisation will be and date expected.

Additional information and evidence to that listed above may be required to ensure compliance with DfE security requirements as part of the DfE security assurance process. Where a request for evidence or information is made by the Buyer, the Supplier will acknowledge the request within 5 working days and either provide the information within that timeframe, or, if that is not possible, provide a date when the information will be provided to the Buyer. In any case, the Supplier must respond to information requests from the Buyer needed to support the security assurance process promptly and without undue delay.

- 1.25. The Supplier shall contractually enforce all these Departmental Security Requirements onto any third-party suppliers, sub-contractors or partners who could potentially access Buyer's Data in the course of providing the Services.
- 1.26. The Supplier shall comply with the [NCSC's social media guidance: how to use social media safely](#) for any web and social media-based communications. In addition, any Communications Plan deliverable must include a risk assessment relating to the use of web and social media channels for the programme, including controls and mitigations to be applied and how the NCSC social media guidance will be complied with. The Supplier shall implement the necessary controls and mitigations within the plan and regularly review and update the risk assessment throughout the contract period. The Buyer shall have the right to review the risks within the plan and approve the controls and mitigations to be implemented, including requiring the Supplier to implement any additional reasonable controls to ensure risks are managed within the Buyer's risk appetite.
- 1.27. Any Supplier ICT system used to handle, store or process the Buyer's Data, including any Supplier ICT systems connected to systems that handle, store or process the Buyer's Data, must have in place protective monitoring at a level that is commensurate with the security risks posed to those systems and the data held. The Supplier shall provide evidence to the Buyer upon request of the protective monitoring arrangements in place needed to assess compliance with this requirement.

Schedule 18 (Supply Chain Visibility)

1. Definitions

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

"Contracts Finder"	the Government's publishing portal for public sector procurement opportunities;
"SME"	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium sized enterprises;
"Supply Chain Information Report Template"	the document at Annex 1 of this Schedule 18; and
"Unconnected Sub-contract"	any contract or agreement which is not a Sub-contract and is between the Supplier and a third party (which is not an Affiliate of the Supplier) and is a qualifying contract under regulation 6 of The Reporting on Payment Practices and Performance Regulations 2017
"Unconnected Sub-contractor"	any third party with whom the Supplier enters into an Unconnected Sub-contract

2. Visibility of Sub-Contract Opportunities in the Supply Chain

2.1 The Supplier shall:

- 2.1.1 subject to Paragraph 2.3, advertise on Contracts Finder all Sub-Contract opportunities arising from or in connection with the provision of the Deliverables above a minimum threshold of £25,000 that arise during the Contract Period;
- 2.1.2 within 90 days of awarding a Sub-Contract to a Subcontractor, update the notice on Contract Finder with details of the successful Subcontractor;
- 2.1.3 monitor the number, type and value of the Sub-Contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Contract Period;
- 2.1.4 provide reports on the information at Paragraph 2.1.3 to the Buyer in the format and frequency as reasonably specified by the Buyer; and
- 2.1.5 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.

- 2.2 Each advert referred to at Paragraph 2.1.1 of this Schedule 18 shall provide a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Supplier.
- 2.3 The obligations on the Supplier set out at Paragraph 2.1 shall only apply in respect of Sub-Contract opportunities arising after the Effective Date.
- 2.4 Notwithstanding Paragraph 2.1, the Buyer may by giving its prior Approval, agree that a Sub-Contract opportunity is not required to be advertised by the Supplier on Contracts Finder.

3. Visibility of Supply Chain Spend

- 3.1 In addition to any other management information requirements set out in this Contract, the Supplier agrees and acknowledges that it shall, at no charge, provide timely, full, accurate and complete SME management information reports (the "SME Management Information Reports") to the Buyer which incorporates the data described in the Supply Chain Information Report Template which is:
 - 3.1.1 the total contract revenue received directly on this Contract;
 - 3.1.2 the total value of sub-contracted revenues under this Contract (including revenues for non-SMEs/non-VCSEs); and
 - 3.1.3 the total value of sub-contracted revenues to SMEs and VCSEs.
- 3.2 The SME Management Information Reports shall be provided by the Supplier in the correct format as required by the Supply Chain Information Report Template and any guidance issued by the Buyer from time to time. The Supplier agrees that it shall use the Supply Chain Information Report Template to provide the information detailed at Paragraph 3.1.1 – 3.1.3 and acknowledges that the template may be changed from time to time (including the data required and/or format) by the Buyer issuing a replacement version. The Buyer agrees to give at least thirty (30) days' notice in writing of any such change and shall specify the date from which it must be used.
- 3.3 The Supplier further agrees and acknowledges that it may not make any amendment to the Supply Chain Information Report Template without the prior Approval of the Buyer.

4 Visibility of Payment Practice

- 4.1 If this Contract has at the Effective Date an anticipated contract value in excess of £5 million per annum (excluding VAT) averaged over this Contract Period and without prejudice to Clause 4.6, Clause 8.2.1(b) and 8.2.2(b), the Supplier shall:
 - (a) pay any sums which are due from it to any Sub-contractor or Unconnected Sub-contractor pursuant to any invoice (or other notice of an amount for payment) on the earlier of:
 - (i) the date set out for payment in the relevant Sub-contract or Unconnected Sub-contract; or

- (ii) the date that falls sixty (60) days after the day on which the Supplier receives an invoice (or otherwise has notice of an amount for payment); and
 - (b) include within the Supply Chain Information Report a summary of its compliance with this Paragraph 4.4, such data to be certified every six months by a director of the Supplier as being accurate and not misleading.
- 4.2 If any Supply Chain Information Report shows that in either of the last two six month periods the Supplier failed to pay 95% or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) days of receipt, the Supplier shall provide to the Buyer within 15 Working Days of submission of the latest Supply Chain Information Report an action plan (the “**Action Plan**”) for improvement. The Action Plan shall include, but not be limited to, the following:
 - (a) identification of the primary causes of failure to pay 95% or above of all Sub-contractor or Unconnected Sub-contractor invoices (or other notice of an amount for payment) within sixty (60) days of receipt;
 - (b) actions to address each of the causes set out in Sub-Paragraph (a); and
 - (c) mechanism for and commitment to regular reporting on progress to the Supplier’s Board.
- 4.3 Where the Supplier fails to pay any sums due to any Sub-contractor or Unconnected Sub-contractor in accordance with the terms set out in the relevant Sub-contract or Unconnected Sub-contract, the Action Plan shall include details of the steps the Supplier will take to address this.
- 4.4 The Supplier shall comply with the Action Plan or any similar action plan connected to the payment of Sub-contractors or Unconnected Sub-contractors which is required to be submitted to the Authority as part of the procurement process and such action plan shall be included as part of the Supplier’s Solution (to the extent it is not already included).
- 4.5 If the Supplier notifies the Buyer (whether in a Supply Chain Report or otherwise) that the Supplier has failed to pay 95% or above of its Unconnected Sub-contractors within sixty (60) days after the day on which the Supplier receives an invoice or otherwise has notice of an amount for payment, or the Buyer otherwise discovers the same, the Buyer shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).

Annex 1 - Supply Chain Information Report template

	Contract Year 20[]			
	Under this Contract		Supplier as a whole	
	£	%	£	%
Estimated total contract revenue (£) to be received in this Contract Year	£[]	100%	£[]	100%
Total value of Sub-contracted revenues (£) in this Contract Year	£[]	[]	£[]	[]
Total value of Sub-contracted revenues to SMEs (£) in this Contract Year	£[]	[]	£[]	[]
Total value of Sub-contracted revenues to VCSEs (£) in this Contract Year	£[]	[]	£[]	[]

Schedule 19 (Cyber Essentials Scheme)

1. Definitions

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

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

2. What Certification do you need

- 2.1 Where the Award Form requires that the Supplier provide a Cyber Essentials Certificate prior to Contract Award, the Supplier shall provide a valid Cyber Essentials Certificate to the Buyer. Where the Supplier fails to comply with this Paragraph 2.1 it shall be prohibited from commencing the provision of Deliverables under this Contract until such time as the Supplier has evidenced to the Buyer its compliance with this Paragraph 2.1.
- 2.2 Where the Supplier continues to Process Cyber Essentials Scheme Data during this Contract Period of this Contract the Supplier shall deliver to the Buyer evidence of renewal of the Cyber Essentials Certificate on each

- anniversary of the first applicable certificate obtained by the Supplier under Paragraph 2.1.
- 2.3 Where the Supplier is due to Process Cyber Essentials Scheme Data the Supplier shall deliver to the Buyer evidence of:
- 2.3.1 a valid and current Cyber Essentials Certificate before the Supplier Processes any such Cyber Essentials Scheme Data; and
 - 2.3.2 renewal of the valid Cyber Essentials Certificate on each anniversary of the first Cyber Essentials Scheme certificate obtained by the Supplier under Paragraph 2.1.
- 2.4 In the event that the Supplier fails to comply with Paragraphs 2.2 or 2.3 (as applicable), the Buyer reserves the right to terminate this Contract for Material Default and the consequences of termination in Clause 14.5.1 shall apply.
- 2.5 The Supplier shall ensure that all Sub-Contracts with Subcontractors who Process Cyber Essentials Scheme Data require the Subcontractor to provide a valid Cyber Essentials Certificate, at the equivalent level to that held by the Supplier. The Supplier cannot require the Subcontractor to commence the provision of Deliverables under the Sub-Contract until the Subcontractor has evidenced to the Supplier that it holds a valid Cyber Essentials Certificate.
- 2.6 The Supplier must manage, and must ensure that all Subcontractors manage, all end-user devices used by the Supplier and the Subcontractor on which Cyber Essentials Scheme Data is processed by ensuring those devices are within the scope of the current Cyber Essentials Certificates held by the Supplier and the Subcontractor, or any ISO/IEC 27001 (at least ISO/IEC 27001:2013) certification issued by a UKAS-approved certification body, where the scope of that certification includes the Deliverables.
- 2.7 This Schedule shall survive termination or expiry of this Contract.

Schedule 20 (Processing Data)

1. Status of the Controller

- 1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA 2018. A Party may act as:
- 1.1.1 "Controller" in respect of the other Party who is "Processor";
 - 1.1.2 "Processor" in respect of the other Party who is "Controller";
 - 1.1.3 "Joint Controller" with the other Party;
 - 1.1.4 "Independent Controller" of the Personal Data where the other Party is also "Controller",
- in respect of certain Personal Data under a Contract and shall specify in Annex 1 (Processing Personal Data) which scenario they think shall apply in each situation.

2. Where one Party is Controller and the other Party its Processor

- 2.1 Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (Processing Personal Data) by the Controller and may not be determined by the Processor.
- 2.2 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 2.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:
- 2.3.1 a systematic description of the envisaged Processing and the purpose of the Processing;
 - 2.3.2 an assessment of the necessity and proportionality of the Processing in relation to the Services;
 - 2.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 2.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 2.4 The Processor shall, in relation to any Personal Data Processed in connection with its obligations under this Contract:
- 2.4.1 process that Personal Data only in accordance with Annex 1 (Processing Personal Data) unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before Processing the Personal Data unless prohibited by Law;

- 2.4.2 ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 18.4 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
- (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.
- 2.4.3 ensure that:
- (a) the Processor Personnel do not Process Personal Data except in accordance with this Contract (and in particular Annex 1 (Processing Personal Data));
 - (b) it uses best endeavours to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (i) are aware of and comply with the Processor's duties under this Schedule 20, Clauses 18 (Data protection), 19 (What you must keep confidential) and 20 (When you can share information);
 - (ii) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
 - (iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by this Contract; and
 - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data;
- 2.4.4 not transfer Personal Data outside of the UK and/or the EEA unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
- (a) the destination country has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR (or section 74A of DPA 2018) and/or the transfer is in accordance with Article 45 of the EU GDPR (where applicable); or
 - (b) the Controller and/or the Processor have provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 of the DPA 2018) and/or Article 46 of the EU GDPR (where applicable) as determined by the Controller which could include relevant parties entering into:

- (i) where the transfer is subject to UK GDPR:
 - (A) the International Data Transfer Agreement issued by the Information Commissioner under S119A(1) of the DPA 2018 (the "**IDTA**"); or
 - (B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time ("**EU SCCs**") together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "**Addendum**"), as published by the Information Commissioner's Office from time to time under section 119A(1) of the DPA 2018; and/or
 - (ii) where the transfer is subject to EU GDPR, the EU SCCs,
 - as well as any additional measures determined by the Controller being implemented by the importing party;
 - (c) the Data Subject has enforceable rights and effective legal remedies;
 - (d) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (e) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data.
- 2.4.5 at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of this Contract unless the Processor is required by Law to retain the Personal Data.
- 2.5 Subject to Paragraph 2.6 of this Schedule 20, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with this Contract it:
- 2.5.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
 - 2.5.2 receives a request to rectify, block or erase any Personal Data;
 - 2.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

- 2.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under this Contract;
 - 2.5.5 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
 - 2.5.6 becomes aware of a Data Loss Event.
- 2.6 The Processor's obligation to notify under Paragraph 2.5 of this Schedule 20 shall include the provision of further information to the Controller, as details become available.
- 2.7 Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Paragraph 2.5 of this Schedule 20 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
- 2.7.1 the Controller with full details and copies of the complaint, communication or request;
 - 2.7.2 such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - 2.7.3 the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 2.7.4 assistance as requested by the Controller following any Data Loss Event; and/or
 - 2.7.5 assistance as requested by the Controller with respect to any request from the Information Commissioner's Office or any other regulatory authority, or any consultation by the Controller with the Information Commissioner's Office or any other regulatory authority.
- 2.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Schedule 20. This requirement does not apply where the Processor employs fewer than two hundred and fifty (250) staff, unless:
- 2.8.1 the Controller determines that the Processing is not occasional;
 - 2.8.2 the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
 - 2.8.3 the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 2.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 2.10 The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.

