

Contract for the Provision of Employment Positions for Prisoners at HMP Berwyn

SCHEDULE I: CHANGE MECHANISM

1. GENERAL PRINCIPLES OF CHANGE MECHANISM

- 1.1 This Schedule sets out the procedure for dealing with Contract Changes.
- 1.2 The Parties shall deal with Contract Change as follows:
- 1.2.1 unless expressly stated otherwise, either Party may request a Contract Change which they shall initiate by issuing a Change Request in accordance with paragraph 3;
 - 1.2.2 unless this Contract otherwise requires, the Provider shall assess and document the potential impact of a proposed Contract Change in accordance with paragraph 3.2 before the Contract Change can be either approved or implemented;
 - 1.2.3 the Authority shall have the right to request amendments to a Change Request, approve it or reject it in the manner set out in paragraph 4.5;
 - 1.2.4 the Provider shall have the right to reject a Change Request solely in the manner set out in paragraph 6;
 - 1.2.5 save as otherwise provided in this Contract, no proposed Contract Change shall be implemented by the Provider until a Change Authorisation Note has been signed and issued by the Authority in accordance with paragraph 5.1.3;
 - 1.2.6 if a proposed Contract Change is a Fast-track Change, it shall be processed in accordance with paragraph 7; and
 - 1.2.7 Changes to Contract Controlled Documents shall be made in accordance with paragraph 8.
- 1.3 To the extent that the Contract Change requires testing and/or a plan for implementation, then the Parties shall agree the procedure for such testing and/or implementation and, where appropriate, the Change Authorisation Note relating to such a Contract Change shall specify milestones and milestone date(s) in respect of such Contract Change for the purpose of such procedures.
- 1.4 Until such time as the Change Authorisation Note has been signed by both Parties, then:
- 1.4.1 unless the Authority expressly agrees (or requires) otherwise in writing, the Provider shall continue to supply the Services in accordance with the existing terms of this Contract as if the proposed Contract Change did not apply; and

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1.4.2 any discussions, negotiations or other communications which may take place between the Authority and the Provider in connection with any proposed Contract Change, including the submission of any Change Communications, shall be without prejudice to each Party's other rights under this Contract.

2. COSTS

2.1 Subject to paragraph 0:

2.1.1 the costs of preparing each Change Request shall be borne by the Party making the Change Request; and

2.1.2 subject to paragraph 2.5, the costs incurred by the Provider in undertaking each Impact Assessment shall be borne by the Provider.

2.2 The Provider shall pay both Parties' costs incurred in respect of any use of the Change Mechanism set out in this Schedule to the extent that the Change Request is a result of any error or Default by the Provider.

3. CHANGE REQUEST

3.1 Either Party may issue a Change Request to the other Party at any time during the Contract Period. A Change Request shall be substantially in the form of Appendix 1 and state whether or not the issuing Party considers the proposed Contract Change to be a Fast-track Change.

3.2 The Provider shall prepare and provide to the Authority an Impact Assessment as soon as is reasonably practicable but in any event within ten (10) Working Days of the date of issue of the Change Request.

4. IMPACT ASSESSMENT

4.1 Each Impact Assessment shall be completed in good faith and shall include:

4.1.1 details of the proposed Contract Change including the reason for the Contract Change;

4.1.2 details of the impact of the proposed Contract Change on the Services and the Provider's ability to meet its other obligations under this Contract;

4.1.3 any variation to the terms of this Contract that will be required as a result of that impact;

4.1.4 details of the cost of implementing the proposed Contract Change;