- 2.11 Before allowing any Subprocessor to Process any Personal Data related to this Contract, the Processor must:
- 2.11.1 notify the Controller in writing of the intended Subprocessor and Processing;
 - 2.11.2 obtain the written consent of the Controller;
 - 2.11.3 enter into a written agreement with the Subprocessor which gives effect to the terms set out in this Schedule 20 such that they apply to the Subprocessor; and
 - 2.11.4 provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
- 2.12 The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
- 2.13 The Parties agree to take account of any guidance issued by the Information Commissioner's Office or any other regulatory authority. The Buyer may on not less than thirty (30) Working Days' notice to the Supplier amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office or any other regulatory authority.

3. Where the Parties are Joint Controllers of Personal Data

In the event that the Parties are Joint Controllers in respect of Personal Data under this Contract, the Parties shall implement Paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex 2 (Joint Controller Agreement) to this Schedule 20 (Processing Data).

4. Independent Controllers of Personal Data

- 4.1 With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
- 4.2 Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
- 4.3 Where a Party has provided Personal Data to the other Party in accordance with Paragraph 4.2 of this Schedule 20 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
- 4.4 The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of this Contract.
- 4.5 The Parties shall only provide Personal Data to each other:
- 4.5.1 to the extent necessary to perform their respective obligations under this Contract;

- 4.5.2 in compliance with the Data Protection Legislation (including by ensuring all required fair processing information has been given to affected Data Subjects);
- 4.5.3 where the provision of Personal Data from one Party to another involves transfer of such data to outside the UK and/or the EEA, if the prior written consent of the non-transferring Party has been obtained and the following conditions are fulfilled:
- (a) the destination country has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR or DPA 2018 Section 74A and/or Article 45 of the EU GDPR (where applicable); or
 - (b) the transferring Party has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or DPA 2018 Section 75 and/or Article 46 of the EU GDPR (where applicable)) as determined by the non-transferring Party which could include:
 - (i) where the transfer is subject to UK GDPR:
 - (A) the International Data Transfer Agreement (the "**IDTA**") ""as published by the Information Commissioner's Office or such updated version of such IDTA as is published by the Information Commissioner's Office under section 119A(1) of the DPA 2018 from time to time; or
 - (B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time (the "**EU SCCs**"), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "**Addendum**") as published by the Information Commissioner's Office from time to time; and/or
 - (ii) where the transfer is subject to EU GDPR, the EU SCCs,
as well as any additional measures determined by the Controller being implemented by the importing party;
 - (c) the Data Subject has enforceable rights and effective legal remedies;
 - (d) the transferring Party 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 non-transferring Party in meeting its obligations); and

- (e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data; and
- 4.5.4 where it has recorded it in Annex 1 (Processing Personal Data).
- 4.6 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.
- 4.7 A Party Processing Personal Data for the purposes of this Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.
- 4.8 Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to this Contract ("**Request Recipient**"):
 - 4.8.1 the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
 - 4.8.2 where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
 - (a) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
 - (b) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.
- 4.9 Each Party shall promptly notify the other Party upon it becoming aware of any Data Loss Event relating to Personal Data provided by the other Party pursuant to this Contract and shall:
 - 4.9.1 do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Data Loss Event;
 - 4.9.2 implement any measures necessary to restore the security of any compromised Personal Data;

- 4.9.3 work with the other Party to make any required notifications to the Information Commissioner's Office or any other regulatory authority and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
 - 4.9.4 not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
- 4.10 Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under this Contract as specified in Annex 1 (Processing Personal Data).
- 4.11 Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under this Contract which is specified in Annex 1 (Processing Personal Data).
- 4.12 Notwithstanding the general application of Paragraphs 2.1 to 2.14 of this Schedule 20 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with Paragraphs 4.2 to 4.12 of this Schedule 20.

Annex 1 – Processing Personal Data

1. This Annex shall be completed by the Controller, who may take account of the view of the Processor, however the final decision as to the content of this Annex shall be with the Buyer at its absolute discretion.

1.1 The contact details of the Buyer’s Data Protection Officer are:



1.2 The contact details of the Supplier’s Data Protection Officer are:



1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.

1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p>The Buyer is Controller and the Supplier is Processor.</p> <p>The Parties acknowledge that in accordance with paragraph 2 to paragraph 15 and for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor of the following Personal Data:</p> <ul style="list-style-type: none"> All personal data required for the execution of the services detailed in this contract.
Subject matter of the Processing	<p>There is no intent throughout this programme to obtain personal data from members of the public. The Supplier will work with LAs to provide support relating to EY sufficiency duties and wraparound care provision. To enable the supplier to work to support the individual LAs they will need contact details of relevant staff in the LA to organise meetings etc.</p>
Duration of the Processing	<p>Processing activity to last the duration of the contract (January 2024 – March 2026).</p> <p>If the optional extension within this contract is activated, the duration of the data processing will be extended to the end of the extension period as detailed by the Department at the time of agreeing the extension.</p>

Description	Details
Nature and purposes of the Processing	<p>The nature of the processing includes collecting, recording, organising, structuring, storing, adaptation, retrieval, use and destruction of contact data necessary to:</p> <ul style="list-style-type: none"> The Supplier may collect, process and store personal and commercially sensitive data where this is necessary to comply with contract requirements and service delivery. The Supplier must not transmit, disseminate or make available the data to third parties outside of this contract and the relevant LAs being supported. The Supplier must not retain or process the data for use outside the scope of this contract and should ensure safe destruction of the data as agreed in the Exit Plan.
Type of Personal Data being Processed	<ul style="list-style-type: none"> Identifying information including LA official names, work email addresses and work contact numbers.
Categories of Data Subject	<ul style="list-style-type: none"> Multiple – adults, DfE employees, customer employees (e.g. LA officials), prospective customers (providers), EY and wraparound stakeholders, EY and wraparound service providers.
Plan for return and destruction of the data once the Processing is complete UNLESS requirement under law to preserve that type of data	<p>Retention of project personal data for one year following the end of the contract, or when directed by the Controller to delete or return personal data. All personal data to be suitably tagged to allow identification and destruction of data after the agreed period.</p>
Locations at which the Supplier and/or its Sub-contractors process Personal Data under this Contract and international transfers and legal gateway	<p>All data is processed online in SharePoint and in the UK only. Only Childcare Works project team will have access to folders which will be held on a Mott MacDonald SharePoint site. Any secure folders will be shared with the client via a shared SharePoint site. Any files with personal data will be stored securely on SharePoint site. If confidential data is needed to be shared it will be password encrypted.</p>
Protective Measures that the Supplier and, where applicable, its Sub-contractors have implemented to protect Personal Data processed under this Contract Agreement against a breach of security (insofar as that breach of security relates to data) or a Data Loss Event	<p>All data is processed online in SharePoint. Only Childcare Works project team will have access to folders which will be held on a Mott MacDonald SharePoint site.</p> <p>Mott MacDonald is committed to maintaining robust information and cyber security arrangements. All Mott MacDonald company and client information (including personal information) is treated as confidential and is not made available or disclosed to, any individuals not authorised to access/receive it.</p>

Description	Details
	<p>Our treatment of information security risk is embedded into all of our activities and is supported by our ethics policy and staff code of conduct. Appropriate security is in place for the information we hold, including the security of our offices and the storage of archived information.</p> <p>Mott MacDonald operates a robust and secure data and communications network managed in accordance with ISO/IEC 27001:2013. All digital personal information is stored on secure access controlled (physical and logical) IT systems. These are hosted within secure network and data centre environments protected by intrusion detection technologies and subject to regular penetration testing. Servers within these data centres are fully replicated with backup and failover facilities provisioned in geographically isolated locations to minimise business continuity risks.</p> <p>We recognise that our people are one of our most effective lines of defence when identifying and mitigating both cyber and physical security risks. We therefore put great emphasis on training our people and leading by example to ensure the appropriate security behaviours are understood and observed.</p> <p>A full risk assessment of all data and IT systems is performed annually and targeted risk assessments are carried out before: (1) any significant changes to our systems are implemented; and (2) any new systems are deployed.</p> <p>Mott MacDonald’s information security management system (ISMS) is certified to ISO/IEC 27001:2013 and ‘Cyber Essentials Plus’ (a scheme operated by the UK government). We have attached copies of our Information Security Policy, ISO/IEC 27001:2013 certificate and Cyber Essentials Plus certificate for information.”</p> <p>All team members and sub-consultants will be inducted on Mott MacDonald’s information security risk assessment completed for this project.</p>

Annex 2 - Joint Controller Agreement

Not Used.

Schedule 21 (Variation Form)

This form is to be used in order to change a contract in accordance with Clause 28 of the Core Terms (Changing this Contract).

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

1. This Variation must be agreed and signed by both Parties to this Contract and shall only be effective from the date it is signed by the Buyer.
2. Words and expressions in this Variation shall have the meanings given to them in this Contract.

3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the Buyer

Signature

Date

Name (in Capitals)

Address

Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature

Date

Name (in Capitals)

Address

Schedule 22 (Insurance Requirements)

1. The insurance you need to have

- 1.1 The Supplier shall take out and maintain or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule and any other insurances as may be required by applicable Law (together the “**Insurances**”). The Supplier shall ensure that each of the Insurances is effective no later than the Effective Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and
- 1.2 The Insurances shall be:
 - 1.2.1 maintained in accordance with Good Industry Practice;
 - 1.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the London insurance market from time to time;
 - 1.2.3 taken out and maintained with insurers of good financial standing and good repute in the London insurance market; and
 - 1.2.4 maintained until the End Date except in relation to Professional Indemnity where required under the Annex Part C which shall be maintained for at least six (6) years after the End Date.
- 1.3 The Supplier shall ensure that the public liability policy contain an indemnity to principals clause under which the Buyer shall be indemnified in respect of claims made against the Buyer in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.

2. How to manage the insurance

- 2.1 Without limiting the other provisions of this Contract, the Supplier shall:
 - 2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
 - 2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and
 - 2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

3. What happens if you aren't insured

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which

would entitle any insurer to refuse to pay any claim under any of the Insurances.

- 3.2 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Supplier shall immediately notify the Buyer of such failure. The Supplier and Buyer shall agree and implement the relevant measures to rectify such failure within 10 Working Days failing which the Buyer may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier or take such other steps to rectify the failure to purchase or maintain any of the Insurances in full force an effect..

4. Evidence of insurance you must provide

- 4.1 The Supplier shall upon the Effective Date and within 15 Working Days after the renewal of each of the Insurances, provide evidence, in the form of a certificate only, that the Insurances are in force and effect and meet in full the requirements of this Schedule.

5. Making sure you are insured to the required amount

- 5.1 The Supplier shall ensure that any Insurances which are stated to have a minimum limit "in the aggregate" are maintained for the minimum limit of indemnity for the periods specified in this Schedule.
- 5.2 Where the minimum limit of indemnity required in relation to any of the Insurances falls below the minimum limit of indemnity specified in this Contract because a claim or claims are made, the Supplier shall:
- a) ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified in this Contract; or
 - b) if the Supplier reasonably determines that is, or has reason to believe that it will be, unable to ensure that insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified in this Contract, notify the Relevant Authority and submit the details of the facts giving rise to this and its proposed solution for maintaining the minimum limit of indemnity specified.

6. Cancelled Insurance

- 6.1 The Supplier shall notify the Buyer in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 6.2 The Supplier shall use best endeavours to ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Buyer (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

7. Insurance claims

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or this Contract for which it may be entitled to claim under any of the Insurances. In the event that the Buyer receives a claim relating to or arising out of this Contract or the Deliverables, the Supplier shall co-operate with the Buyer and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner provided that if the Supplier reasonably determines that such cooperation and assistance would put it in breach of the obligations in its insurance policies, it shall:
- 7.1.1 notify the Buyer;
 - 7.1.2 provide the Buyer with reasons why complying with this clause 7.1 would put it in breach; and
 - 7.1.3 propose to the Buyer a solution for managing the conflicting obligations.
- 7.2 Except where the Buyer is the claimant party, the Supplier shall give the Buyer notice within twenty (20) Working Days after any insurance claim in excess of **10% of the maximum limit** under the relevant insurance of Mott MacDonald Group Limited and subsidiary companies (together, the "Group") relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Buyer) full details of the incident giving rise to the claim.
- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Buyer any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

ANNEX: REQUIRED INSURANCES

PART A: THIRD PARTY PUBLIC AND PRODUCTS LIABILITY INSURANCE

1. Insured

The Supplier

2. Interest

2.1 To indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay as damages, including claimant's costs and expenses, in respect of accidental:

2.1.1 death or bodily injury to or sickness, illness or disease contracted by any person; and

2.1.2 loss of or damage to physical property;

happening during the period of insurance (as specified in Paragraph 5) and arising out of or in connection with the provision of the Deliverables and in connection with this Contract.

3. Limit of indemnity

3.1 Not less than £5,000,000 in respect of any one occurrence, the number of occurrences being unlimited in any annual policy period, but £5,000,000 in the aggregate per annum in respect of products and pollution liability (to the extent insured by the relevant policy).

4. Territorial limits

United Kingdom

5. Period of insurance

From the date of this Contract for the period of this Contract and renewable on an annual basis unless agreed otherwise by the Buyer in writing.

6. Cover features and extensions

Indemnity to principals clause under which the Buyer shall be indemnified in respect of claims made against the Buyer in respect of death or bodily injury or third party property damage arising out of or in connection with this Contract and for which the Supplier is legally liable.

7. Principal exclusions

7.1 War and related perils.

7.2 Nuclear and radioactive risks.

7.3 Liability for death, illness, disease or bodily injury sustained by employees of the Insured arising out of the course of their employment.

- 7.4 Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable Law in respect of such vehicles.
- 7.5 Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the Insured.
- 7.6 Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.
- 7.7 Liability arising from the ownership, possession or use of any aircraft or marine vessel.
- 7.8 Liability arising from seepage and pollution unless caused by a sudden, unintended, unexpected and accidental occurrence.

PART B: UNITED KINGDOM COMPULSORY INSURANCES

The Supplier shall meet its insurance obligations under applicable Law in full, including, United Kingdom employers' liability insurance and motor third party liability insurance.

PART C: ADDITIONAL INSURANCES

Professional Indemnity Insurance £1,000,000	Where the Buyer requirement includes a potential breach of professional duty by the Supplier in connection with professional advice and / or professional services to be maintained for six (6) years after the End Date.
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Schedule 24 (Financial Difficulties)

1. Definitions

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

"Applicable Financial Indicators"	means the financial indicators from Part C of Annex 2 which are to apply to the Monitored Suppliers as set out in Part B of Annex 3;
"Credit Rating Threshold"	the minimum credit rating level for each entity in the FDE Group as set out in Part A of Annex 2;
"Credit Reference Agencies"	the credit reference agencies listed in Part B of Annex 1;
"Credit Score Notification Trigger"	the minimum size of any downgrade in a credit score, set out in Part B of Annex 2, which triggers a Credit Score Notification Trigger Event;
"Credit Score Notification Trigger Event"	any downgrade of a credit score which is equal to or greater than the Credit Score Notification Trigger;
"Credit Score Threshold"	the minimum credit score level for each entity in the FDE Group as set out in Part B of Annex 2;
"Financial Distress Service Continuity Plan"	a plan setting out how the Supplier will ensure the continued performance and delivery of the Deliverables in accordance with this Contract in the event that a Financial Distress Event occurs. This plan should include what the Buyer would need to put in place to ensure performance and delivery of the Deliverables in accordance with this Contract up to and including any Insolvency Event in respect of the relevant FDE Group entity;
"Financial Indicators"	in respect of the Supplier, Key Sub-contractors and the Guarantor, means each of the financial indicators set out at Part C of Annex 2; and in respect of each Monitored Supplier, means those Applicable Financial Indicators;
"Financial Target Thresholds"	means the target thresholds for each of the Financial Indicators set out at Part C of Annex 2;

"Primary Metric"	financial indicators pursuant to Paragraph 5.4
"Monitored Supplier"	those entities specified in Part B of Annex 3; and
"Rating Agencies"	the rating agencies listed in Part A of Annex 1.

2. When this Schedule applies

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

3. Credit Ratings

- 3.1 The Supplier warrants and represents to the Buyer that as at the Effective Date the long term credit ratings issued for each entity in the FDE Group by each of the Rating Agencies are as set out in Part A of Annex 2.
- 3.2 The Supplier shall:
 - 3.2.1 regularly monitor the credit ratings of each entity in the FDE Group with the Rating Agencies; and
 - 3.2.2 promptly (and in any event within five (5) Working Days) notify the Buyer in writing if there is any downgrade in the credit rating issued by any Rating Agency for any entity in the FDE Group.
- 3.3 For the purposes of determining whether a Financial Distress Event has occurred, and for the purposes of determining relief under Paragraph 8 if credit rating is the Primary Metric, the credit rating of an FDE Group entity shall be deemed to have dropped below the applicable Credit Rating Threshold if any of the Rating Agencies have given a credit rating level for that FDE Group entity which is below the applicable Credit Rating Threshold.

4. Credit Scores

- 4.1 The Supplier warrants and represents to the Buyer that as at the Effective Date the credit scores issued for each entity in the FDE Group by each of the Credit Reference Agencies are as set out in Part B of Annex 2.
- 4.2 The Supplier shall:
 - 4.2.1 regularly monitor the credit scores of each entity in the FDE Group with the Credit Reference Agencies; and
 - 4.2.2 promptly notify (or shall procure that its auditors promptly notify) the Buyer in writing if there is any Credit Score Notification Trigger Event for any entity in the FDE Group (and in any event within five (5) Working Days).

- 4.3 For the purposes of determining whether a Financial Distress Event has occurred, and for the purposes of determining relief under Paragraph 8 if credit score is the Primary Metric, the credit score of an FDE Group entity shall be deemed to have dropped below the applicable Credit Score Threshold if any of the Credit Reference Agencies have given a credit score for that FDE Group entity which is below the applicable Credit Score Threshold.

5. Financial Indicators

- 5.1 The Supplier shall monitor and report on the Financial Indicators for each entity in the FDE Group against the Financial Target Thresholds at least at the frequency set out for each at Part C of Annex 2 (where specified) and in any event, on a regular basis and no less than once a year within one hundred and twenty (120) days after the accounting reference date

- 5.2 Subject to the calculation methodology set out at Annex 4 of this Schedule, the Financial Indicators and the corresponding calculations and thresholds used to determine whether a Financial Distress Event has occurred in respect of those Financial Indicators, shall be as set out in Appendix I: *Standard Financial Ratios of Assessing and Monitoring the Economic and Financial Standing of Bidders and Suppliers – May 2021* (as amended, supplemented or replaced from time to time) which as at the Effective Date can be found at:

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

- 5.3 Each report submitted by the Supplier pursuant to Paragraph 5.1 shall:
- 5.3.1 be a single report with separate sections for each of the FDE Group entities;
 - 5.3.2 contain a sufficient level of information to enable the Buyer to verify the calculations that have been made in respect of the Financial Indicators;
 - 5.3.3 include key financial and other supporting information (including any accounts data that has been relied on) as separate annexes;
 - 5.3.4 be based on the audited accounts for the date or period on which the Financial Indicator is based or, where the Financial Indicator is not linked to an accounting period or an accounting reference date, on unaudited management accounts prepared in accordance with their normal timetable; and
 - 5.3.5 include a history of the Financial Indicators reported by the Supplier in graph form to enable the Buyer to easily analyse and assess the trends in financial performance.
- 5.4 For the purposes of determining whether a Financial Distress Event has occurred, and for the purposes of determining relief under Paragraph 8 if financial indicators are the Primary Metric, the Financial Indicator of an FDE

Group entity shall be deemed to have dropped below the applicable Financial Target Threshold if:

- 5.4.1 a report submitted by the Supplier pursuant to Paragraph 5.1 shows that any FDE Group entity has failed to meet or exceed the Financial Target Threshold for any one of the Financial Indicators set out in Part C of Annex 2 of this Schedule;
- 5.4.2 a report submitted by the Supplier pursuant to Paragraph 5.1 does not comply with the requirements set out in Paragraph 5.3; or
- 5.4.3 the Supplier does not deliver a report pursuant to Paragraph 5.3 in accordance with the applicable monitoring and reporting frequency.

6. What happens if there is a financial distress event

- 6.1 The Supplier shall promptly notify (or shall procure that its auditors promptly notify) the Buyer in writing following the occurrence of a Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event and in any event, ensure that such notification is made within 10 Working Days of the date on which the Supplier first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event.
- 6.2 In the event of a Financial Distress Event then, immediately upon notification of the Financial Distress Event (or if the Buyer becomes aware of the Financial Distress Event without notification and brings the event to the attention of the Supplier), the Supplier shall have the obligations and the Buyer shall have the rights and remedies as set out in Paragraphs 6.4 to 6.6.
- 6.3 [In the event that a Financial Distress Event arises due to a Key Subcontractor notifying the Buyer that the Supplier has not satisfied any sums properly due under a specified invoice and not subject to a genuine dispute then, the Buyer shall not exercise any of its rights or remedies under Paragraph 6.4 without first giving the Supplier ten (10) Working Days to:
 - 6.3.1 rectify such late or non-payment; or
 - 6.3.2 demonstrate to the Buyer's reasonable satisfaction that there is a valid reason for late or non-payment.]
- 6.4 The Supplier shall (and shall procure that each Additional FDE Group Member shall):
 - 6.4.1 at the request of the Buyer meet the Buyer as soon as reasonably practicable (and in any event within three (3) Working Days of the initial notification (or awareness) of the Financial Distress Event) to review the effect of the Financial Distress Event on the continued performance of this Contract and delivery of the Deliverables in accordance this Contract; and
 - 6.4.2 where the Buyer reasonably believes (taking into account the discussions and any representations made under Paragraph 6.4.1)

that the Financial Distress Event could impact on the continued performance of this Contract and delivery of the Deliverables in accordance with this Contract:

- (a) submit to the Buyer for its Approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within ten (10) Working Days of the initial notification (or awareness) of the Financial Distress Event);
 - (b) use reasonable endeavours to put in place the necessary measures with each Additional FDE Group Member to ensure that it is able to provide financial information relating to that Additional FDE Group Member to the Buyer; and
 - (c) provide such financial information relating to FDE Group entity as the Buyer may reasonably require.
- 6.5 If the Buyer does not (acting reasonably) approve the draft Financial Distress Service Continuity Plan, it shall inform the Supplier of its reasons and the Supplier shall take those reasons into account in the preparation of a further draft Financial Distress Service Continuity Plan, which shall be resubmitted to the Buyer within five (5) Working Days of the rejection of the first or subsequent (as the case may be) drafts. This process shall be repeated until the Financial Distress Service Continuity Plan is either:
- 6.5.1 Approved;
 - 6.5.2 referred, by notice sent by either Party to the other Party explaining why it thinks the Financial Distress Service Continuity Plan has not been Approved, to commercial negotiation led by senior representatives who have authority to agree the Financial Distress Service Continuity Plan (to be held within 28 days of the date of the notice); or
 - 6.5.3 finally rejected by the Buyer.
- 6.6 Following Approval of the Financial Distress Service Continuity Plan by the Buyer, the Supplier shall:
- 6.6.1 on a regular basis (which shall not be less than Monthly), review the Financial Distress Service Continuity Plan and assess whether it remains adequate and up to date to ensure the continued performance this Contract and delivery of the Deliverables in accordance with this Contract;
 - 6.6.2 provide a written report of the results of each review and assessment carried out under Paragraph 6.6.1 to the Buyer;
 - 6.6.3 where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with Paragraph 6.6.1, submit an updated Financial Distress Service Continuity Plan to the Buyer

for its Approval, and the provisions of Paragraphs 6.5 shall apply to the review and Approval process for the updated Financial Distress Service Continuity Plan; and

- 6.6.4 comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).
- 6.7 Where the Supplier reasonably believes that the relevant Financial Distress Event (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Buyer and subject to the agreement of the Parties, the Supplier may be relieved of its obligations under Paragraph 6.6.