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- 4.1.5 details of the ongoing costs required by the proposed Contract Change when implemented, including any increase or decrease in the Contract Price, any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;
 - 4.1.6 a timetable for the implementation, together with any proposals for the testing of the Contract Change;
 - 4.1.7 details of how the proposed Contract Change will ensure compliance with any applicable Law; and
 - 4.1.8 such other information as the Authority may reasonably request in (or in response to) the Change Request.
- 4.2 If the Contract Change involves the processing or transfer of any Personal Data outside the European Economic Area, the preparation of an Impact Assessment shall also be subject to clause 32 (Protection of Personal Data) of this Contract.
- 4.3 Subject to the provisions of paragraph 4.4, the Authority shall review the Impact Assessment and respond to the Provider in accordance with paragraph 4.5 within fifteen (15) Working Days of receiving the Impact Assessment.
- 4.4 If upon receipt of the Impact Assessment, the Authority reasonably considers that it requires further information regarding the proposed Contract Change so that it may properly evaluate the Change Request and the Impact Assessment, it shall notify the Provider of this fact and detail the further information that it requires. The Provider shall then re-issue the relevant Impact Assessment to the Authority within ten (10) Working Days of receiving such notification. At the Authority's discretion, the Parties may repeat the process described in this Paragraph 4.4 until the Authority is satisfied that it has sufficient information to properly evaluate the Change Request and Impact Assessment.
- 4.5 The calculation of costs for the purposes of paragraphs 4.1.4 and 4.1.5 shall:
- 4.5.1 be based on the Open Book Data;
 - 4.5.2 include estimated volumes of each type of resource to be employed;
 - 4.5.3 take account of any increase in the Provider's risk profile as a result of the Change;
 - 4.5.4 include full disclosure of any assumptions underlying such Impact Assessment; and
 - 4.5.5 include details of any new Sub-contracts necessary to accomplish the Change.

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5. AUTHORITY'S RIGHT OF APPROVAL

5.1 Within fifteen (15) Working Days of receiving the Impact Assessment and any further information that it may request pursuant to paragraph 4.4, the Authority shall evaluate the Change Request and the Impact Assessment and shall do one of the following:

5.1.1 approve the proposed Contract Change, in which case the Parties shall follow the procedure set out in paragraph 5.1.3;

5.1.2 in its absolute discretion reject the Contract Change, in which case it shall notify the Provider of the rejection. If the Authority does reject a Contract Change, then it shall explain its reasons in writing to the Provider as soon as is reasonably practicable following such rejection; or

5.1.3 in the event that it reasonably believes that a Change Request or Impact Assessment contains errors or omissions, require the Provider to modify the relevant document accordingly, in which event the Provider shall make such modifications within five (5) Working Days of such request. Subject to Paragraph 4.4, on receiving the modified Change Request and/or Impact Assessment, the Authority shall approve or reject the proposed Contract Change within ten (10) Working Days.

5.2 If the Authority approves the proposed Contract Change pursuant to paragraph 5.1 and it has not been rejected by the Provider in accordance with paragraph 6, then it shall inform the Provider and the Provider shall prepare two (2) copies of a Change Authorisation Note which it shall sign and deliver to the Authority for its signature. The Provider shall make any modifications to the Change Authorisation Note which the Authority reasonably requests in order to correct errors or omissions. Following receipt by the Authority of the signed Change Authorisation Note, the Authority shall sign both copies and return one copy to the Provider. On the Authority's signature, the Change Authorisation Note shall constitute (or, where the Authority has agreed to or required the implementation of a Contract Change prior to signature of a Change Authorisation Note, shall constitute confirmation of) a binding variation to this Contract.

5.3 If the Authority does not sign the Change Authorisation Note within ten (10) Working Days of receipt, then the Provider shall have the right to notify the Authority and, if the Authority does not sign the Change Note within 5 Working Days of such notification, then the Provider may follow the steps set out under clause 67 (Dispute Resolution) of this Contract.

6. PROVIDER'S RIGHT OF APPROVAL

6.1 Following an Impact Assessment, if:

6.1.1 the Provider reasonably believes that any proposed Contract Change which is requested by the Authority would:

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6.1.1.1 materially and adversely affect the risks to the health and/or safety of any person; and/or

6.1.1.2 require the Services to be performed in a way that infringes any Law

then the Provider shall be entitled to reject the proposed Contract Change and shall notify the Authority of its reasons for doing so within five (5) Working Days after the date on which it is obliged to deliver the Impact Assessment pursuant to paragraph **Error! Reference source not found.**

7. FAST-TRACK CHANGES

7.1 The Parties agree that the procedure set out in paragraphs 3, 4, 5 and 6 shall be the primary means by which Contract Changes are made. However, the parties acknowledge that to ensure operational efficiency there may be circumstances where it is desirable to expedite the processes set out therein.

7.2 If:

7.2.1 the Parties agree that a proposed Contract Change will not have any impact on the cost of delivery of the Services; and

7.2.2 the Parties have confirmed to each other in writing that they agree to follow the Fast-track Change procedure in relation to the Contract Change in question

then the Parties shall follow the process set out in paragraphs 3, 3.2, 4.5 and 6 but with reduced timescales, such that any period of fifteen (15) Working Days is reduced to ten (10) Working Days, any period of ten (10) Working Days is reduced to five (5) Working Days and any period of five (5) Working Days is reduced to one (3) Working Days.