7. When the Buyer can terminate for financial distress

- 7.1 The Buyer shall be entitled to terminate this Contract for Material Default if:
 - 7.1.1 the Supplier fails to notify the Buyer of a Financial Distress Event in accordance with Paragraph 6.1;
 - 7.1.2 the Supplier fails to comply with any part of Paragraph 6.4;
 - 7.1.3 subject to Paragraph 7.2, the Buyer finally rejects a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 6.5.3;
 - 7.1.4 the senior representatives who have authority to agree the Financial Distress Service Continuity Plan (acting reasonably) do not meet within 28 days of the date of the notice of referral pursuant to Paragraph 6.5.2;
 - 7.1.5 the senior representatives who have authority to agree the Financial Distress Service Continuity Plan (acting reasonably) do not agree the Financial Distress Service Continuity Plan after it has been referred pursuant to Paragraph 6.5.2; and/or
 - 7.1.6 the Supplier fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 6.6.4,

and the consequences of termination in Clause 14.5.1 shall apply.

- 7.2 A Material Default may only occur under Paragraph 7.1.3 after the expiry of the first five (5) Working Days period for the Supplier to submit a revised draft of the first draft of the Financial Distress Service Continuity Plan starting on and from the date on which the Buyer first notified the Supplier that Supplier must submit a revised draft of the first draft Financial Distress Service Continuity Plan.

8. What happens If your Primary Metric is still good

Without prejudice to the Supplier's obligations and the Buyer's rights and remedies under Paragraph 6, if, following the occurrence of a Financial Distress

Event, the Supplier evidences to the Buyer's satisfaction that the Primary Metric shows that the Financial Distress Event no longer exists, then:

- 8.1 the Supplier shall be relieved automatically of its obligations under Paragraphs 6.4 to 6.6; and
- 8.2 the Buyer shall not be entitled to require the Supplier to provide financial information in accordance with Paragraph 6.4.2(c)).

ANNEX 1: RATING AGENCIES AND CREDIT REFERENCE AGENCIES

Part A: Rating Agencies

Dun and Bradstreet.

Part B: Credit Reference Agencies

Not Applicable.

ANNEX 2: CREDIT RATINGS, CREDIT SCORES AND FINANCIAL INDICATORS

Part A: Credit Rating

Not Applicable.

Part B: Credit Score

Not Applicable.

Part C: Financial Indicators

In line with FVRAT requirements for Silver procurements, detailed below.

The EFS assessment for Silver tiered procurements are to be performed by the Commercial procurement team. The assessment consists of a review of the Financial Viability Risk Assessment Tool (FVRAT) with a cross-check against provided financial information.

A copy of the FVRAT can be found within the following link:

<https://www.gov.uk/government/publications/the-sourcing-and-consultancy-playbooks>

The FVRAT also contains an 'Authority Instructions' tab for more information.

The metrics within the FVRAT that are to be assessed include:

Ratio	Description	Threshold
Turnover Ratio	A higher ratio may suggest that the bidder can accommodate the contract more easily.	>1.5
Operating Margin	A higher percentage suggests that other things being equal, the bidder is more sustainable.	>5%
Quick/Acid Ratio	A higher ratio suggests that the bidder can more easily meet its liabilities when they fall due.	>0.8

A bidder would be expected to pass **all 3 metrics** to automatically progress.

The FVRAT will automatically RAG rate the calculations, with **Green** or **Amber** metrics needed for an automatic pass. **Red** metrics require further investigation.

Financial Indicator	Calculation	Financial Target Threshold:	Monitoring and Reporting Frequency
Turnover Ratio	$\text{Turnover Ratio} = \frac{\text{Turnover}}{\text{Annual Contract Value}}$	> 1.5	<i>Tested and reported yearly in arrears within 120 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting reference date</i>
Operating Margin	$\text{Operating Margin} = \frac{\text{Operating Profit}}{\text{Revenue}}$	> 5%	<i>Tested and reported yearly in arrears within 120 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting reference date</i>
Acid Ratio	$\text{Acid Ratio} = \frac{\text{Current Assets} - \text{Inventories}}{\text{Current Liabilities}}$	> 0.8 times	<i>Tested and reported yearly in arrears within 120 days of each accounting reference date based upon figures for the 12 months ending on the relevant accounting reference date</i>

ANNEX 3 – ADDITIONAL FDE GROUP MEMBERS AND MONITORED SUPPLIERS

Part A: Additional FDE Group Members

1. Key Subcontractors

Part B: Monitored Suppliers

Not Used.

Schedule 25 (Rectification Plan)

Request for [Revised] Rectification Plan			
Details of the Notifiable Default:	<i>[Guidance: Explain the Notifiable Default, with clear schedule and clause references as appropriate]</i>		
Deadline for receiving the [Revised] Rectification Plan:	[add date (minimum 10 days from request)]		
Signed by Buyer:		Date:	
Supplier [Revised] Rectification Plan			
Cause of the Notifiable Default	[add cause]		
Anticipated impact assessment:	[add impact]		
Actual effect of Notifiable Default:	[add effect]		
Steps to be taken to rectification:	Steps	Timescale	
	1.	[date]	
	2.	[date]	
	3.	[date]	
	4.	[date]	
	[...]	[date]	
Timescale for complete Rectification of Notifiable Default	[X] Working Days		
Steps taken to prevent recurrence of Notifiable Default	Steps	Timescale	
	1.	[date]	
	2.	[date]	
	3.	[date]	
	4.	[date]	

	[...]	[date]	
Signed by the Supplier:		Date:	
Review of Rectification Plan Buyer			
Outcome of review	[Plan Accepted] [Plan Rejected] [Revised Plan Requested]		
Reasons for rejection (if applicable)	[add reasons]		
Signed by Buyer		Date:	

Schedule 26 (Sustainability)

1. Definitions

“Modern Slavery Assessment Tool”	means the modern slavery risk identification and management tool which can be found online at: https://supplierregistration.cabinetoffice.gov.uk/msat
“Supply Chain Map”	means details of (i) the Supplier, (ii) all Subcontractors and (iii) any other entity that the Supplier is aware is in its supply chain that is not a Subcontractor, setting out at least: <ul style="list-style-type: none">(a) the name, registered office and company registration number of each entity in the supply chain;(b) the function of each entity in the supply chain; and(c) the location of any premises at which an entity in the supply chain carries out a function in the supply chain; and
“Waste Hierarchy”	means prioritisation of waste management in the following order of preference as set out in the Waste (England and Wales) Regulation 2011: <ul style="list-style-type: none">(a) Prevention;(b) Preparing for re-use;(c) Recycling;(d) Other Recovery; and(e) Disposal.

Part A

1. Public Sector Equality Duty

1.1 In addition to legal obligations, where the Supplier is providing a Deliverable to which the Public Sector Equality duty applies, the Supplier shall support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under this Contract in a way that seeks to:

- 1.1.1 eliminate discrimination, harassment or victimisation and any other conduct prohibited by the Equality Act 2010; and
- 1.1.2 advance:
 - (a) equality of opportunity; and
 - (b) good relations,

between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

2. Employment Law

The Supplier must perform its obligations meeting the requirements of all applicable Law regarding employment.

3. Modern Slavery

3.1 The Supplier:

- 3.1.1 shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;
- 3.1.2 shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identity papers with the employer and shall be free to leave their employer after reasonable notice;
- 3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world;
- 3.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences anywhere around the world;
- 3.1.5 shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offences anywhere around the world;
- 3.1.6 shall have and maintain throughout the Term its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;
- 3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under this Contract;
- 3.1.8 shall prepare and deliver to the Buyer, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with this Paragraph 3;
- 3.1.9 shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 3.1.10 shall not use or allow child or slave labour to be used by its Subcontractors;
- 3.1.11 shall report the discovery or suspicion of any slavery, trafficking, forced labour, child labour, involuntary prison labour or labour rights

abuses by it or its Subcontractors to the Buyer and Modern Slavery Helpline and relevant national or local law enforcement agencies;

3.1.12 if the Supplier is in Default under Paragraphs 3.1.1 to 3.1.11 of this Part A of Schedule 26 the Buyer may by notice:

- (a) require the Supplier to remove from performance of this Contract any sub-contractor, Supplier Personnel or other persons associated with it whose acts or omissions have caused the Default; or
- (b) immediately terminate this Contract and the consequences of termination set out in Clause 14.5.1 of the Core Terms shall apply; and

3.1.13 shall, if the Supplier or the Buyer identifies any occurrence of modern slavery connected to this Contract, comply with any request of the Buyer to follow the Rectification Plan Process to submit a remedial action plan which follows the form set out in Annex D of the Tackling Modern Slavery in Government Supply Chains guidance to PPN 02/23 (Tackling Modern Slavery in Government Supply Chains).

3.2 If the Supplier notifies the Buyer pursuant to Clause 3.1.11 it shall respond promptly to the Buyer'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 this Contract.

3.3 If the Supplier is in Default under Paragraph 3.1 of this Part A of Schedule 26 [Guidance: Include if Optional paragraph 3.3 of Part B of this Schedule is included or Paragraph 3.3 of Part B of Schedule 26] the Buyer may by notice:

- 3.3.1 require the Supplier to remove from performance of this Contract any Sub-Contractor, Supplier Personnel or other persons associated with it whose acts or omissions have caused the Default; or
- 3.3.2 immediately terminate this Contract and the consequences of termination set out in Clause 14.5.1 of the Core Terms shall apply.

4. Environmental Requirements

4.1 The Supplier must perform its obligations meeting in all material respects the requirements of all applicable Laws regarding the environment.

4.2 In performing its obligations under this Contract, the Supplier shall, where applicable to this Contract, to the reasonable satisfaction of the Buyer:

- 4.2.1 prioritise waste management in accordance with the Waste Hierarchy as set out in Law;
- 4.2.2 be responsible for ensuring that any waste generated by the Supplier and sent for recycling, disposal or other recovery as a consequence of this Contract is taken by a licensed waste carrier to an authorised site for treatment or disposal and that the disposal or treatment of waste complies with the Law; and

- 4.2.3 ensure that it and any third parties used to undertake recycling, disposal or other recovery as a consequence of this Contract do so in a legally compliant way, and can demonstrate that reasonable checks are undertaken to ensure this on a regular basis and provide relevant data and evidence of recycling, recovery and disposal.
- 4.3 In circumstances that a permit, licence or exemption to carry or send waste generated under this Contract is revoked, the Supplier shall cease to carry or send waste or allow waste to be carried by any Subcontractor until authorisation is obtained from the Environment Agency.
- 4.4 In performing its obligations under this Contract, the Supplier shall to the reasonable satisfaction of the Buyer (where the anticipated Charges in any Contract Year are above £5 million per annum (excluding VAT)), where related to and proportionate to the contract in accordance with PPN 06/21), publish and maintain a credible Carbon Reduction Plan in accordance with PPN 06/21.
- 4.5 The Supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:
<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>.

5. Supplier Code of Conduct

- 5.1 In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government which can be found online at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1163536/Supplier_Code_of_Conduct_v3.pdf
- The Buyer expects to meet, and expects its suppliers and subcontractors to meet, the standards set out in that Code.

6. Reporting

The Supplier shall comply with reasonable requests by the Buyer for information evidencing compliance with any of the requirements in Paragraphs 1-5 of this Part A above within fourteen (14) days of such request, [provided that such requests are limited to [two (2)] per requirement per Contract Year].

Part B – Not Used

Part C – Not Used

Schedule 27 (Key Subcontractors)

1. Restrictions on certain subcontractors

- 1.1 The Supplier is entitled to sub-contract its obligations under this Contract to the Key Subcontractors set out in the Award Form.
- 1.2 Where during the Contract Period the Supplier wishes to enter into a new Key Sub-contract or replace a Key Subcontractor, it must obtain the prior written consent of the Buyer and the Supplier shall, at the time of requesting such consent, provide the Buyer with the information detailed in Paragraph 1.4. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. Where the Buyer consents to the appointment of a new Key Subcontractor then they will be added to Key Subcontractor section of the Award Form. The Buyer may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
 - 1.2.1 the appointment of a proposed Key Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
 - 1.2.2 the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
 - 1.2.3 the proposed Key Subcontractor employs unfit persons.
- 1.3 The Supplier shall provide the Buyer with the following information in respect of the proposed Key Subcontractor:
 - 1.3.1 the proposed Key Subcontractor's name, registered office and company registration number;
 - 1.3.2 the scope/description of any Deliverables to be provided by the proposed Key Subcontractor;
 - 1.3.3 where the proposed Key Subcontractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Buyer that the proposed Key Sub-Contract has been agreed on "arm's-length" terms;
 - 1.3.4 the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Contract Period; and
 - 1.3.5 (where applicable) Credit Rating Threshold (as defined in Schedule 24 (Financial Difficulties)) of the Key Subcontractor.
- 1.4 If requested by the Buyer, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Paragraph 1.3, the Supplier shall also provide:
 - 1.4.1 a copy of the proposed Key Sub-Contract; and
 - 1.4.2 any further information reasonably requested by the Buyer.

- 1.5 The Supplier shall ensure that each new or replacement Key Sub-Contract shall include:
 - 1.5.1 provisions which will enable the Supplier to discharge its obligations under the this Contract;
 - 1.5.2 a right under CRTPA for the Buyer to enforce any provisions under the Key Sub-Contract which confer a benefit upon the Buyer;
 - 1.5.3 a provision enabling the Buyer to enforce the Key Sub-Contract as if it were the Supplier;
 - 1.5.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to the Buyer;
 - 1.5.5 obligations no less onerous on the Key Subcontractor than those imposed on the Supplier under this Contract in respect of:
 - a) the data protection requirements set out in Clause 18 (Data protection);
 - b) the FOIA and other access request requirements set out in Clause 20 (When you can share information);
 - c) the obligation not to embarrass the Buyer or otherwise bring the Buyer into disrepute;
 - d) the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
 - e) the conduct of audits set out in Clause 6 (Record keeping and reporting);
 - 1.5.6 provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on the Buyer under Clauses 14.4 (When the Buyer can end this Contract) and 14.5 (What happens if this Contract ends) of this Contract;
 - 1.5.7 a provision restricting the ability of the Key Subcontractor to sub-contract all or any part of the provision of the Deliverables provided to the Supplier under the Key Sub-Contract without first seeking the written consent of the Buyer; and
 - 1.5.8 a provision enabling the Supplier, the Buyer or any other person on behalf of the Buyer to step-in on substantially the same terms as are set out in Clause 13 (Step-in rights).
- 1.6 The Supplier shall not terminate or materially amend the terms of any Key Sub-Contract without the Buyer's prior written consent, which shall not be unreasonably withheld or delayed.

Schedule 28 (ICT Services)

1. Definitions

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

"Emergency Maintenance"	ad hoc and unplanned maintenance provided by the Supplier where either Party reasonably suspects that the ICT Environment or the Services, or any part of the ICT Environment or the Services, has or may have developed a fault;
"Licensed Software"	all and any Software licensed by or through the Supplier, its Sub-Contractors or any third party to the Buyer for the purposes of or pursuant to this Contract, including any COTS Software;
"Maintenance Schedule"	has the meaning given to it in Paragraph 8 of this Schedule;
"New Release"	an item produced primarily to extend, alter or improve the Software and/or any Deliverable by providing additional functionality or performance enhancement (whether or not defects in the Software and/or Deliverable are also corrected) while still retaining the original designated purpose of that item;
"Operating Environment"	means the Buyer System and any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which: <ul style="list-style-type: none">(a) the Deliverables are (or are to be) provided; or(b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables; or(c) where any part of the Supplier System is situated;
"Permitted Maintenance"	has the meaning given to it in Paragraph 8.2 of this Schedule;
"Quality Plans"	has the meaning given to it in Paragraph 6.1 of this Schedule;
"Sites"	has the meaning given to it in Schedule 1 (Definitions), and for the purposes of this

Schedule shall also include any premises from, to or at which physical interface with the Buyer System takes place;

2. When this Schedule should be used

- 2.1 This Schedule is designed to provide additional provisions necessary to facilitate the provision of ICT Services which are part of the Deliverables.

3. Buyer due diligence requirement

- 3.1 The Supplier shall satisfy itself of all relevant details, including but not limited to, details relating to the following:
- 3.1.1 suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Effective Date) future Operating Environment;
 - 3.1.2 operating processes and procedures and the working methods of the Buyer;
 - 3.1.3 ownership, functionality, capacity, condition and suitability for use in the provision of the Deliverables of the Buyer Assets; and
 - 3.1.4 existing contracts (including any licences, support, maintenance and other contracts relating to the Operating Environment) referred to in the Due Diligence Information which may be novated to, assigned to or managed by the Supplier under this Contract and/or which the Supplier will require the benefit of for the provision of the Deliverables.
- 3.2 The Supplier confirms that it has advised the Buyer in writing of:
- 3.2.1 each aspect, if any, of the Operating Environment that is not suitable for the provision of the ICT Services;
 - 3.2.2 the actions needed to remedy each such unsuitable aspect; and
 - 3.2.3 a timetable for and the costs of those actions.

4. Licensed software warranty

- 4.1 The Supplier represents and warrants that:
- 4.1.1 it has and shall continue to have all necessary rights in and to the Licensed Software made available by the Supplier (and/or any Sub-Contractor) to the Buyer which are necessary for the performance of the Supplier's obligations under this Contract including the receipt of the Deliverables by the Buyer;
 - 4.1.2 all components of the Specially Written Software shall:
 - (a) be free from material design and programming errors;
 - (b) perform in all material respects in accordance with the relevant specifications contained in Schedule 10 (Service Levels) and Documentation; and

- (c) not infringe any IPR.

5. Provision of ICT Services

5.1 The Supplier shall:

- 5.1.1 ensure that the release of any new COTS Software in which the Supplier owns the IPR, or upgrade to any Software in which the Supplier owns the IPR complies with the interface requirements of the Buyer and (except in relation to new Software or upgrades which are released to address Malicious Software) shall notify the Buyer three (3) Months before the release of any new COTS Software or upgrade;
- 5.1.2 ensure that all Software including upgrades, updates and New Releases used by or on behalf of the Supplier are currently supported versions of that Software and perform in all material respects in accordance with the relevant specification;
- 5.1.3 ensure that the Supplier System will be free of all encumbrances;
- 5.1.4 ensure that the Deliverables are fully compatible with any Buyer Software, Buyer System, or otherwise used by the Supplier in connection with this Contract;
- 5.1.5 minimise any disruption to the Services and the ICT Environment and/or the Buyer's operations when providing the Deliverables.

6. Standards and Quality Requirements

- 6.1 The Supplier shall develop, in the timescales specified in the Award Form, quality plans that ensure that all aspects of the Deliverables are the subject of quality management systems and are consistent with BS EN ISO 9001 or any equivalent standard which is generally recognised as having replaced it ("**Quality Plans**").
- 6.2 The Supplier shall seek Approval from the Buyer (not be unreasonably withheld or delayed) of the Quality Plans before implementing them. Approval shall not act as an endorsement of the Quality Plans and shall not relieve the Supplier of its responsibility for ensuring that the Deliverables are provided to the standard required by this Contract.
- 6.3 Following the approval of the Quality Plans, the Supplier shall provide all Deliverables in accordance with the Quality Plans.
- 6.4 The Supplier shall ensure that the Supplier Personnel shall at all times during the Contract Period:
 - 6.4.1 be appropriately experienced, qualified and trained to supply the Deliverables in accordance with this Contract;
 - 6.4.2 apply all due skill, care, diligence in faithfully performing those duties and exercising such powers as necessary in connection with the provision of the Deliverables; and
 - 6.4.3 obey all lawful instructions and reasonable directions of the Buyer (including, if so required by the Buyer, the ICT Policy) and provide the Deliverables to the reasonable satisfaction of the Buyer.

7. ICT Audit

- 7.1 The Supplier shall allow any auditor access to the Supplier premises to:
 - 7.1.1 inspect the ICT Environment and the wider service delivery environment (or any part of them);
 - 7.1.2 review any records created during the design and development of the Supplier System and pre-operational environment such as information relating to Testing;
 - 7.1.3 review the Supplier's quality management systems including all relevant Quality Plans.

8. Maintenance of the ICT Environment

- 8.1 If specified by the Buyer in the Award Form, the Supplier shall create and maintain a rolling schedule of planned maintenance to the ICT Environment ("**Maintenance Schedule**") and make it available to the Buyer for Approval in accordance with the timetable and instructions specified by the Buyer.
- 8.2 Once the Maintenance Schedule has been Approved, the Supplier shall only undertake such planned maintenance (which shall be known as "**Permitted Maintenance**") in accordance with the Maintenance Schedule.
- 8.3 The Supplier shall give as much notice as is reasonably practicable to the Buyer prior to carrying out any Emergency Maintenance.
- 8.4 The Supplier shall carry out any necessary maintenance (whether Permitted Maintenance or Emergency Maintenance) where it reasonably suspects that the ICT Environment and/or the Services or any part thereof has or may have developed a fault. Any such maintenance shall be carried out in such a manner and at such times so as to avoid (or where this is not possible so as to minimise) disruption to the ICT Environment and the provision of the Deliverables.

9. Malicious Software

- 9.1 The Supplier shall, throughout the Contract Period, use the latest versions of anti-virus definitions and software available from an industry accepted anti-virus software vendor to check for, contain the spread of, and minimise the impact of Malicious Software.
- 9.2 If Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Government Data, assist each other to mitigate any losses and to restore the provision of the Deliverables to its desired operating efficiency.
- 9.3 Any cost arising out of the actions of the Parties taken in compliance with the provisions of Paragraph 9.2 shall be borne by the Parties as follows:
 - 9.3.1 by the Supplier, where the Malicious Software originates from the Supplier Software, the third party Software supplied by the Supplier or the Government Data (whilst the Government Data was under the control of the Supplier) unless the Supplier can demonstrate that

such Malicious Software was present and not quarantined or otherwise identified by the Buyer when provided to the Supplier; and

- 9.3.2 by the Buyer, if the Malicious Software originates from the Buyer Software or the Buyer Data (whilst the Buyer Data was under the control of the Buyer).

Schedule 29 (Key Supplier Staff)

1. Key Supplier Staff

- 1.1 The Annex 1 (Key Role) to this Schedule lists the key roles ("**Key Roles**") and names of the persons who the Supplier shall appoint to fill those Key Roles at the Start Date ("**Key Staff**").
- 1.2 The Supplier shall ensure that the Key Staff fulfil the Key Roles at all times during the Contract Period.
- 1.3 The Buyer may identify any further roles as being Key Roles and, following agreement to the same by the Supplier, the relevant person selected to fill those Key Roles shall be included on the list of Key Staff.
- 1.4 The Supplier shall not and shall procure that any Subcontractor shall not remove or replace any Key Staff unless:
 - 1.4.1 requested to do so by the Buyer or the Buyer Approves such removal or replacement (not to be unreasonably withheld or delayed);
 - 1.4.2 the person concerned resigns, retires or dies or is on parental or long-term sick leave; or
 - 1.4.3 the person's employment or contractual arrangement with the Supplier or Subcontractor is terminated for material breach of contract by the employee.
- 1.5 The Supplier shall:
 - 1.5.1 notify the Buyer promptly of the absence of any Key Staff (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Supplier shall ensure appropriate temporary cover for that Key Role);
 - 1.5.2 ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
 - 1.5.3 give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Staff and, except in the cases of death, unexpected ill health or a material breach of the Key Staff's employment contract, this will mean at least three (3) Months' notice;
 - 1.5.4 ensure that all arrangements for planned changes in Key Staff provide adequate periods during which incoming and outgoing staff work together to transfer responsibilities and ensure that such change does not have an adverse impact on the provision of the Deliverables; and
 - 1.5.5 ensure that any replacement for a Key Role has a level of qualifications and experience appropriate to the relevant Key Role and is fully competent to carry out the tasks assigned to the Key Staff whom they have replaced.

- 1.6 The Buyer may require the Supplier to remove or procure that any Subcontractor shall remove any Key Staff that the Buyer considers in any respect unsatisfactory. The Buyer shall not be liable for the cost of replacing any Key Staff.

Annex 1 – Key Roles

Key Role	Key Staff	Contract Details
Programme Director	██████████	Mott MacDonald Ltd
Contract Manager	██████████	Mott MacDonald Ltd
Project Manager	██████████	Mott MacDonald Ltd
Assistant Project Manager	██████████	Mott MacDonald Ltd
PMO	██████████	Mott MacDonald Ltd
Data Lead	██████████	Mott MacDonald Ltd
PMO 2 and 3	██████████	Mott MacDonald Ltd
Apprentice	██████████	Mott MacDonald Ltd
Strategic Lead	██████████	Coram Hemsall's Ltd
Professional Lead	██████████	Coram Hemsall's Ltd
Lead Adviser	██████████	Coram Hemsall's Ltd
LA Advisers	██████████	Coram Hemsall's Ltd
Specialist Advisers	██████████ ██████████	Coram Hemsall's Ltd
Provider support lead	██████████ ██████████	Coram Hemsall's Ltd
Provider support team	██████████	Coram Hemsall's Ltd
Managing Director of Coram	██████████	Coram
Head of Evaluation	██████████	Coram
Quantitative Early Implementer lead / Senior Researcher	██████████	Coram
Qualitative Early Implementer lead / Research Officer	██████████	Coram

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Coram Programme Lead	[REDACTED]	Coram
Coram Programme Manager	[REDACTED]	Coram
Coram Programmes Officer	[REDACTED]	Coram
Coram Assistant	[REDACTED]	Coram
Coram Web manager	[REDACTED]	Coram
Coram Research Manager	[REDACTED]	Coram

Schedule 30 (Exit Management)

1. Definitions

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

"Exclusive Assets"	Supplier Assets used exclusively by the Supplier or a Key Subcontractor in the provision of the Deliverables;
"Exit Information"	has the meaning given to it in Paragraph 3.1 of this Schedule;
"Exit Manager"	the person appointed by each Party to manage their respective obligations under this Schedule;
"Net Book Value"	the current net book value of the relevant Supplier Asset(s) calculated in accordance with the Tender (if stated) or (if not stated) the depreciation policy of the Supplier (which the Supplier shall ensure is in accordance with Good Industry Practice);
"Non-Exclusive Assets"	those Supplier Assets used by the Supplier or a Key Subcontractor in connection with the Deliverables but which are also used by the Supplier or Key Subcontractor for other purposes;
"Replacement Goods"	any goods which are substantially similar to any of the Goods and which the Buyer receives in substitution for any of the Goods following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
"Replacement Services"	any services which are substantially similar to any of the Services and which the Buyer receives in substitution for any of the Services following the End Date, whether those goods are provided by the Buyer internally and/or by any third party;
"Transferable Assets"	Exclusive Assets which are capable of legal transfer to the Buyer;
"Transferable Contracts"	Sub-Contracts, licences for Supplier's Software, licences for Third Party Software or other agreements which are necessary to enable the Buyer or any Replacement Supplier to provide the Deliverables or the Replacement Goods and/or Replacement Services, including in relation to licences all relevant Documentation;
"Transferring Assets"	has the meaning given to it in Paragraph 8.2.1 of this Schedule;
"Transferring Contracts"	has the meaning given to it in Paragraph 8.2.3 of this Schedule; and

“Virtual Library” the data repository hosted by the Supplier containing the accurate information about this Contract and the Deliverables in accordance with Paragraph 2.2 of this Schedule.