7.3 The Parties may agree in writing to revise the parameters set out in paragraph 7.2 from time to time.

8. DOCUMENT CHANGE PROCEDURE

8.1 Version 1.0 of each Contract Controlled Document shall be the first version of each Contract Controlled Document that is agreed between the Parties.

8.2 Changes to Contract Controlled Documents

8.2.1 Changes to Contract Controlled Documents shall only be effective when signed by an authorised representative of each Party and, unless and until so approved and given an appropriate version number, shall constitute draft documents only.

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8.2.2 Changes to the Contract Controlled Documents shall be recorded by issuing the new version of the relevant Contract Controlled Document (signed by the authorised representatives in accordance with paragraph 8.2.1) to all appropriate Personnel of both Parties.

8.2.3 Upon:

8.2.3.1 a new Contract Controlled Document being agreed and the version number being given;

8.2.3.2 a new Contract Controlled Document being agreed; and/or

8.2.3.3 the Parties agreeing that an existing Contract Controlled Document should no longer be classified as a Contract Controlled Document,

the information in Appendix 3 shall be updated accordingly.

8.2.4 Any changes to a Contract Controlled Document under this paragraph 8.3 may be implemented without following the procedure for making Contract Changes set out in paragraphs 3 – 7 provided they do not:

8.2.4.1 have an adverse impact on the Authority;

8.2.4.2 require a Contract Change (excluding a change to a Controlled Document);

8.2.4.3 have an adverse impact on the provision of the Services; or

8.2.4.1 involve the Authority paying any additional changes or other costs

unless otherwise agreed by the Authority.

9. COMMUNICATIONS

For any Change Communication to be valid under this Schedule, it must be sent to the other Party in accordance with the provisions of clause 19 (Notices) of this Contract.

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APPENDIX 1

CHANGE REQUEST FORM

CR NO.:	TITLE:	TYPE OF CHANGE:
CONTRACT:		REQUIRED BY DATE:
ACTION:	NAME:	DATE:
RAISED BY:		
AREA(S) IMPACTED (<i>OPTIONAL FIELD</i>):		
ASSIGNED FOR IMPACT ASSESSMENT BY:		
ASSIGNED FOR IMPACT ASSESSMENT TO:		
PROVIDER REFERENCE NO.:		
FULL DESCRIPTION OF REQUESTED CONTRACT CHANGE (INCLUDING PROPOSED CHANGES TO THE WORDING OF THE CONTRACT):		
DETAILS OF ANY PROPOSED ALTERNATIVE SCENARIOS:		
REASONS FOR AND BENEFITS AND DISADVANTAGES OF REQUESTED CONTRACT CHANGE:		
SIGNATURE OF REQUESTING CHANGE OWNER:		
DATE OF REQUEST:		

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APPENDIX 2

CHANGE AUTHORISATION NOTE

CR NO.:	TITLE:	DATE RAISED:
CONTRACT:	TYPE OF CHANGE:	REQUIRED BY DATE:
[KEY MILESTONE DATE: <i>[if any]</i>]		
DETAILED DESCRIPTION OF CONTRACT CHANGE FOR WHICH IMPACT ASSESSMENT IS BEING PREPARED AND WORDING OF RELATED CHANGES TO THE CONTRACT:		
PROPOSED ADJUSTMENT TO THE CHARGES RESULTING FROM THE CONTRACT CHANGE:		
DETAILS OF PROPOSED ONE-OFF ADDITIONAL CHARGES AND MEANS FOR DETERMINING THESE (E.G. FIXED PRICE BASIS):		
SIGNED ON BEHALF OF THE AUTHORITY:		SIGNED ON BEHALF OF THE PROVIDER:
Signature: _____		Signature: _____
Name: _____		Name: _____
Position: _____		Position: _____
Date: _____		Date: _____

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APPENDIX 3

CONTRACT CONTROLLED DOCUMENTS

1. Mobilisation and Transition Plan
2. Business Plan
3. Annual Service Delivery Plan
4. Exit Plan
5. BCDR Plan
6. Annex 1 of Governance (Schedule H to this Contract)
7. Key Personnel (Schedule J to this Contract)
8. Approved Operators (Schedule K to this Contract)