2. Supplier must always be prepared for contract exit

- 2.1 The Supplier shall within thirty (30) days from the Effective Date provide to the Buyer a copy of its depreciation policy to be used for the purposes of calculating Net Book Value.
- 2.2 During the Contract Period, the Supplier shall within thirty (30) days from the Effective Date (or such other period as is specified in the Award Form) create and maintain a Virtual Library containing:
 - 2.2.1 a detailed register of all Supplier Assets (including description, condition, location and details of ownership and status as either Exclusive Assets or Non-Exclusive Assets and Net Book Value) and Sub-contracts and other relevant agreements required in connection with the Deliverables; and
 - 2.2.2 a configuration database detailing the technical infrastructure, a schedule of the IPRs (consistent with Annex 1 of Schedule 36 (Intellectual Property) which the Buyer reasonably requires to benefit from the Deliverables (including who is the owner of such IPRs, the contact details of the owner and whether or not such IPRs are held in escrow), any plans required to be delivered by the Supplier pursuant to Schedule 14 (Business Continuity and Disaster Recovery) or Schedule 24 (Financial Difficulties) and operating procedures through which the Supplier provides the Deliverables, and the Supplier shall ensure the Virtual Library is structured and maintained in accordance with open standards and the security requirements set out in this Contract and is readily accessible by the Buyer at all times. All information contained in the Virtual Library should be maintained and kept up to date in accordance with the time period set out in the Award Form.
- 2.3 The Supplier shall add to the Virtual Library a list of Supplier Staff and Staffing Information (as that term is defined in Schedule 7 (Staff Transfer)) in connection with the Deliverables in accordance with the timescales set out in Paragraphs 1.1, 1.2 of Part E of Schedule 7 (Staff Transfer).
- 2.4 The Supplier shall:
 - 2.4.1 ensure that all Exclusive Assets listed in the Virtual Library are clearly physically identified as such; and
 - 2.4.2 procure that all licences for Third Party Software and all Sub-Contracts shall be assignable and/or capable of novation (at no cost or restriction to the Buyer) at the request of the Buyer to the Buyer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Deliverables (or part of them) and if the Supplier is unable to do so then the Supplier shall promptly notify the Buyer and the Buyer may require the Supplier to procure an alternative Subcontractor or provider of Deliverables.

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

3. Assisting re-competition for Deliverables

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

4. Exit Plan

- 4.1 The Supplier shall, within three (3) Months after the Start Date, deliver to the Buyer a plan which complies with the requirements set out in Paragraph 4.3 of this Schedule and is otherwise reasonably satisfactory to the Buyer (the "**Exit Plan**").
- 4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of the latest date for its submission pursuant to Paragraph 4.1, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 4.3 The Exit Plan shall set out, as a minimum:
 - 4.3.1 how the Exit Information is obtained;
 - 4.3.2 a mechanism for dealing with partial termination on the assumption that the Supplier will continue to provide the remaining Deliverables under this Contract;
 - 4.3.3 the management structure to be employed during the Termination Assistance Period;
 - 4.3.4 a detailed description of both the transfer and cessation processes, including a timetable;

- 4.3.5 how the Deliverables will transfer to the Replacement Supplier and/or the Buyer;
 - 4.3.6 details of any contracts which will be available for transfer to the Buyer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer;
 - 4.3.7 the scope of Termination Assistance that may be required for the benefit of the Buyer (including which services set out in Annex 1 are applicable);
 - 4.3.8 how Termination Assistance will be provided, including a timetable and critical issues for providing Termination Assistance;
 - 4.3.9 any charges that would be payable for the provision of Termination Assistance (calculated in accordance with Paragraph 4.4 below) together with a capped estimate of such charges;
 - 4.3.10 proposals for the training of key members of the Replacement Supplier's staff in connection with the continuation of the provision of the Deliverables following the Expiry Date;
 - 4.3.11 proposals for providing the Buyer or a Replacement Supplier copies of all documentation relating to the use and operation of the Deliverables and required for their continued use;
 - 4.3.12 proposals for the assignment or novation of all services utilised by the Supplier in connection with the supply of the Deliverables;
 - 4.3.13 proposals for the identification and return of all Buyer Property in the possession of and/or control of the Supplier or any third party;
 - 4.3.14 proposals for the disposal of any redundant Deliverables and materials;
 - 4.3.15 how the Supplier will ensure that there is no disruption to or degradation of the Deliverables during the Termination Assistance Period; and
 - 4.3.16 any other information or assistance reasonably required by the Buyer or a Replacement Supplier.
- 4.4 Any charges payable as a result of the Supplier providing Termination Assistance shall be calculated and charged in accordance with Schedule 3 (Charges). The Supplier shall be entitled to increase or vary the Charges only if it can demonstrate in the Exit Plan that the provision of Termination Assistance requires additional resources and, in any event, any change to the Charges resulting from the provisions of Termination Assistance will be strictly proportionate to the level of resources required for the provision of the Termination Assistance Services.
- 4.5 The Supplier shall:
- 4.5.1 maintain and update the Exit Plan (and risk management plan) no less frequently than:
 - (a) every six (6) months throughout the Contract Period;

- (b) no later than twenty (20) Working Days after a request from the Buyer for an up-to-date copy of the Exit Plan;
 - (c) as soon as reasonably possible following a Termination Assistance Notice, and in any event no later than ten (10) Working Days after the date of the Termination Assistance Notice;
 - (d) as soon as reasonably possible following, and in any event no later than twenty (20) Working Days following, any material change to the Deliverables (including all changes under the Variation Procedure); and
- 4.5.2 jointly review and verify the Exit Plan if required by the Buyer and promptly correct any identified failures.
- 4.6 Only if (by notification to the Supplier in writing) the Buyer agrees with a draft Exit Plan provided by the Supplier under Paragraph 4.2 or 4.4 (as the context requires), shall that draft become the Exit Plan for this Contract.
- 4.7 A version of an Exit Plan agreed between the parties shall not be superseded by any draft submitted by the Supplier.

5. Termination Assistance

- 5.1 The Buyer shall be entitled to require the provision of Termination Assistance at any time during the Contract Period by giving written notice to the Supplier (a "**Termination Assistance Notice**") at least four (4) Months prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than one (1) Month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
- 5.1.1 the nature of the Termination Assistance required; and
 - 5.1.2 the start date and period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than twelve (12) Months after the End Date.
- 5.2 The Buyer shall have an option to extend the Termination Assistance Period beyond the initial period specified in the Termination Assistance Notice in one or more extensions, in each case provided that:
- 5.2.1 no such extension shall extend the Termination Assistance Period beyond the date eighteen (18) Months after the End Date; and
 - 5.2.2 the Buyer shall notify the Supplier of any such extension by serving not less than twenty (20) Working Days' written notice upon the Supplier.
- 5.3 The Buyer shall have the right to terminate its requirement for Termination Assistance by serving not less than (20) Working Days' written notice upon the Supplier.
- 5.4 In the event that Termination Assistance is required by the Buyer but at the relevant time the parties are still agreeing an update to the Exit Plan pursuant to Paragraph 4, the Supplier will provide the Termination Assistance in good faith and in accordance with the principles in this

Schedule and the last Buyer approved version of the Exit Plan (insofar as it still applies).

6. Termination Assistance Period

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

7. Obligations when the contract is terminated

- 7.1 The Supplier shall comply with all of its obligations contained in the Exit Plan.
- 7.2 Upon termination or expiry or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Deliverables and the Termination Assistance), the Supplier shall:
- 7.2.1 cease to use the Government Data;
 - 7.2.2 vacate any Buyer Premises;
 - 7.2.3 remove the Supplier Equipment together with any other materials used by the Supplier to supply the Deliverables and shall leave the

Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier;

- 7.2.4 provide access during normal working hours to the Buyer and/or the Replacement Supplier for up to twelve (12) Months after expiry or termination to:
- (a) such information relating to the Deliverables as remains in the possession or control of the Supplier; and
 - (b) such members of the Supplier Staff as have been involved in the design, development and provision of the Deliverables and who are still employed by the Supplier, provided that the Buyer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to such requests for access.
- 7.3 Upon partial termination, termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Assistance and its compliance with the other provisions of this Schedule), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party in respect of the terminated Services and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Services or Termination Assistance or for statutory compliance purposes.

8. Assets, Sub-contracts and Software

- 8.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Supplier shall not, without the Buyer's prior written consent:
- 8.1.1 terminate, enter into or vary any Sub-contract or licence for any software in connection with the Deliverables; or
 - 8.1.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets.
- 8.2 Within twenty (20) Working Days of receipt of the up-to-date contents of the Virtual Library provided by the Supplier, the Buyer shall notify the Supplier setting out:
- 8.2.1 which, if any, of the Transferable Assets the Buyer requires to be transferred to the Buyer and/or the Replacement Supplier ("**Transferring Assets**");
 - 8.2.2 which, if any, of:
 - (a) the Exclusive Assets that are not Transferable Assets; and
 - (b) the Non-Exclusive Assets,

the Buyer and/or the Replacement Supplier requires the continued use of; and

- 8.2.3 which, if any, of Transferable Contracts the Buyer requires to be assigned or novated to the Buyer and/or the Replacement Supplier (the "**Transferring Contracts**"), in order for the Buyer and/or its Replacement Supplier to provide the Deliverables from the expiry of the Termination Assistance Period. The Supplier shall provide all reasonable assistance required by the Buyer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts are required to provide the Deliverables or the Replacement Goods and/or Replacement Services. Where requested by the Supplier, the Buyer and/or its Replacement Supplier shall discuss in good faith with the Supplier which Transferable Contracts are used by the Supplier in matters unconnected to the Services or Replacement Services.
- 8.3 With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Buyer and/or the Replacement Supplier for their Net Book Value less any amount already paid for them through the Charges.
- 8.4 Risk in the Transferring Assets shall pass to the Buyer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title shall pass on payment for them.
- 8.5 Where the Buyer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets or any Non-Exclusive Assets, the Supplier shall as soon as reasonably practicable:
- 8.5.1 procure a non-exclusive, perpetual, royalty-free licence for the Buyer and/or the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which
- 8.5.2 procure a suitable alternative to such assets, the Buyer or the Replacement Supplier to bear the reasonable proven costs of procuring the same.
- 8.6 The Supplier shall as soon as reasonably practicable assign or procure the novation of the Transferring Contracts to the Buyer and/or the Replacement Supplier. The Supplier shall execute such documents and provide such other assistance as the Buyer reasonably requires to effect this novation or assignment.
- 8.7 The Buyer shall:
- 8.7.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
- 8.7.2 once a Transferring Contract is novated or assigned to the Buyer and/or the Replacement Supplier, discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.

- 8.8 The Supplier shall hold any Transferring Contracts on trust for the Buyer until the transfer of the relevant Transferring Contract to the Buyer and/or the Replacement Supplier has taken place.
- 8.9 The Supplier shall indemnify the Buyer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Buyer (and/or Replacement Supplier) pursuant to Paragraph 8.6 in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract. Clause 23 (Other people's rights in this contract) shall not apply to this Paragraph 8.9 which is intended to be enforceable by third party beneficiaries by virtue of the CRTPA.

9. No charges

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

10. Dividing the bills

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

- 10.1 the amounts shall be annualised and divided by three hundred and sixty five (365) to reach a daily rate;
- 10.2 the Buyer or Replacement Supplier (as applicable) shall be responsible for or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and
- 10.3 the Supplier shall be responsible for or entitled to (as the case may be) the rest of the invoice.

Annex 1: Scope of Termination Assistance

1. Scope of Termination Assistance

- 1.1 The Buyer may specify that any of the following services will be provided by the Supplier as part of its Termination Assistance:
 - 1.1.1 notifying the Subcontractors of procedures to be followed during the Termination Assistance Period and providing management to ensure these procedures are followed;
 - 1.1.2 providing assistance and expertise as necessary to examine all operational and business processes (including all supporting documentation) in place and re-writing and implementing processes and procedures such that they are appropriate for use by the Buyer and/or the Replacement Supplier after the end of the Termination Assistance Period;
 - 1.1.3 providing details of work volumes and staffing requirements over the twelve (12) Months immediately prior to the commencement of Termination Assistance;
 - 1.1.4 providing assistance and expertise as necessary to examine all governance and reports in place for the provision of the Deliverables and re-writing and implementing these during and for a period of twelve (12) Months after the Termination Assistance Period;
 - 1.1.5 providing assistance and expertise as necessary to examine all relevant roles and responsibilities in place for the provision of the Deliverables and re-writing and implementing these such that they are appropriate for the continuation of provision of the Deliverables after the Termination Assistance Period;
 - 1.1.6 agreeing with the Buyer an effective communication strategy and joint communications plan which sets out the implications for Supplier Staff, Buyer staff, customers and key stakeholders;
 - 1.1.7 agreeing with the Buyer a handover plan for all of the Supplier's responsibilities as set out in the Security Management Plan;
 - 1.1.8 providing an information pack listing and describing the Deliverables for use by the Buyer in the procurement of the Replacement Deliverables;
 - 1.1.9 answering all reasonable questions from the Buyer and/or the Replacement Supplier regarding the Deliverables;
 - 1.1.10 agreeing with the Buyer and/or the Replacement Supplier a plan for the migration of the Government Data to the Buyer and/or the Replacement Supplier;
 - 1.1.11 providing access to the Buyer and/or the Replacement Supplier during the Termination Assistance Period and for a period not exceeding six (6) Months afterwards for the purpose of the smooth

transfer of the provision of the Deliverables to the Buyer and/or the Replacement Supplier:

- (a) to information and documentation relating to the Deliverables that is in the possession or control of the Supplier or its Subcontractors (and the Supplier agrees and will procure that its Subcontractors do not destroy or dispose of that information within this period) including the right to take reasonable copies of that material; and
- (b) following reasonable notice and during the Supplier's normal business hours, to members of the Supplier Staff who have been involved in the provision or management of the provision of the Deliverables and who are still employed or engaged by the Supplier or its Subcontractors, including those employees filling the relevant Key Staff positions and Key Staff with specific knowledge in respect of the Exit Plan;

1.1.12 knowledge transfer services, including:

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

and any such person who is provided with knowledge transfer services will sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require)).

- 1.2 The Supplier will:
 - 1.2.1 provide a documented plan relating to the training matters referred to in Paragraph 1.1.12 for agreement by the Buyer at the time of termination or expiry of this Contract; and
 - 1.2.2 co-operate fully in the execution of the handover plan agreed pursuant to Paragraph 1.1.7, providing skills and expertise of a suitable standard.
- 1.3 To facilitate the transfer of knowledge from the Supplier to the Buyer and/or its Replacement Supplier, the Supplier shall provide a detailed explanation of the procedures and operations used to provide the Services to the operations staff of the Buyer and/or the Replacement Supplier.
- 1.4 The information which the Supplier will provide to the Buyer and/or the Replacement Supplier pursuant to Paragraph 1.1.11 shall include:
 - 1.4.1 copies of up-to-date procedures and operations manuals;
 - 1.4.2 product information;
 - 1.4.3 agreements with third party suppliers of goods and services which are to be transferred to the Buyer and/or the Replacement Supplier; and
 - 1.4.4 key support contact details for third party supplier personnel under contracts which are to be assigned or novated to the Buyer pursuant to this Schedule,and such information shall be updated by the Supplier at the end of the Termination Assistance Period.
- 1.5 During the Termination Assistance Period the Supplier shall grant any agent or personnel (including employees, consultants and suppliers) of the Replacement Supplier and/or the Buyer access, during business hours and upon reasonable prior written notice, to any Sites for the purpose of effecting a prompt knowledge transfer provided that:
 - 1.5.1 any such agent or personnel (including employees, consultants and suppliers) having such access to any Sites shall:
 - (a) sign a confidentiality undertaking in favour of the Supplier (in such form as the Supplier shall reasonably require); and
 - (b) during each period of access comply with the security, systems and facilities operating procedures of the Supplier relevant to such Site and that the Buyer deems reasonable; and
 - 1.5.2 the Buyer and/or the Replacement Supplier shall pay the reasonable, proven and proper costs of the Supplier incurred in facilitating such access.

Schedule 31 (Buyer Specific Terms)

1. Not Used

2. Invoicing

2.1. Invoices shall be submitted electronically by e-mail directly to:

DfE Core:	AccountsPayable.OCR@education.gov.uk
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within 30 days of the end of the relevant invoicing date. Other contacts requiring sight of the invoice can be copied in.

2.2. An invoice is only valid if it is legible and includes:

2.2.1. the date of the invoice

2.2.2. Supplier's full name and address

2.2.3. Full valid purchase order number, including the pre-fix:

CORE: CORE-PO-

2.2.4. the charging period

2.2.5. a detailed line level breakdown of the appropriate Charges including Deliverables provided or Milestones Achieved (if applicable)

2.2.6. days and times worked (if applicable)

2.2.7. Service Credits (if applicable)

2.2.8. VAT (if applicable)

2.3. Invoices without a valid purchase order are now rejected by the Buyers e-invoicing solution. The Buyer no longer accepts paper invoices.

3. Not Used

4. Not Used

Schedule 36 (Intellectual Property Rights)

Part A: Not Used.

Part B: Intellectual Property Rights (ICT Services)

Option 1

1. Intellectual Property Rights – General Provisions

- 1.1. Each Party keeps ownership of its own Existing IPR.
- 1.2. Where either Party acquires, by operation of law, ownership of Intellectual Property Rights that is inconsistent with the requirements of this Schedule 36 (Intellectual Property Rights), it must assign in writing the Intellectual Property Rights concerned to the other Party on the other Party's request (whenever made).
- 1.3. Neither Party has the right to use the other Party's IPR, including any use of the other Party's names, logos or trademarks, except as expressly granted elsewhere under this Contract or otherwise agreed in writing.
- 1.4. Except as expressly granted elsewhere under this Contract, neither Party acquires any right, title or interest in or to the IPR owned by the other Party or any third party.
- 1.5. If the Supplier becomes aware at any time, including after the earlier of the End Date or date of termination, that, in respect of any Deliverable, the Buyer has not received the licences to Supplier Existing IPRs or Third Party IPRs required by Paragraphs 3 and 4, the Supplier must, within 10 Working Days notify the Buyer:
 - 1.5.1. the specific Intellectual Property Rights the Buyer has not received licences to; and
 - 1.5.2. the Deliverables affected.
- 1.6. For the avoidance of doubt:
 - 1.6.1. except as provided for in Paragraphs 4.3.4.2(a) or 3.1.6.2 and 3.1.4, the expiry or termination of this Contract does not of itself terminate the licences granted to the Buyer under Paragraphs 3 and 4;

1.6.2. the award of this Contract or the ordering of any Deliverables does not constitute an authorisation by the Crown under:

1.6.2.1. Sections 55 and 56 of the Patents Act 1977;

1.6.2.2. section 12 of the Registered Designs Act 1949; or

1.6.2.3. sections 240 to 243 of the Copyright, Designs and Patents Act 1988.

2. Ownership and delivery of IPR created under this Contract

2.1. Any New IPR and Specially Written Software is owned by the Buyer, including:

2.1.1. the Documentation, Source Code and the Object Code of the Specially Written Software and any software elements of the New IPR; and

2.1.2. all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software and the New IPR,

(together, the **Software Supporting Materials**).

2.2. The Supplier must deliver to the Buyer:

2.2.1. the Specially Written Software;

2.2.2. any software elements of the New IPR;

2.2.3. relevant Documentation; and

2.2.4. all related Software Supporting Materials,

within seven (7) days of:

2.2.5. either:

2.2.5.1. initial release or deployment; or

2.2.5.2. if a relevant Milestone has been identified in an Implementation Plan, Achievement of that Milestone; and

2.2.6. each subsequent release or deployment of the Specially Written Software and any software elements of the New IPR.

2.3. Where the Supplier delivers materials to the Buyer under Paragraph 2.2, it must do so in a format specified by the Buyer. Where the Buyer specifies

the material is to be delivered on media, the Buyer becomes the owner of the media containing the material on delivery.

- 2.4. Unless otherwise agreed in writing, the Supplier and the Buyer will record any Specially Written Software and New IPR in the table at Annex 1 to this Schedule and keep this updated throughout the Contract Period.

3. Use of Supplier Existing IPRs and Third Party IPRs

- 3.1. The Supplier must not:

- 3.1.1. embed Supplier Existing IPRs or Third Party IPRs in a Deliverable;
- 3.1.2. provide any Deliverable that requires Supplier Existing IPRs or Third Party IPRs to use that Deliverable for any of the purposes set out in Paragraph 4.4; or
- 3.1.3. provide any Deliverable that is a customisation or adaptation of those Supplier Existing IPRs or Third Party IPRs,

unless one or more of the following conditions apply:

- 3.1.4. for any Supplier Existing IPRs or Third Party IPRs that are not COTS Software, the Buyer provides Approval after receiving full details of the Supplier Existing IPRs or Third Party IPRs and their relationship to the Deliverables;
- 3.1.5. in the case of Supplier Existing IPRs or Third Party IPRs that are, in each case, COTS Software all the following conditions are met:
- 3.1.5.1. the Supplier has provided the Buyer with the applicable terms for the Supplier Existing IPRs or Third Party IPRs that are, in each case, COTS Software (which must be at a price and on terms no less favourable than those standard commercial terms on which such software is usually made commercially available); and
- 3.1.5.2. the Buyer has not (in its absolute discretion) rejected those licence terms within ten (10) Working Days of the date on which they were provided to the Buyer;
- 3.1.6. in the case of Third Party IPRs that are not COTS Software, the Buyer provides approval under Paragraph 3.1.4 and one of the following conditions is met:
- 3.1.6.1. the owner or an authorised licensor of the relevant Third Party IPR has granted a direct Third Party IPR Licence on the terms set out in Paragraph 4.3, as if:

(a) the term Third Party IPRs were substituted for the term Supplier Existing IPR; and

(b) the term “third party” were substituted for the term Supplier,

in each place they occur; or

3.1.6.2. if the Supplier cannot, after commercially reasonable endeavours, obtain for the Buyer a Third Party IPR licence as set out in Paragraph 3.1.6.1, all the following conditions are met:

(a) the Supplier has notified the Buyer in writing giving details of:

(1) what licence terms can be obtained from the relevant third party; and

(2) whether there are providers which the Supplier could seek to use and the licence terms obtainable from those third parties;

(b) the Buyer Approves the licence terms of one of those third parties; and

(c) the owner and authorised licensor of the Third Party IPR has granted a direct licence of the Third Party IPR to the Buyer on those terms.

3.2. Where the Buyer has not rejected Supplier Existing IPRs or Third Party IPRs that are, in each case, COTS Software, the Supplier must notify the Buyer within five (5) Working Days of becoming aware that any of that COTS Software will in the next thirty-six (36) months no longer be:

3.2.1. maintained or supported by the developer; or

3.2.2. made commercially available.

4. Licences in respect of Supplier Existing IPR that is not COTS Software

4.1. Subject to the Buyer approving the use of Supplier Existing IPR under Paragraph 3, the Supplier grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph 4.3 in respect of each Deliverable where:

4.1.1. the Supplier Existing IPR that is not COTS Software is embedded in the Deliverable;

- 4.1.2. the Supplier Existing IPR that is not COTS Software is necessary for the Buyer to use the Deliverable for any of the purposes set out in Paragraph 4.4; or
- 4.1.3. the Deliverable is a customisation or adaptation of Supplier Existing IPR that is not COTS Software.
- 4.2. The categories of Supplier Existing IPR that is not COTS Software set out in Paragraph 4.1 are mutually exclusive.
- 4.3. The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable, worldwide licence that:
 - 4.3.1. in the case of Supplier Existing IPR that is not COTS Software embedded in a Deliverable:
 - 4.3.1.1. has no restriction on the identity of any transferee or sub-licensee;
 - 4.3.1.2. is sub-licensable for any of the purposes set out in Paragraph 4.4;
 - 4.3.1.3. allows the Buyer and any transferee or sub-licensee to use, copy and adapt the Supplier Existing IPR that is not COTS Software for any of the purposes set out in Paragraph 4.4; and
 - 4.3.2. in the case of Supplier Existing IPR that is not COTS Software that is necessary for the Buyer to use the Deliverable for its intended purpose or has been customised or adapted to provide the Deliverable:
 - 4.3.2.1. allows the Buyer and any transferee or sublicensee to use and copy, but not adapt, disassemble or reverse engineer the relevant Supplier Existing IPRs that is not COTS Software for any of the purposes set out in Paragraph 4.4;
 - 4.3.2.2. is transferrable to only:
 - (a) a Crown Body;
 - (b) any body (including any private sector body) that performs or carries out any of the functions or activities that the Buyer had previously performed or carried out; or
 - (c) a person or organisation that is not a direct competitor of the Supplier and that transferee either:

- (1) enters into a direct arrangement with the Supplier in the form set out in Annex 2; or
 - (2) enters into a confidentiality arrangement with the Buyer in terms equivalent to those set out in set out in Clause 19 (What you must keep confidential); and
 - 4.3.2.3. is sub-licensable to the Replacement Supplier (including where the Replacement Supplier is a competitor of the Supplier) where the Replacement Supplier either:
 - (a) enters into a direct arrangement with the Supplier in the form set out in Annex 2; or
 - (b) enters into a confidentiality arrangement with the Buyer in terms equivalent to those set out in set out in Clause 19 (What you must keep confidential);
 - 4.3.3. includes a perpetual, royalty-free, non-exclusive licence to use, copy and adapt any Know-How, trade secrets or Confidential Information of the Supplier contained within any Deliverables; and
 - 4.3.4. is subject to the restrictions that:
 - 4.3.4.1. no sub-licence granted to the Supplier Existing IPR that is not COTS Software shall purport to provide the sub-licensee with any wider rights than those granted to the Buyer under this Paragraph;
 - 4.3.4.2. any transferee or sublicensee of the Supplier Existing IPR Licence must either:
 - (a) enter into a direct arrangement with the Supplier in the form set out in Annex 2; or
 - (b) enter into a confidentiality arrangement with the Buyer in terms equivalent to those set out in set out in Clause 19 (What you must keep confidential).
- 4.4. For the purposes of Paragraphs 4.1 and 4.3, the relevant purposes are:
 - 4.4.1. to allow the Buyer or any End User to receive and use the Deliverables;
 - 4.4.2. to commercially exploit (including by publication under Open Licence) the New IPR, Specially Written Software and New IPR Items; and
 - 4.4.3. for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Public Sector Body, any other Public Sector Body's) business or function.

5. Licences granted by the Buyer

- 5.1. The Buyer grants the Supplier a licence to the New IPR, Specially Written Software and Buyer Existing IPR that:
 - 5.1.1. is non-exclusive, royalty-free and non-transferable;
 - 5.1.2. is sub-licensable to any Sub-contractor where
 - 5.1.2.1. the Sub-contractor enters into a confidentiality undertaking with the Supplier on the same terms as set out in Clause 19 (What you must keep confidential); and
 - 5.1.2.2. the sub-licence does not purport to provide the sub-licensee with any wider rights than those granted to the Supplier under this Paragraph;
 - 5.1.3. allows the Supplier and any sub-licensee to use, copy and adapt any Buyer Existing IPR, New IPR and Specially Written Software for the purpose of fulfilling its obligations under this Contract; and
 - 5.1.4. terminates at the end of the Contract Period or the end of any Termination Assistance Period, whichever is the later.
- 5.2. When the licence granted under Paragraph 5.1 terminates, the Supplier must, and must ensure that each Sub-contractor granted a sub-licence under Paragraph 5.1.2:
 - 5.2.1. immediately cease all use of the Buyer Existing IPR, New IPR and Specially Written Software (including the Government Data within which the Buyer Existing IPR or New IPR may subsist);
 - 5.2.2. either:
 - 5.2.2.1. at the discretion of the Buyer, return or destroy documents and other tangible materials that contain any of the Buyer Existing IPR, New IPR, Specially Written Software and the Government Data; or
 - 5.2.2.2. if the Buyer has not made an election within six months of the termination of the licence, destroy the documents and other tangible materials that contain any of the Buyer Existing IPR, the New IPR, Specially Written Software and the Government Data (as the case may be); and
 - 5.2.3. ensure, so far as reasonably practicable, that any Buyer Existing IPR, New IPR, Specially Written Software and Government Data held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Supplier.

6. Open Licence Publication

- 6.1. Subject to Paragraph 6.6, the Supplier agrees that the Buyer may at its sole discretion publish under Open Licence all or part of the New IPR Items, including the:
 - 6.1.1. Specially Written Software;
 - 6.1.2. the software parts of the New IPR Items; and
 - 6.1.3. the Software Supporting Materials.
- 6.2. The Supplier must create all Specially Written Software, software elements of New IPR and Software Supporting Materials in a format (whether it is provided in any other format or not):
 - 6.2.1. suitable for publication by the Buyer as Open Licence; and
 - 6.2.2. based on open standards (where applicable).
- 6.3. The Supplier warrants that in developing the Specially Written Software, the software elements of the New IPR Items and the Software Supporting Materials it has used reasonable endeavours to ensure that:
 - 6.3.1. publication by the Buyer will not:
 - 6.3.1.1. allow a third party to use them in any way that could reasonably be foreseen to compromise the operation or security of the Specially Written Software, New IPRs, the Buyer System or the Supplier System;
 - 6.3.1.2. cause any harm or damage to any party using them; or
 - 6.3.1.3. breach the rights of any third party; and
 - 6.3.2. they do not contain:
 - 6.3.2.1. any Malicious Software; or
 - 6.3.2.2. any material which would bring the Buyer into disrepute if published.
- 6.4. The Supplier must not include in the Specially Written Software, the software parts of the New IPR Items and the Software Supporting Materials provided for publication by Open Licence any Supplier Existing IPRs unless the Supplier consents to:
 - 6.4.1. their publication by the Buyer under Open Licence; and
 - 6.4.2. their subsequent licence and treatment as Open Licence under the terms of the licence chosen by the Buyer.

- 6.5. The Supplier must supply any or all the Specially Written Software, the software elements of the New IPR Items and the Software Supporting Materials in a format suitable for publication under an Open Licence (the **Open Licence Publication Material**) within 30 Working Days of written request from the Buyer (**Buyer Open Licence Request**).
- 6.6. The Supplier may within ten (10) Working Days of a Buyer Open Licence Request under Paragraph 6.5 request in writing that the Buyer excludes all or part of:
 - 6.6.1. the Specially Written Software, the software elements of the New IPR Items and the Software Supporting Materials; or
 - 6.6.2. Supplier Existing IPR or Third Party IPR that would otherwise be included in the Open Licence Publication Material supplied to the Buyer pursuant to Paragraph 6.4,

from Open Licence publication.
- 6.7. The Supplier's request under Paragraph 6.6 must include the Supplier's assessment of the impact the Buyer's agreeing to the request would have on its ability to publish other the Specially Written Software, the software elements of the New IPR Items and the Software Supporting Materials Items under an Open Licence.
- 6.8. Any decision to Approve any such request from the Supplier under Paragraph 6.6 shall be at the Buyer's sole discretion, not to be unreasonably withheld or delayed, or made subject to unreasonable conditions.

7. Patents

- 7.1. Where a patent owned by the Supplier is infringed by the use of the Specially Written Software or New IPR by the Buyer or any Replacement Supplier, the Supplier hereby grants to the Buyer and the Replacement Supplier a non-exclusive, irrevocable, royalty-free, worldwide patent licence to use the infringing methods, materials or software.

Option 2 – (Not Used)

Option 3 – (Not Used)

Option 4 – (Not Used)

Option 5 – (Not Used)

ANNEX 1: NEW IPR AND SPECIALLY WRITTEN SOFTWARE

Only New IPR and Specially Written Software which is part of the Deliverables, or is necessary for the use of the Deliverables by the Buyer, or as part of the Buyer’s ownership of IPR (depending on which option in this Schedule is chosen) will need to be recorded here. IPR such as email communications or documents which do not form part of the Deliverables need not be recorded in this Annex.

Name of New IPR	Details

Name of Specially Written Software	Details

ANNEX 2: FORM OF CONFIDENTIALITY UNDERTAKING

CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made on [date] 20

BETWEEN:

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

WHEREAS:

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

IT IS AGREED as follows:

1 Interpretation

1.1 In this Agreement, unless the context otherwise requires:

“Confidential Information”

means:

- (a) Information, including all personal data within the meaning of the Data Protection Act 2018, and however it is conveyed, provided by the Buyer to the Sub-licensee pursuant to or in connection with the Sub-licence that relates to:
 - (i) the Supplier; or
 - (ii) the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Supplier;
- (b) the source code and the object code of the software sub-licensed to the Sub-licensee pursuant to the Sub-licence

together with build information, relevant design and development information, technical specifications of all functionality including those not included in standard manuals (such as those that modify system performance and access levels), configuration details, test scripts, user manuals, operating manuals, process definitions and procedures, and all such other documentation supplied by the Supplier to the Buyer pursuant to or in connection with the Sub-licence;

- (c) other Information provided by the Buyer pursuant to this Agreement to the Sub-licensee that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential which comes (or has come) to the Sub-licensee's attention or into the Sub-licensee's possession in connection with the Sub-licence; and
- (d) Information derived from any of the above,

but not including any Information that:

- (a) was in the possession of the Sub-licensee without obligation of confidentiality prior to its disclosure by the Buyer;
- (b) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Agreement or breach of a duty of confidentiality; or
- (c) was independently developed without access to the Information;

“Information”

means all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form); and

“Sub-licence”

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

1.2 In this Agreement:

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

2 Confidentiality Obligations

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

- 2.1.1 treat all Confidential Information as secret and confidential;
- 2.1.2 have in place and maintain proper security measures and procedures to protect the confidentiality of the Confidential Information (having regard to its form and nature);
- 2.1.3 not disclose or permit the disclosure of any of the Confidential Information to any other person without obtaining the prior written consent of the Supplier or except as expressly set out in this Agreement;
- 2.1.4 not transfer any of the Confidential Information outside the United Kingdom;
- 2.1.5 not use or exploit any of the Confidential Information for any purpose whatsoever other than as permitted under the Sub-licence;
- 2.1.6 immediately notify the Supplier in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Confidential Information; and
- 2.1.7 upon the expiry or termination of the Sub-licence:
 - (a) destroy or return to the Supplier all documents and other tangible materials that contain any of the Confidential Information;
 - (b) ensure, so far as reasonably practicable, that all Confidential Information held in electronic, digital or other machine-

readable form ceases to be readily accessible (other than by the information technology staff of the Sub-licensee) from any computer, word processor, voicemail system or any other device; and

(c) make no further use of any Confidential Information.

3 Permitted Disclosures

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

4 General

- 4.1 The Sub-licensee acknowledges and agrees that all property, including intellectual property rights, in Confidential Information disclosed to it by the Supplier shall remain with and be vested in the Supplier.
- 4.2 This Agreement does not include, expressly or by implication, any representations, warranties or other obligations:
- 4.2.1 to grant the Sub-licensee any licence or rights other than as may be expressly stated in the Sub-licence;
 - 4.2.2 to require the Supplier to disclose, continue disclosing or update any Confidential Information; or
 - 4.2.3 as to the accuracy, efficacy, completeness, capabilities, safety or any other qualities whatsoever of any Information or materials provided pursuant to or in anticipation of the Sub-licence.

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

5 Notices

- 5.1 Any notice to be given under this Agreement (each a “**Notice**”) shall be given in writing and shall be delivered by hand and shall be deemed to have been duly given at the time of delivery provided that such Notice is sent to the relevant physical address, and expressly marked for the attention of the relevant individual, set out in Clause 5.2.
- 5.2 Any Notice:
- 5.2.1 if to be given to the Supplier shall be sent to:
[Address]
Attention: [Contact name and/or position, e.g. “The Finance Director”]
- 5.2.2 if to be given to the Sub-licensee shall be sent to:
[Name of Organisation]
[Address]
Attention: []

6 Governing law

- 6.1 This Agreement shall be governed by, and construed in accordance with, English law and any matter claim or dispute arising out of or in connection with this Agreement whether contractual or non-contractual, shall be governed by and determined in accordance with English law.
- 6.2 Each Party hereby irrevocably submits to the exclusive jurisdiction of the English courts in respect of any claim or dispute arising out of or in connection with this Agreement.

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

For and on behalf of [name of Supplier]

Signature:

Date:

Name:

Position:

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

Signature:

Date:

Name:

Position: