



CONTRACT

For

The Provision of Access to Work Mental Health Support Services

Between

**THE SECRETARY OF STATE FOR WORK AND PENSIONS
(the "Authority") acting as part of the Crown.**

And

**Remploy Ltd
09457025**

CONTRACT REFERENCE NUMBER: UI_DWP_101960/2

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This Contract is made on
the

between the Parties

The Secretary of State for Work and Pensions
("the Authority") acting as part of the Crown.

Of
Caxton House,
Tothill Street
London
SW1H 9DA

And Remploy Ltd

with Company Registration Number 09457025

having the main or registered office at 18c Meridian East
Meridian Business Park
Leicester
LE19 1WZ

("the Contractor")

individually referred to as “Party” and collectively as “the Parties”

A.GENERAL PROVISIONS

A1 Definitions and Interpretation

A1.1 In this Contract the following provisions shall have the meanings given to them below:

“Acquired Rights Directive” means the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees’ rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time.

“Activity Date” means the date when the Contractor (or any Sub-contractor) commences the supply of the Services (or any part of the Services) under this Contract.

“Admin Fees” means the costs incurred by the Contracting Body in dealing with MI Failures calculated in accordance with the tariff of administration charges published by the Crown Commercial Service at the following link:

<http://CCS.cabinetoffice.gov.uk/i-am-Contractor/management-information/admin-fees>

“Administration” means the administrative receivership of a company under the management of an administrator under the Insolvency Act 1986.

“Admission Agreement” means an admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into by the Contractor where it agrees to participate in the Schemes in respect of the Services.

“Affiliate” means in relation to any company, any holding company or subsidiary of that company or any subsidiary of such holding company, and “holding company” and “subsidiary” shall have the meaning given to them in section 1159 of the Companies Act 2006.

“Anticipated Contract Value” means £[REDACTED].

“Apportioned Unable to Validate Outcomes” in respect of each Payment Validation Period, shall be calculated as follows:

$(A \times B) / (B + C + D)$ where:

A = the number of Unable to Validate Outcomes in the Outcome Sample for that Payment Validation Period (as determined by the Authority)

B = the number of Outcome Fails in the Outcome Sample for that Payment Validation Period (as determined by the Authority)

C = the number of Outcome Technical Fails in the Outcome Sample for that Payment Validation Period (as determined by the Authority)

D = the number of Outcome Passes in the Outcome Sample for that Payment Validation Period (as determined by the Authority).

“Approval” means the prior written consent of the Authority including consent provided by email by the Authority’s Representative notwithstanding clause A5.2.

“Audit Agent(s)” means:

- a) the Authority’s internal and external auditors;
- b) the Authority’s statutory or regulatory auditors;
- c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;
- d) HM Treasury or the Cabinet Office;
- e) any party formally appointed by the Authority to carry out audit or similar review functions; and
- f) successors or assigns of any of the above.

“Authority” means the Secretary of State for Work and Pensions.

“Authority Data” means the data, guidance, specifications, instructions, toolkits, plans, databases, patents, patterns, models, design, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:

- (i) supplied to the Contractor by or on behalf of the Authority; or
- (ii) which the Contractor is required to generate, process, store or transmit pursuant to this Contract.

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

“Authority’s Premises” means any premises owned by the Authority or for which the Authority has legal responsibility.

“Authority’s Representative” means the representative(s) of the Authority authorised to act on behalf of the Secretary of State for Work and Pensions on all matters relating to the Contract.

“Authority Software” means software which is owned by or licensed to the Authority, including software which is, or will be used by the Contractor for the purpose of providing the Services but excluding the Contractor Software.

“Breach of Security” means the occurrence of unauthorised access to or use of the Premises, the Authority’s Premises, the Services, the Authority ICT System, the Contractor ICT system or any ICT or data (including the Authority’s Data), and any Personal Data and any Special Categories of Personal Data used by the Authority or the Contractor in connection with this Contract.

“Bribery Act 2010” means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

“Business Continuity Plan” means any plan prepared by the Contractor which is required pursuant to clause H8, as may be amended from time to time.

“Change Communication” any Operational Change Request, Operational Change Confirmation, Change Request, Impact Assessment, Change Authorisation Note or other communication sent or required to be sent pursuant to the Change Control Procedure.

“Change Control Procedure” means the procedure for proposing a Contract Change, as set out in Schedule 12 (Change Control Procedure).

“Change Request” means a written request for a Contract Change which shall be substantially in the form of Appendix 1 of Schedule 12 (Change Control Procedure) or such form as specified by the Authority from time to time.

“Cohort” means a Needs Assessment (as defined in the Specification) recorded onto the PRaP System (as defined in the Specification) in each Cohort Period.

“Cohort Period” means any Month.

“Commencement Date” means 20 August 2018.

“Commercially Sensitive Information” means the Information:

- (i) listed in Schedule 5 (Commercially Sensitive Information);
- (ii) notified to the Authority in writing (prior to the Commencement Date) which has been clearly marked as Commercially Sensitive Information which is provided by the Contractor to the Authority in confidence; or
- (iii) which constitutes a trade secret.

“Commercially Sensitive Information Schedule” means Schedule 5, containing a list of the Commercially Sensitive Information provided by the Contractor.

“Compensation Payment” has the meaning given in Schedule 10 (Exit Management).

“Confidential Information” means:

- a) any information which has been designated as confidential by either Party in writing or that ought reasonably to be considered as confidential (however it is conveyed or on whatever media it is stored) including information that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Contractor, including Intellectual Property Rights, together with all 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; and
- b) the Commercially Sensitive Information and does not include any information:
 - (i) which was public knowledge at the time of disclosure (otherwise than by breach of clause E4 (Confidential Information));
 - (ii) which was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
 - (iii) which is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
 - (iv) is independently developed without access to the Confidential Information.

“Contract” means this written agreement between the Authority and the Contractor consisting of these terms and conditions of contract, the Schedules, the Appendices including the Specification, the Implementation Plan, the Invitation to Tender, the Tender and the

Contractor Guidance and any other document referred to within the Schedules or Appendices.

“Contract Change” means any change, amendment, variation, restatement or supplement to this Contract other than an Operational Change. Notwithstanding clause A5.2, any notice or other communication which is to be given by either Party in relation to an Contract Change shall be given by letter (delivered by hand, or sent by registered post or by the recorded delivery service) or by email. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two (2) Working Days after the day on which the letter was posted or four (4) hours after the email is sent where the notice is sent by email or sooner where the other Party acknowledges receipt of such letter or email. Such letter or email shall be addressed to the other Party in the manner referred to in clause A5.3.

“Contracting Authority” means any contracting authority as defined in the Public Contracts Regulations 2015, except the Authority.

“Contractor” means the person, partnership or company with whom the Authority enters into the Contract.

“Contractor Guidance” means the following guidance documents (available on GOV.UK), which can be accessed using the links in Schedule 1 (The Services):

- “Access to Work Mental Health Support Services Provider Guidance”;
- “Generic Guidance for DWP Providers”;
- “HMG Baseline Personnel Security Standard”;
- “Life Chances through Procurement Guidance for DWP Contractors”;
- “Merlin Standard Guidance”;
- “Disability Confident Guidance”

“Contractor’s Final Personnel List” means a list provided by the Contractor of all those persons who will transfer under the TUPE Regulations on the Service Transfer Date.

“Contractor’s Provisional Personnel List” means a list prepared and updated by the Contractor of all those persons 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 Contractor.

“Contractor’s Representative” means the representative(s) of the Contractor authorised to act on behalf of the Contractor on all matters relating to the Contract.

“Contractor Software” means software owned or licensed to the Contractor, including software which is or will be used by the Contractor for the purposes of providing the Services.

Contractor Termination Event” means:

- (a) the occurrence of 3 Defaults in any 6 Month period;
- (b) the Contractor committing a material Default which is irremediable;
- (c) the representation and warranties given by the Contractor pursuant to clause D7 (Tax Compliance) being materially untrue or misleading;
- (e) the Contractor committing a material Default, whether or not such material Default is capable of remedy, under any of the following clauses:
 - (i) clause E2 (Protection of Personal Data and Special Categories of Personal Data);
 - (ii) clause E4 (Confidential Information);
 - (iii) clause E5 (Freedom of Information); or
 - (iv) clause E7 (Security);
- (f) the Guarantee ceasing to be valid or enforceable for any reason (without the Guarantee being replaced with a comparable guarantee to the satisfaction of the Authority with the Guarantor or with another guarantor which is acceptable to the Authority);
- (g) a failure by the Contractor to comply in the performance of the Services with legal obligations in the fields of environmental, social or labour law; or
- (h) where a right of termination is expressly reserved in this Contract;
- (i) an Insolvency Event occurring in respect of the Contractor or the Guarantor;
- (j) a Change of Control of the Contractor or a Guarantor unless:
 - (i) the Authority has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or
 - (ii) the Authority has not served its notice of objection within 6 months of the later of the date on which the Change of Control

took place or the date on which the Authority was given notice of the Change of Control;

- (k) a change of Control of a Sub-contractor unless, within 6 months of being notified by the Authority that it objects to such change of Control, the Contractor terminates the relevant Sub-contract and replaces it with a comparable Sub-contract which is approved by the Authority; or
- (l) the Authority has become aware that the Contractor should have been excluded under Regulation 57(1) or (2) of the Public Contracts Regulations 2015 from the procurement procedure leading to the award of this Contract.

“Contract Period” means the period from the Commencement Date to:

- a) the date of expiry set out in clause A2 (Initial Contract Period); or
- b) following an extension pursuant to clause F9 (Extension of Initial Contract Period), the date of expiry of the extended period; or
- c) such earlier date of termination or partial termination of the Contract in accordance with the Law or the provisions of the Contract.

“Contract Price” means the price (exclusive of any applicable VAT), payable to the Contractor by the Authority under the Contract, as set out in Schedule 4 (Contract Price), for the full and proper performance by the Contractor of its obligations under the Contract but before taking into account the effect of any adjustment of price in accordance with clause C4 (Price Adjustment on Extension of Initial Contract Period).

“Crown” means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and The Welsh Government), including, but not limited to, government ministers, government departments, government and particular bodies, and government agencies. In this Contract, the Authority is acting as part of the Crown.

“Customer” means the person(s) directly receiving the Services provided by the Contractor as specified in this Contract.

“Data Controller” shall have the same meaning as given in Data Protection Legislation.

“Data Loss Event” any event that results, or may result, in unauthorised access to Personal Data and Special Categories Personal Data held by the Contractor under this Contract and/or actual or potential loss and/or alteration and/or destruction of Personal Data and Special Categories

Personal Data in breach of this Contract, including any Personal Data Breach.

“Data Processor” shall have the same meaning as given in the Data Protection Legislation.

“Data Protection Impact Assessment” means an assessment by the Data Controller of the impact of the envisaged processing on the protection of Personal Data and Special Categories Personal Data.

“Data Protection Legislation” means the GDPR, the LED and any applicable national implementing Laws as amended from time to time, the DPA 2018, the Criminal Law Enforcement Data Protection Directive 2016/680, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable Law relating to the processing of Personal Data and Special Categories of Personal Data.

“Data Protection Officer” shall have the same meaning as given in Data Protection Legislation.

“Data Subject” shall have the same meaning as given in Data Protection Legislation.

“Data Subject Access Request” means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data and Special Categories Personal Data.

“Day(s)” shall mean any day of the week including weekends and where the term ‘day’ is used in the Contract, it shall mean calendar day rather than ‘Working Day’.

“Default” means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party or the Staff in connection with or in relation to the subject matter of the Contract and in respect of which such Party is liable to the other.

“Disputes” means any dispute, difference or question of interpretation arising out of or in connection with this Contract, including any dispute, difference or question of interpretation relating to the Services, failure to agree in accordance with the Change Control Procedure or any matter where this Contract directs the Parties to resolve an issue by reference to clause I2 (Dispute Resolution).

“Dispute Resolution Procedure” means the dispute resolution procedure set out in Schedule 15 (Dispute Resolution Procedure).

“DOTAS” means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue and Customs 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 the National Insurance Contributions by the National Insurance Contribution (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992.

“DPA” means the Data Protection Act 2018.

“DWP Offshoring Policy” means the Authority’s policy and procedures in relation to hosting or accessing the Authority ICT System or official information outside of the UK including Landed Resources as advised to the Contractor by the Authority from time to time.

“Eligible Employee” means any Fair Deal Employee who at the relevant time is an eligible employee as defined in the Admission Agreement.

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

“Equipment” means the Contractor’s equipment, plant, materials and such other items supplied and used by the Contractor in the performance of its obligations under the Contract.

“Expiry” means the expiry of this Contract, however arising.

“Fair Deal Employees” means those Transferring Employees who are on the Relevant Transfer Date entitled to the protection of New Fair Deal or become entitled to the protection of New Fair Deal on the Relevant Transfer Date by virtue of having originally transferred pursuant to a Relevant Transfer under the TUPE Regulations (or the predecessor legislation) from employment with a public sector employer and who were once eligible to participate in the Schemes.

“Final Payment” has the meaning set out in Schedule 4 (Contract Price and Payment).

“FOIA” means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information

Commissioner or relevant government department in relation to such legislation.

“Force Majeure Event” means any event outside the reasonable control of either Party affecting its performance of its obligations under this Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Contractor or the Staff or any other failure in the Contractor’s or a Sub-contractor’s supply chain.

“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.

“Fraud” means any offence under Law or common law creating offences in respect of fraudulent acts, fraudulent acts in relation to the Contract, defrauding or attempting to defraud or conspiring to defraud the Crown.

“GDPR” means the General Data Protection Regulation (Regulation (EU) 2016/679). For the avoidance of doubt, the Contractor shall not be required to ensure that its provision of the Services or its other obligations under the Contract comply with the provision of the GDPR until 25 May 2018, although it may expressly elect or agree in writing to be compliant before that date.

“General Anti-Abuse Rule” means:

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

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

“Guarantee” means the deed of guarantee in favour of the Authority entered into by the Guarantor on or about the date of the Contract (which is substantially in the form set out in Schedule 11 (Parent Company Guarantee) or such similar form acceptable to the Authority from time to time).

“Guarantor” means the body who has agreed to guarantee the due performance of the Contract by the Contractor as defined in clause G4 and the deed at Schedule 11 (Parent Company Guarantee).

“Halifax Abuse Principle” means the principle explained in the CJEU Case C-255/02 Halifax and others.

“ICT” means information and communications technology.

“ICT Environment” means the Authority ICT System and the Contractor ICT system.

“Impact Assessment” means an assessment of a Change Request in accordance with paragraph 5 of Schedule 12 (Change Control Procedure).

“Incumbent Contractor” means any contractor providing services to the Authority before the Activity Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such contractor (or any sub-contractor of such sub-contractor).

“Independent Case Examiner” or “ICE” is the body that can review complaints about certain government organisations that deal with benefits, work and financial support.

“Ineligible Amount” means any payment or any part of a payment made by the Authority to the Contractor under this Contract, which is determined by the Authority not to have been eligible for payment.

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

“Initial Contract Period” means the period from the Commencement Date to the date of expiry set out in clause A2 (Initial Contract Period), or such earlier date of termination or partial termination of the Contract in accordance with the Law or the provisions of the Contract.

“Initial Payment” has the meaning set out in Schedule 4 (Contract Price and Payment).

“Initial Referral Period End Date” means 19 August 2022.

“Insolvency Event” means:

- (a) the other Party suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or:
 - (i) (being a company or a LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or

- (ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986;
- (b) the other Party commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, a LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;
- (c) a person becomes entitled to appoint a receiver over the assets of the other Party or a receiver is appointed over the assets of the other Party;
- (d) a creditor or encumbrancer of the other Party 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 the other Party's assets and such attachment or process is not discharged within 14 days;
- (e) the other Party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- (f) where the other Party is a company, a LLP or a partnership:
 - (i) a petition is presented (which is not dismissed within 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 other Party other than for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;
 - (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 the other Party;
 - (iii) (being a company or a LLP) the holder of a qualifying floating charge over the assets of that other Party 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 other Party has become entitled to appoint or has appointed an agricultural receiver; or
- (g) any event occurs, or proceeding is taken, with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above.

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

“International Organisation” shall have the same meaning as given in Data Protection Legislation.

“Invitation to Tender” means the invitation to tenderers issued by the Authority on 6 February 2018.

“Irregularity” means:

- (a) directly, or indirectly,
- (b) submitting a claim for, or agreeing to receive, or accepting,
- (c) any Outcome Payment, or Delivery Fee, or financial, or other advantage,
- (d) in connection with a Programme Contract
- (e) which becomes the subject of an investigation by the Audit Agents and
- (f) which the Audit Agents find was more likely than not,
- (g) deliberately, or negligently,
- (h) based on invalid, or erroneous, or false information, or documentation.

“Key Personnel” means those persons named in Annex J (ITT) and Schedule 2 (Administration Arrangements).

“KPI” means a key performance indicator to which the Services are to be provided as set out in the Specification.

“Landed Resources” means when the Contractor or its Sub-contractor causes foreign nationals to be brought to the United Kingdom to provide the Services.

“Law” means any applicable Act of Parliament, subordinate legislation, exercise of the royal prerogative, enforceable European Community right, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements or any Regulatory Body of which the Contractor is bound to comply.

“LED” Law Enforcement Directive (*Directive (EU) 2016/680*).

“Liquidation” means the appointment of a Liquidator who collects in and distributes the company's assets and dissolves the company. The

company can also be put into provisional Liquidation before a final winding up order is granted.

“Loss” means direct losses, liabilities, claims, damages, costs, charges, outgoings and expenses (including legal expenses) of every description, provided in each case that such losses are reasonable, direct, proper and mitigated.

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

“Management Information” means the management information specified in clause E13 and Schedule 13 (Management Information).

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

- a) a substantial portion of the Contract; or
- b) any of the obligations set out in clauses A, B, D, E, F, H, Schedule 3 (Monitoring Requirements) or Schedule 8 (Life Chances); or
- c) any Default which is specified in the Contract as a ‘Material Breach’ or which may be deemed to be a Material Breach.

In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

“Merlin Accreditation” means accreditation in relation to the Merlin Standard in accordance with the requirements specified by any organisation(s) from time to time appointed by the Authority to administer the Merlin Standard assessment and accreditation service. For the avoidance of doubt, such requirements include any such terms and conditions agreed between such appointed organisation(s) and the Contractor.

“Merlin Standard” means the standard and accreditation process in respect of supply chain management as detailed in the Specification.

“MHSS Support Plan Outcome” means the receipt of the MHSS Support Plan as more particularly described in the Specification which is subsequently approved as being to the required quality standard by the Authority.

“MHSS 6 Month Report Outcome” means the receipt of the MHSS 6 Month Report as more particularly described in the Specification which is subsequently approved as being to the required quality standard by the Authority, providing the Customer is in employment at the end of the 6 month support period. For the avoidance of doubt, this Outcome can only occur in respect of a Customer for whom an MHSS Support Plan Outcome has been achieved.

“MHSS Exit Report Outcome” means receipt of the MHSS Exit Report as more particularly described in the Specification which is subsequently approved as being to the required quality standard by the Authority, providing the Customer is in employment at the end of the 3 month sustainment period. For the avoidance of doubt, this Outcome can only occur in respect of a Customer for whom an MHSS Support Plan Outcome has been achieved.

“MI Report” means a report containing Management Information submitted to the Authority in accordance with clause E13 and Schedule 13 (Management Information).

“Monitoring Requirements Schedule” means the details of the monitoring arrangements, more particularly described in Schedule 3 (Monitoring Requirements).

“Month” means calendar month.

“New Fair Deal” means the revised Fair Deal position set out in HM Treasury guidance: *“Fair Deal for staff pensions: staff transfer from central government”* issued in October 2013 including any amendments to that document immediately prior to the Relevant Transfer Date.

“Nil Return” has the meaning given in paragraph 3.3 of Schedule 13 (Management Information).

“Occasion of Tax Non-Compliance” means any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 is found to be incorrect as a result of:

- (i) a Relevant Tax Authority successfully challenging the Contractor under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; or
- (ii) the failure of an avoidance scheme which the Contractor was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or and equivalent or similar regime; or

- (iii) the Contractor's tax affairs give rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent as at the Commencement Date or to a penalty for civil fraud or evasion.

“Official Correspondence” shall include but is not limited to the following -:

- Treat Official correspondence;
- Ministerial correspondence;
- Freedom of Information requests
- Parliamentary questions;
- Ministerial briefings;
- Parliamentary Commissioner for Administration cases;
- Press enquiries;
- Other ad hoc queries from third parties.

“OJEU Notice” means the contract notice published in the Official Journal of the European Union under reference 2017/S 228 – 475316.

“Open Book Data” means complete and accurate financial and non-financial information which is sufficient to enable the Authority to verify the Contract Price (including but not limited to any payment already paid or payable under the Contract Price) and forecast to be paid during the remainder of the Contract Period, including details and all assumptions relating to:

- a) the Contractor's costs broken down against each service category and/or deliverable under the Contract, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all hardware and software; and
- b) operating expenditure relating to the supply of the Services including an analysis showing:
 - (i) the unit costs and quantity consumables and bought-in services;
 - (ii) manpower resources broken down into the number and grade/role of all Staff (free of any contingency) together with a list of agreed rates against each manpower grade;
 - (iii) a list of costs underpinning those rates for each manpower grade, being the agreed rate less the Contractor's profit margin;
 - (iv) reimbursable expenses (such as reasonable out of pocket travel and subsistence expenses properly and necessarily incurred in the supply of the Services);
 - (v) overheads;

- (vi) all interest, expenses and any other third party financing costs incurred in relation to the supply of the Services;
- (vii) the Contractor's profit margin achieved over the Contract Period and on an annual basis;
- (viii) confirmation that all methods of cost apportionment and overhead allocation are consistent with and not more onerous than such methods applied generally by the Contractor; and
- (ix) an explanation of the type and value of risk and contingencies associated with the supply of the Services, including the amount of money attributed to each risk and/or contingency.

“Operational Change” means any change in the Contractor's operational procedures which in all respects, when implemented:

- will not affect the Contract Price and will not result in any other costs to the Authority;
- may change the way in which the Services are delivered but will not adversely affect the output of the Services or increase the risks in performing or receiving the Services;
- will not adversely affect the interfaces or interoperability of the Services with any part of the Authority ICT System; and
- will not require a change to this Contract.

“Operational Change Confirmation” means a written response to an Operational Change Request in which the Party that receives the Operational Change Request confirms its agreement to it. The confirmation may be sent by electronic mail or letter. Notwithstanding clause A5.2, any notice or other communication which is to be given by either Party in relation to an Operational Change Confirmation shall be given by letter (delivered by hand, or sent by registered post or by the recorded delivery service) or by email. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two (2) Working Days after the day on which the letter was posted or four (4) hours after the email is sent where the notice is sent by email or sooner where the other Party acknowledges receipt of such letter or email. Such letter or email shall be addressed to the other Party in the manner referred to in clause A5.3.

“Operational Change Request” means a written request for an Operational Change which may be sent by electronic mail or by letter. Notwithstanding clause A5.2, any notice or other communication which is to be given by either Party in relation to an Operational Change Request shall be given by letter (delivered by hand, or sent by registered post or by the recorded delivery service) or by email. Provided the relevant communication is not returned as undelivered, the notice or

communication shall be deemed to have been given two (2) Working Days after the day on which the letter was posted or four (4) hours after the email is sent where the notice is sent by email or sooner where the other Party acknowledges receipt of such letter or email. Such letter or email shall be addressed to the other Party in the manner referred to in clause A5.3.

“Outcome” shall mean either:

- (a) an MHSS Support Plan Outcome; and/or
 - (b) an MHSS 6 month Report Outcome; and/or
 - (c) an MHSS Exit Report Outcome;
- as the context requires.

“Outcome Aggregate Error Amount” shall have the meaning accorded it in clause C2A.6.

“Outcome Error Rate” means in respect of each Payment Validation Period, the percentage of failures, errors and/or over-claims which the Authority shall be entitled to assume have been made in respect of all of the Outcome Payments which have been paid by the Authority to the Contractor (in respect of this Contract) in that Payment Validation Period and which shall be calculated as follows:

$(A/B) \times 100$ where:

A = Total of Outcome Fails, Outcome Technical Fails and Apportioned Unable to Validate Outcomes for that Payment Validation Period (as determined by the Authority);

B = the number of Outcome Payments comprised in the Outcome Sample, expressed as a percentage.

“Outcome Fail(s)” means an Outcome in respect of which the Authority in its absolute discretion determines that not all of the relevant qualifying criteria, standards and requirements as specified in this Contract (in respect of that Outcome) have been satisfied.

“Outcome Pass” or “Outcome Passes” means an Outcome in respect of which the Authority in its absolute discretion determines that all of the relevant qualifying criteria, standards and requirements as specified in this Contract (in respect of that Outcome) have been satisfied.

“Outcome Payment” means a payment of the Contract Price by the Authority to the Contractor in respect of an Outcome.

“Outcome Sample” means in respect of Outcomes a single sample drawn from across the relevant Payment Validation Period or a composite of individual e.g. weekly, monthly samples from periods within and which together cover sufficiently the Payment Validation Period.

“Outcome Technical Fail” means an Outcome in respect of which, arising in a difference in information that the Customer supplies to the

Authority and information and details recorded on the Authority ICT System by the Contractor, the Authority determines (in its absolute discretion) that the relevant qualifying criteria, standards and requirements in this Contract (in respect of that Outcome) have not been satisfied.

“Payment Tail Period” means the period from and including the day following the Referral Period End Date up to and including the last day of the Services Delivery Period.

“Partial Termination” has the meaning set out in clause H1.2.

“Party” means a party to the Contract.

“Payment Validation Period” means such payment validation period as the Authority notifies the Contractor of from time to time.

“Performance Improvement Plan” means the plan to be provided by the Contractor in accordance with clause F5.3.2 or F5.3.4(i) for the resolution of a Contractor’s Default.

“Performance Managers” means managers within each of the organisations of the Parties who shall be responsible for monitoring performance of the Services on behalf of their organisation.

“Personal Data” shall have the same meaning as given in the Data Protection Legislation.

“Personal Data Breach” shall have the same meaning as given in Data Protection Legislation.

“Pre-Existing Intellectual Property Rights” means any Intellectual Property Rights vested in or licensed to the Authority or the Contractor prior to or independently of the performance by the Authority or the Contractor of their obligations under this Contract and in respect of the Authority includes Authority Data.

“Premises” means the location where the Services are to be supplied, as set out in the Specification.

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

“Protective Measures” means appropriate technical and organisational measures which shall be sufficient to secure that the Data Processor will meet the requirements of GDPR and ensure the protection rights of the Data Subject and may include (without limitation):

- Pseudonymisation and encrypting Personal Data and Special Categories Personal Data;
- ensuring on-going confidentiality, integrity, availability and resilience of systems and services used for data processing;
- measures to restore the availability and access to Personal Data and Special Categories Personal Data in a timely manner in the event of a physical or technical incident
- ensuring that availability of and access to Personal Data and Special Categories Personal Data can be restored in a timely manner after an incident; and
- regularly assessing and evaluating the effectiveness of such measures adopted by it.

“Pseudonymisation” shall have the same meaning as given in Data Protection Legislation.

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

“Receiving Party” means the Party which receives a proposed Contract Change.

“Referral Period End Date” means the Initial Referral Period End Date or such later date as agreed by way of extension pursuant to clause F9 (Extension to Initial Contract Period).

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

“Relevant Employees” means the employees of the Contractor (including the Transferring Employees) who are wholly or mainly assigned to work in the provision of the Services and who will be the subject of a Relevant Transfer by virtue of the application of the TUPE Regulations on the Service Transfer Date.

“Relevant Tax Authority” means HM Revenue & Customs or, if applicable, a tax authority in the jurisdiction in which the Contractor is established.

“Relevant Transfer” means a transfer of employment to which the TUPE Regulations apply.

“Relevant Transfer Date” in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place.

“Replacement Contractor” means any third party service provider appointed by the Authority to supply any services which are substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the expiry, termination or partial termination of the Contract (or where the Authority is providing replacement services for its own account, the Authority).

“Replacement Sub-contractor” means a sub-contractor of the Replacement Contractor to whom Transferring Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor).

“Reporting Date” means the seventh (7th) day of each Month following the Month to which the relevant Management Information relates, or such other date as may be agreed between the Authority and the Contractor from time to time.

“Request for Information” shall have the meaning set out in FOIA or the Environmental Information Regulations as relevant (where the meaning set out for the term “request” shall apply).

“Schedule” means a Schedule attached to, and forming part of, the Contract.

“Schemes” means the Principal Civil Service Pension Scheme available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Scheme and (ii) Death Benefits Scheme; the Civil Service Additional Voluntary Contribution Scheme; the Designated Stakeholder Pension Scheme and “alpha” introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014.

“Second Payment” has the meaning set out in Schedule 4 (Contract Price and Payment).

“Security Plan” means the Contractor’s security plan prepared as directed in paragraph 3 of Schedule 6 (Security Requirements & Plan).

“Security Policy” means the Authority’s Security Policy annexed to Schedule 6 (Security Requirements and Plan) as updated from time to time.

“Security Tests” means conduct tests of the processes and countermeasures contained in the Security Plan.

“Services” means the provision of mental health support services as more particularly described in the Specification to consider all aspects of a Customer’s disability and explore factors that impact on their workplace barriers, as more particularly described in the Specification.

“Services Delivery Period” means the period starting on the Commencement Date and ending 10 Months and 28 Working Days after the end of the Referral Period End Date.

“Service Transfer” means any transfer of the Services (or any part of the Services), for whatever reason, from the Contractor or any Sub-contractor to a Replacement Contractor or Replacement Sub-contractor.

“Service Transfer Date” means the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires.

“Special Categories of Personal Data” shall have the meaning given in Data Protection Legislation.

“Specification” means the description of the Services to be provided as specified in the specification at Schedule 1 (The Services).

“Staff” mean all persons employed by the Contractor to perform its obligations under the Contract together with the Contractor’s servants, agents, suppliers and Sub-contractors used in the performance of its obligations under the Contract.

“Staff Vetting Procedures” means the Authority’s procedures for the vetting of personnel and as advised to the Contractor by the Authority.

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

“Sub-contractor” means any third party appointed by the Contractor which through its employees or agents directly delivers the Services.

“Sub-processor” means any third party appointed to process Personal Data and Special Categories Personal Data on behalf of the Contractor under this Contract.

“Target Performance Level” means the minimum level of performance for a KPI which is required by the Authority, as set out against each KPI

in Schedule 3 (Monitoring Requirements) Appendix A and the Specification

“Tender” means the document(s) submitted by the Contractor to the Authority in response to the Authority’s invitation to suppliers for formal offers to supply it with the Services.

“Termination Notice” means 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 Agreement on a specified date and setting out the grounds for termination.

“Termination Payment” has the meaning given in Schedule 10 (Exit Management).

“Third Party Software” means software which is proprietary to any third party (other than an Affiliate of the Contractor) which is or will be used by the Contractor for the purposes of providing the Services.

“Transferring Employees” means employees of the Incumbent Contractor or the Authority (as applicable) engaged immediately prior to the Activity Date in the performance of the activities to be performed as the Services (or part of the Services) and who are subject of a Relevant Transfer to the Contractor or any Sub-contractor by virtue of the application of the TUPE Regulations.

“TUPE Regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006, as amended from time to time.

“Unable To Validate Outcome Payment” means an Outcome Payment in respect of which:

- (a) notwithstanding that the Contractor has provided supporting information to the Authority, the Authority has not been able to contact the Customer; and/or
- (b) the Customer is unable and/or unwilling to provide the information requested by the Authority so as to enable the Authority to validate the Outcome and therefore the Authority has been unable to verify that all of the relevant qualifying criteria and requirements in respect of that Outcome have been satisfied.

“Variation” has the meaning given to it in clause F3.1 (Variation).

“VAT” means value added tax in accordance with the provisions of the **Value Added Tax Act 1994**.

“Working Day” means any day other than a Saturday, Sunday, or public holiday when banks in the United Kingdom are open for business.

A1.2 The interpretation and construction of this Contract shall be subject to the following provisions:

- (a) Words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- (b) Reference to a clause is a reference to the whole of that clause unless stated otherwise;
- (c) Reference to any statute, law, order, regulation or other similar instrument shall be construed as a reference to the statute, law, order, regulation or instrument as subsequently amended or re-enacted;
- (d) Reference to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- (e) The words “include”, “includes” and “including” are to be construed as if they were immediately followed by the words “without limitation”;

Headings are included in this Contract for ease of reference only and shall not affect the interpretation or construction of the Contract.

A2 Initial Contract Period

A2.1 This Contract shall commence on the Commencement Date and shall expire automatically on the day immediately following the Services Delivery Period (the “Contract Period”), unless it is otherwise terminated earlier in accordance with the provisions of this Contract, or otherwise lawfully terminated, .

A2.2 The Authority shall refer customers to the Contractor in respect of the Services described in section 6 of the Specification from the Commencement Date until no later than the Initial Referral Period End Date or such later date as agreed in relation to any extension made under clause F9 (Extension of Initial Contract Period).

A2.3 This clause A2 shall be without prejudice to clause E14 (Records Relating to the Provision of the Services) and clause H4 (General Provisions on Expiry or Termination).

A3 Contractor’s Status

At all times during the Contract Period the Contractor shall be an independent contractor and nothing in this Contract shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and accordingly neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms and conditions of this Contract.

A4 Authority's Obligations

Save as otherwise expressly provided, the obligations of the Authority under this Contract are obligations of the Authority in its capacity as a contracting counterparty and nothing in this Contract shall operate as an obligation upon, or in any other way constrain the Authority in any other capacity, nor shall the exercise by the Authority of its duties and powers in any other capacity lead to any liability, under this Contract (howsoever arising), on the part of the Authority to the Contractor.

A5 Notices

A5.1 Except as otherwise expressly provided within this Contract, no notice or other communication from one Party to the other shall have any validity under this Contract unless made in writing by or on behalf of the Party concerned.

A5.2 Subject to clause F5.2, any notice or other communication which is to be given by either Party to the other shall be given by letter (delivered by hand, or sent by registered post or by the recorded delivery service) or through Bravo. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two (2) Working Days after the day on which the letter was posted, or four (4) hours, in the case of electronic mail and Bravo or sooner where the other Party acknowledges receipt of such letters or item of electronic mail or communication via Bravo. Such letters shall be addressed to the other Party in the manner referred to in clause A5.3.

A5.3 For the purposes of clauses A5.2, an Operational Change Request, Operational Change Confirmation, Contract Change and F5.2, the address of each Party shall be:

(a) For the Authority:

Address:
Caxton House,
Tothill Street
London
SW1H 9DA

For the attention of: Senior Category Manager
The Authority's email address for the purposes of an Operational Change Request, Operational Change Confirmation or Contract Change: via DWP eProcurement Solution (ePS) Portal.

(b) For the Contractor:

Address:
18c Meridian East
Meridian Business Park
Leicester
LE19 1WZ

For the attention of: Director of Business Development

Contractor's email address for the purposes of an Operational Change Request, Operational Change Confirmation, Contract Change or clause F5.2: via DWP eProcurement Solution (ePS) Portal.

- A5.4 Either Party may change its address for service by serving a notice in accordance with this clause.

A6 Mistakes in Information

The Contractor shall be responsible for the accuracy of all drawings, documentation and information supplied to the Authority by the Contractor in connection with the supply of the Services and shall pay the Authority any extra costs occasioned by the Authority by any discrepancies, errors or omissions therein except where such discrepancies, errors or omissions originate from documentation supplied by the Authority.

A7 Conflicts of Interest

- A7.1 The Contractor shall take appropriate steps to ensure that neither the Contractor nor any Staff is placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the financial or personal interests of the Contractor and the duties owed to the Authority under the provisions of this Contract. The Contractor will disclose to the Authority full particulars of any such conflict of interest which may arise.

- A7.2 The Authority reserves the right to terminate this Contract immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the financial or personal interests of the Contractor and the duties owed to the Authority under the provisions of this Contract. The actions of the Authority pursuant to this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

- A7.3 Without prejudice to clause A7.1 and A7.2, the Contractor may seek Approval for matters which would otherwise constitute Default of Clause A7 and the Authority will consider whether to grant Approval in its absolute discretion.

- A7.4 This clause A7 shall apply during the continuance of this Contract and for a period of two (2) years after its Expiry or termination.

A8 Prevention of Fraud

- A8.1 The Contractor shall establish, maintain and enforce and require that its Staff and Sub-contractors establish, maintain and enforce policies and procedures which are adequate to prevent the occurrence of Fraud and/or Irregularity in connection with this Contract.

- A8.2 The Contractor shall establish, maintain and enforce, and require that its Sub-contractors establish, maintain and enforce:

- (a) a system that enables its Staff, Sub-contractors and any person involved in the supply of the Services to report to the Contractor, the commission or suspected commission of Fraud or Irregularity by any person in connection with this Contract;
- (b) a personnel performance assessment system for any persons involved in the supply of the Services in which personnel performance targets are appropriately set to ensure the commission of Fraud or Irregularity is not encouraged; and
- (c) a segregation of duties between those persons directly involved in supplying the Services to customers and those persons providing the Authority with Management Information under the Contract in respect of compliance with the KPIs.

A8.3 To the extent permitted by Law, the Contractor shall notify the Authority immediately in writing if it becomes aware of any Fraud or Irregularity, or has reason to believe that any Fraud or Irregularity has occurred, is occurring, or may occur in connection with the Contract.

A8.4 If the Contractor notifies the Authority under clause A8.3, the Contractor shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority access to the Open Book Data and/or any other relevant records/information in accordance with clause E9.

A8.5 If the Contractor fails to comply with its obligations under this clause A8, the Authority may terminate this Contract by issuing a Termination Notice to the Contractor.

A8.6 If the Contractor, its Staff or its Sub-contractors commits Fraud or does something which constitutes an Irregularity, the Authority may:

- (a) terminate this Contract, and any other Programme Contract, by issuing a Termination Notice to the Contractor; and
- (b) recover from the Contractor the amount of any Loss suffered by the Authority resulting from the termination, including but without limitation, the cost reasonably incurred by the Authority of making other arrangements for the supply of the Services and any additional expenditure incurred by the Authority resulting from any such termination.

A9 Exclusion of Sub-contractors

A9.1 Where the Authority considers whether there are grounds for the exclusion of a Sub-contractor under Regulation 57 of the Public Contracts Regulations 2015, then:

- (a) If the Authority finds there are compulsory grounds for exclusion, the Contractor shall replace or shall not appoint the Sub-contractor;
- (b) If the Authority finds there are non-compulsory grounds for exclusion, the Authority may require the Contractor to replace or not to appoint the Sub-contractor and the Contractor shall comply with such a requirement.

A9.2 The Contractor shall include in every Sub-contract:

- (a) A right for the Contractor to terminate that Sub-contract if the Sub-contractor fails to comply in the performance of its contract with legal obligations in connection with environmental, social or labour law matters; and
- (c) A requirement that the Sub-contractor includes a provision having the same effect as A9.2(a) above in any Sub-contract which it awards.

A10 No Guarantee of Volumes or Exclusivity

A10.1 The Contractor acknowledges and has submitted its Tender on the understanding that no guarantee is given by the Authority in respect of levels or values of Services referred to in the Schedules which are indicative only and shall not be binding on the Authority.

A10.2 The Contractor acknowledges that, in entering the Contract, no form of exclusivity has been granted by the Authority for the Services from the Contractor and that the Authority is at all times entitled to enter into other contracts and arrangements with other providers for the provision of any or all services which are the same as or similar to the Services.

B.SUPPLY OF SERVICES

B1 The Services

B1.1 The Contractor shall supply the Services during the Contract Period in accordance with the Authority's requirements as set out in this Contract including the Specification, (which forms part of the Contract) in consideration of the payment of the Contract Price. The Authority may inspect and examine the manner in which the Contractor supplies the Services at the Premises during normal business hours on reasonable notice.

B1.2 If the Authority informs the Contractor in writing that the Authority reasonably believes that any part of the Services does not meet the requirements of the Contract or differ in any way from those requirements, and this is other than as a result of a Default by the Contractor, the Contractor shall at its own expense re-schedule and carry out the Services in accordance with the requirements of the Contract

within such reasonable time as may be specified by the Authority, notwithstanding the Authority's right under clause F5.

B2 Provision and Removal of Equipment

B2.1 The Contractor shall provide all the Equipment necessary for the supply of the Services.

B3 Manner of Carrying Out the Services

B3.1 The Contractor shall at all times comply with the Quality Standards, and where applicable shall maintain accreditation with the relevant Quality Standards authorisation body and the standards specified in this Contract and shall perform its obligations under the Contract in accordance with the Law and Good Industry Practice.

B3.2 While not in anyway limiting any other provision of this Contract, in delivering the Services, the Contractor and its Sub-contractors, shall comply with the DWP Offshoring Policy. The DWP Offshoring Policy shall apply to Landed Resources.

B3.3 The Contractor shall ensure that all Staff supplying the Services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services.

B3.4 The Contractor shall ensure that the Services are supplied in such a manner as to meet or exceed the Target Performance Levels and the standards specified in the Contract, at all times during the Contract Period.

B3.5 The Authority shall monitor the Contractor's performance in respect of each of the Target Performance Levels and the standards specified in the Contract in accordance with this clause B3, the Specification, the Contractor Guidance, Schedule 3 (Monitoring Requirements) and any other requirements notified by the Authority to the Contractor from time to time.

B3.6 The Authority will conduct a review of the performance of this Contract at the frequency specified in the Specification during the Contract Period.

B3.7 The Authority shall monitor the Contractor's (and any Sub-contractors') performance in supplying the Services to assess compliance with competition law. Where (in the opinion of the Authority), the Contractor (or any Affiliate or any of the Contractor's group) has or may have engaged in any agreement, arrangement, practice or conduct which would amount to an infringement of competition law, without prejudice to any other rights or remedies that the Authority has under the Contract, the Authority shall be entitled to consider such infringement as a Material Breach entitling the Authority to exercise its rights under clause F5.3A.

B3.8 Where (in the opinion of the Authority), any Sub-contractor has or may have engaged in any agreement, arrangement, practice or conduct which would amount to an infringement of competition law, the Authority may require the Contractor to terminate the Sub-contract with immediate effect. For the avoidance of doubt, the Authority shall not be liable for any costs incurred by the Contractor (or the Sub-contractor) in connection with the termination of such Sub-contract.

B3A Customer Complaints

B3A.1 The Contractor shall have an internal dispute resolution procedure for dealing with complaints from Customers about the Contractor (and/or any of its Sub-contractors).

B3A.2 If the dispute between the Customer and the Contractor (and/or the Sub-contractor) cannot be resolved the dispute shall be referred to the ICE for mediation.

B3A.3 If the dispute cannot be resolved by mediation, ICE will conduct a full investigation. The decision of ICE shall be final and binding upon the parties to the dispute. The ICE investigation shall in the event that a complaint is upheld require a £5,000 contribution to costs payable from the Contractor who will also be liable for any financial redress recommended by ICE including in relation to its Sub-contractor(s). In the event that the complaint against the Contractor or Sub-contractor is dismissed, no costs shall be payable. Any costs in respect of complaints that have been upheld against the Contractor or Sub-contractor and any financial redress due to the Customer shall be paid within four (4) weeks of the date of the ICE final investigation report.

B3A.4 The Contractor shall provide Management Information relating to complaints from Customers in accordance with the requirements of Schedule 13 (Management Information).

B3B The Merlin Standard

B3B.1 The Contractor shall with effect from the Commencement Date and throughout the Contract Period operate in accordance with the Merlin Standard (or any replacement standards introduced to replace the Merlin Standard) and key values and principles of behaviour essential for creating healthy, high performing supply chains.

B3B.2 Where the Authority has approved the appointment of a Sub-contractor, the Contractor shall, at its own expense, at all times comply with the Merlin Standard (including for the avoidance of doubt, but without limitation, any mediation and/or arbitration arising out of, or in connection with, the Merlin Standard) any other guidance and/or codes of practice issued by the Authority and shall achieve Merlin Accreditation no later than twelve (12) Months after the Commencement Date and shall maintain such Merlin Accreditation throughout the Contract Period. For the avoidance of doubt and without prejudice to the rest of this clause, the Contractor shall comply with all necessary requirements to maintain

Merlin Accreditation which may include, without limitation, notifying the relevant Merlin Standard authorisation body if it changes its name or undergoes a Change of Control as defined in clause H1.2. The Contractor acknowledges that all decisions relating to Merlin Accreditation are made by the relevant Merlin Standard authorisation body. The Contractor consents to the publication by and on behalf of the Authority of all its scores relating to the Merlin Standard.

B4 Key Personnel

- B4.1 The Contractor acknowledges that the Key Personnel, are essential to the proper provision of the Services to the Authority.
- B4.2 The Key Personnel shall not be released from supplying the Services without the prior written agreement of the Authority.
- B4.3 Any replacements to the Key Personnel shall be subject to the prior written agreement of the Authority. Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.
- B4.4 The Authority shall not unreasonably withhold its agreement under clauses B4.2 or B4.3. Such agreement shall be conditional on appropriate arrangements being made by the Contractor to minimise any adverse impact on the Contract which could be caused by a change in Key Personnel.

B5 Contractor's Staff

- B5.1 The Authority may, by written notice to the Contractor, refuse to admit onto, or withdraw permission to remain on, the Authority's Premises:
- a) any member of the Staff; or
 - b) any person employed or engaged by any member of the Staff,
- whose admission or continued presence would, in the reasonable opinion of the Authority, be undesirable.
- B5.2 The Contractor's Representative must have sufficient knowledge of this Contract and the Services to deal with all the Authority's requirements in respect of the performance of this Contract. The Authority may acting reasonably direct that any nominated Contractor's Representative or Staff member who is unsuitable in respect of skill and knowledge to carry out the functions on behalf of the Contractor specified in this Contract is no longer involved in the Services. However, the final decision in relation to a Staff member shall remain the responsibility of the Contractor.
- B5.3 At the Authority's written request, the Contractor shall provide a list of the names and business addresses of all persons who may require admission in connection with the Contract to the Authority's Premises,

within seven (7) Working Days from the date of request and in advance of admission to the Authority's Premises, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Authority may reasonably request.

B5.4 The decision of the Authority as to whether any person is to be refused access to the Authority's Premises and as to whether the Contractor has failed to comply with clause B5.3 shall be final and conclusive.

B5.5 The Staff, accessing the Authority's Premises, shall comply with such rules, regulations and requirements (including those relating to security arrangements) including Schedule 6 (Security Requirements and Plan) of this Contract as may be in force from time to time for the conduct of personnel when at or outside the Authority's Premises.

B5.6 The Contractor shall comply with all applicable legislation relating to safeguarding and protecting vulnerable groups, including the Safeguarding Vulnerable Groups Act 2006, the Safeguarding Vulnerable Groups Order (Northern Ireland) 2007 and the Protection of Vulnerable Groups (Scotland) Act 2007 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.

B5.7 The Contractor shall comply with Staff Vetting Procedures in respect of all persons employed or engaged in the provision of the Services. The Contractor confirms that all persons employed or engaged by the Contractor shall have complied with the Staff Vetting Procedures prior to commencing the Services and accessing the Premises.

B5.8 The Contractor shall provide training on a continuing basis for all Staff employed or engaged in the provision of the Services in compliance with the Security Policy and Security Plan.

B5.9 The Contractor shall further use all reasonable endeavours to ensure that its Staff who are not EC nationals are legally entitled to reside in the United Kingdom and have a work permit, where applicable. The Contractor shall promptly take all reasonable steps to ensure compliance with this clause.

B5.10 If the Contractor, in the reasonable opinion of the Authority, fails to comply with clauses B5.5, B5.6 and/or B5.7 the Authority will be entitled to consider that failure a Material Breach of the Contract entitling the Authority to exercise its rights under clause F5.3A.

B6 Not Used

B7 Not Used

B8 Not Used

B9 Offers of Employment

B9.1 For the duration of the Contract and for a period of twelve (12) Months thereafter neither the Authority nor the Contractor shall employ or offer employment to any of the other Party's staff who have been associated with the procurement and/or the contract management of the Services without that other Party's prior written consent.

B10 Transfer of Undertakings (Protection of Employment) (TUPE)

Application of the TUPE Regulations on Commencement

B10.1 The Authority and the Contractor agree that the commencement of the Services (or any relevant part of the Services) will be not be a Relevant Transfer in relation to any employees of the Authority and/or any Incumbent Contractor.

B10.2 If any employee of the Authority and/or the Incumbent Contractor claims, or it is determined in relation to any employee of the Authority and/or a Incumbent Contractor, that his/her contract of employment has been transferred from the Authority and/or the Incumbent Contractor to the Contractor and/or any Sub-contractor pursuant to the TUPE Regulations or the Acquired Rights Directive then:

(a) the Contractor shall, and shall procure that the relevant Sub-contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Authority and, where required by the Authority, give notice to the Incumbent Contractor; and

(b) the Authority and/or the Incumbent Contractor may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification by the Contractor or the Sub-contractor (as appropriate) or take such other reasonable steps as the Authority or Incumbent Contractor (as the case may be) considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.

B10.3 If an offer referred to in clause 10.2(b) is accepted (or if the situation has otherwise been resolved by the Authority and/or the Incumbent Contractor), the Contractor shall, or shall procure that the Sub-contractor shall, immediately release the person from his/her employment or alleged employment.

B10.4 If by the end of the 15 Working Day period specified in clause 10.2(b):

- (a) no such offer of employment has been made;
- (b) such offer has been made but not accepted; or
- (c) the situation has not otherwise been resolved,

the Contractor and/or the Sub-contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.

Indemnities

B10.5 Subject to the Contractor and/or the relevant Sub-contractor acting in accordance with the provisions of clause 10.2 to 10.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to clause 10.8, the Authority shall:

- (a) indemnify the Contractor and/or the relevant Sub-contractor against all Loss arising out of the termination of the employment of any employees of the Authority referred to in clause 10.2 made pursuant to the provisions of clause 10.4 provided that the Contractor takes, or shall procure that the Notified Sub-contractor takes, all reasonable steps to minimise any such Loss; and
- (b) use reasonable endeavours to procure that the Incumbent Contractor shall indemnify the Contractor from and against all indirect or consequential liability or Loss awarded against or incurred or paid by the Contractor in connection with, or as a result of:
 - (a) the employment of termination of employment of any Transferring Employee or employee of any Sub-contractor during any period prior to and including the Relevant Transfer Date
 - (b) any claim brought as a result of the Incumbent Contractor's failure to comply with any of its obligations under the TUPE Regulations.

B10.6 If any such person as is described in clause 10.2 is neither re employed by the Authority and/or the Incumbent Contractor as appropriate nor dismissed by the Contractor and/or any Sub-contractor within the 15 Working Day period referred to in clause 1.4 such person shall be treated as having transferred to the Contractor and/or the Sub-contractor (as appropriate) and the Contractor shall, or shall procure that the Sub-contractor shall, comply with such obligations as may be imposed upon it under Law.

B10.7 Where any person remains employed by the Contractor and/or any Sub-contractor pursuant to clause 10.6, all Loss in relation to such employee shall remain with the Contractor and/or the Sub-contractor and the Contractor shall indemnify the Authority and any Incumbent Contractor, and shall procure that the Sub-contractor shall indemnify the Authority and any Incumbent Contractor, against any Loss that either of them may incur in respect of any such employees of the Contractor and/or employees of the Sub-contractor.

B10.8 The indemnities in clause 10.5:

- (a) shall not apply to:
 - (i) 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,

in any case in relation to any alleged act or omission of the Contractor and/or any Sub-contractor; or
- (ii) any claim that the termination of employment was unfair because the Contractor and/or any Sub-contractor neglected to follow a fair dismissal procedure; and
- (b) shall apply only where the notification referred to in clause 10.2(a) is made by the Contractor and/or any Sub-contractor to the Authority and, if applicable, Incumbent Contractor within 6 months of the Effective Date.

Procurement Obligations

B10.9 Where the Authority accepts an obligation to procure that a Incumbent Contractor does or does not do something, such obligation shall be limited so that it extends only to the extent that the Authority's contract with the Incumbent Contractor contains a contractual right in that regard which the Authority may enforce, or otherwise so that it requires only that the Authority must use reasonable endeavours to procure that the Former Contractor does or does not act accordingly.

B11 Pre-Service Transfer Obligations

B11.1 During the six (6) months preceding the expiry of this Contract or after the Authority has given notice to terminate this Contract or at any other time as directed by the Authority, and within fifteen (15) Working Days of the Authority's request the Contractor shall fully and accurately disclose to the Authority and shall ensure that any relevant Sub-contractor accurately discloses (subject to all applicable provisions of the DPA) the Contractor's Provisional Personnel List and any and all information as the Authority may request in relation to the Contractor's Provisional Personnel List including but not necessarily restricted to any of the following in an anonymised format:

- (a) the ages, dates of commencement of employment or engagement, gender and place of work of those personnel;
- (b) details of whether they are employed, self employed contractors or consultants, agency workers or otherwise;
- (c) the identity of the employer or relevant contracting party;

- (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- (e) their wages, salaries, bonuses and profit sharing arrangements as applicable;
- (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schemes applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- (j) any other “employee liability information” as such term is defined in Regulation 11 of the TUPE Regulations.

B11.2 Where the Contractor provides information in accordance with clause B11.1 and the Contractor or Sub-contractor makes or becomes aware of any changes or discovers new information, the Contractor shall notify the Authority within seven (7) Working Days of any such change or discovery, provided that at least twenty (20) Working Days prior to the Service Transfer Date, the Contractor shall provide the Authority or at the direction of the Authority, to any Replacement Contractor or Replacement Sub-contractor, the Contractor’s Final Personnel List (which shall identify which of those personnel are Relevant Employees) and all the information set out in clause B11.1 in relation to the Contractor’s Final Personnel List (insofar as such information has not previously been provided).

B11.3 At any time prior to the expiry of the Contract, the Contractor shall provide, and shall procure that each Sub-contractor shall provide to the Authority within fifteen (15) Working Days of a request, any information that the Authority may reasonably request relating to the manner in which the Services are organised, including but not necessarily limited to:

- a) The number of employees engaged in providing the Services;

- b) The percentage of time spent by each employee engaged in providing the services;
- c) The extent to which each employee qualifies for membership of any of the Schemes or any broadly comparable pension scheme set up pursuant to clause B13; and
- d) A description of the nature of the work undertaken by each employee by location

B11.4 The Contractor warrants that all of the information provided to the Authority (or Replacement Contractor and/or Replacement Sub-contractor as the case may be) pursuant to clause B11.1 and B11.2 and B11.3 shall be accurate and complete in all material respects at the time of providing the information. The Contractor authorises the Authority to use any and all the information as it considers necessary for the purposes of its businesses or for informing any tenderer for any services which are substantially the same as the Services (or any part thereof), including for the avoidance of doubt informing any prospective Replacement Contractor or Replacement Sub-contractor.

B11.5 From the date of the earliest event referred to in clause B11.1, the Contractor shall allow the Authority and/or the Replacement Contractor and/or Replacement Sub-contractor to communicate with and meet the Relevant Employees and their trade union or employee representatives as the Authority may reasonably request.

B11.6 From the date of the earliest event referred to in clause B11.1, the Contractor shall not and shall procure that each Sub-contractor shall not, without the prior written consent of the Authority:

- (a) make, promise, propose, permit or implement any material variation to the terms and conditions of employment or engagement of any person listed on the Contractor's Provisional Personnel List (including any payments connected with the termination of employment);
- (b) increase or decrease the total number of employees, agents or independent contractors engaged to perform the Services (or the relevant part of the Services);
- (c) assign, replace or redeploy any person listed on the Contractor's Provisional Personnel List to other duties unconnected with the Services (or relevant part of the Services), or assign or deploy any other person to the to the provision of the Services (or relevant part of the Services);
- (d) increase or decrease the proportion of working time spent the Services (or part of the Services) by any of the Contractor's employees;

- (e) terminate or give notice to terminate the employment or contract of any person on the Contractor's Provisional Personnel List (save by due disciplinary process)

and shall promptly notify the Authority (or at the Authority's direction, the Replacement Contractor or Replacement Sub-contractor) of any notice to terminate employment received from any person listed on the Contractor's Provisional Personnel List.

B11.7 The Contractor shall provide, and shall procure that each Sub-contractor shall provide, all reasonable co-operation and assistance to the Authority, any Replacement Contractor and/or any Replacement Sub-contractor to ensure the smooth transfer of Relevant Employees on the Service Transfer Date. Without prejudice to the generality of the foregoing, within five (5) Working Days following the Service Transfer Date, the Contractor shall provide, and shall procure that each Sub-contractor shall provide, to the Authority or, at the direction of the Authority, to any Replacement Contractor and/or any Replacement Sub-contractor (as appropriate), in respect of each person on the Contractor's Final Contractor Personnel List who is a Relevant Employee:

- (a) the most recent month's copy pay slip data;
- (b) details of cumulative pay for tax and pension purposes;
- (c) details of cumulative tax paid;
- (d) tax code;
- (e) details of any voluntary deductions from pay; and
- (f) bank/building society account details for payroll purposes.

B11.8 The Contractor confirms that it will comply fully with its obligations under the TUPE Regulations in respect of providing information to any Replacement Contractor. The Contractor warrants that any information provided in accordance with Regulation 11 of the TUPE Regulations shall be accurate and complete.

B12 Application of the TUPE Regulations on Exit

B12.1 The Authority and the Contractor agree that where the identity of the provider of the Services (or any part of the Services) changes (including upon termination of this Contract or part of this Contract) resulting in the Services being undertaken by a Replacement Contractor and/or a Replacement Sub-Contractor, such change in the identity of the contractor may constitute a Relevant Transfer to which the TUPE Regulations will apply.

B12.2 The Authority and the Contractor acknowledge and accept that, as a result of the TUPE Regulations, where a Relevant Transfer occurs, the contracts of employment of the Relevant Employees will have effect (except in relation to occupational pension scheme benefits excluded under Regulation 10(2) of the TUPE Regulations) on and from the Service Transfer Date as if originally made between the Relevant Employee and a Replacement Contractor and/or a Replacement Sub-Contractor (as the case may be).

B12.3 The Contractor shall, and shall procure that any Sub-contractor shall, comply with all its obligations arising under the TUPE Regulations and/or the Acquired Rights Directive in respect of the Relevant Employees in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-contractor shall perform and discharge, all its obligations in respect of the Relevant Employees arising in the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, holiday pay, bonuses, commissions, payment of PAYE, national insurance contributions, pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Schemes which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Contractor and/or the Sub-Contractor; and (ii) the Replacement Contractor and/or the Replacement Sub-Contractor.

Contractor Indemnities and Obligations

B12.4 Subject to clause B12.5, the Contractor shall indemnify the Authority and/or any Replacement Contractor and/or any Replacement Sub-Contractor from and against all Loss in connection with, or as a result of;

- (a) any claim or demand in respect of any Relevant Employee arising out of their employment or the termination of their employment provided that this arises from or as a result of any act, negligence, fault or omission of the Contractor or any Sub-contractor in relation to any Relevant Employee, whether occurring before, on or after the Service Transfer Date;
- (b) any claim or demand arising from or as a result of the breach or non-observance by the Contractor or any Sub-contractor occurring on or before the Service Transfer Date of:
 - i. any collective agreement applicable to the Relevant Employees; and/or
 - ii. any other custom or practice with a trade union or staff association in respect of any Relevant Employees which the

Contractor or any Sub-contractor is contractually bound to honour;

- (c) any claim by any trade union or other body or person representing any Relevant Employees arising from or connected with any failure by the Contractor or a Sub-contractor to comply with any legal obligations to such trade union, body or person arising on or before the Service Transfer Date; and
- (d) 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:
 - i. in relation to any Relevant Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and
 - ii. in relation to any employee who is not identified on the Contractor's Final Personnel List, and in respect of whom it is later alleged or determined that the TUPE Regulations applied so as to transfer his/her employment from the Contractor to the Authority and/or Replacement Contractor and/or any Replacement Sub-contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;
- (e) a failure of the Contractor or any Sub-contractor 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 Relevant Employee in respect of the period up to (and including) the Service Transfer Date);
- (f) any claim made by or in respect of any person employed or formerly employed by the Contractor or any Sub-contractor other than a Relevant Employee identified in the Contractor's Final Personnel List for whom it is alleged the Authority and/or any Replacement Contractor and/or any Replacement Sub-contractor may be liable by virtue of this Contract and/or the TUPE Regulations and/or the Acquired Rights Directive; and
- (g) any claim made by or in respect of a Relevant Employee or any appropriate employee representative (as defined in the TUPE Regulations) of any Relevant Employees relating to any act or omission of the Contractor or any Sub-contractor in relation to its obligations under Regulations 13 of the TUPE Regulations, except to the extent that the loss arises from the failure of the Authority

and/or the Replacement Contractor to comply with Regulation 13(4) of the TUPE Regulations.

B12.5 The indemnities in clause B12.4 shall not apply to the extent that the Loss arises or is attributable to an act or omission of the Replacement Contractor and/or any Replacement Sub-contractor, whether occurring or having its origin before, on or after the Service Transfer Date, including any Loss arising as a result of:

- a) the resignation of any Relevant Employee before or after the Relevant Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Contractor and/or any Replacement Sub-contractor to occur in the period on or after the Service Transfer Date; or
- b) arising from the Replacement Contractor's failure and/or Replacement Sub-contractor's failure, to comply with its obligations under the TUPE Regulations.

B12.6 If any person who is not identified in the Contractor's Final Personnel List claims, or it is determined in relation to any person who is not identified in the Contractor's Final Personnel List that his/her contract of employment has been transferred from the Contractor or any Sub-contractor to the Replacement Contractor and/or Replacement Sub-contractor pursuant to the TUPE Regulations or the Acquired Rights Directive, then:

- a) the Authority shall procure that the Replacement Contractor shall, or any Replacement Sub-contractor shall, within five (5) Working Days of becoming aware of that fact, give notice in writing to the Contractor; and
- b) the Contractor may offer (or may procure that a Sub-contractor may offer) employment to such person within fifteen (15) Working Days of the notification by the Replacement Contractor and/or any and/or Replacement Sub-contractor 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.

B12.7 If such offer is accepted, or if the situation has otherwise been resolved by the Contractor or a Sub-contractor, the Authority shall procure that the Replacement Contractor shall, or procure that the Replacement Sub-contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.

B12.8 If after the fifteen (15) Working Day period specified in clause B12.6(b) has elapsed:

- a) no such offer of employment has been made;

- b) such offer has been made but not accepted; or
- c) the situation has not otherwise been resolved

the Replacement Contractor and/or Replacement Sub-contractor, as appropriate may within five (5) Working Days give notice to terminate the employment or alleged employment of such person.

B12.9 Subject to the Replacement Contractor and/or Replacement Sub-contractor acting in accordance with the provisions of clauses B12.6 to B12.8, and in accordance with all applicable proper employment procedures set out in applicable Law, the Contractor shall indemnify the Replacement Contractor and/or Replacement Sub-contractor against all Losses arising out of the termination of employment pursuant to the provisions of clause B12.8 provided that the Replacement Contractor takes, or shall procure that the Replacement Sub-contractor takes, all reasonable steps to minimise any such Losses.

B12.10 The indemnity in clause B12.9:

- a) shall not apply to:
 - (i) 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,
 - (ii) in any case in relation to any alleged act or omission of the Replacement Contractor and/or Replacement Sub-contractor; or
 - (iii) any claim that the termination of employment was unfair because the Replacement Contractor and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure; and
- b) shall apply only where the notification referred to in clause B12.6(a) is made by the Replacement Contractor and/or Replacement Sub-contractor to the Contractor within six (6) months of the Service Transfer Date.

B12.11 If any such person as is described in clause B12.6 is neither re-employed by the Contractor or any Sub-contractor nor dismissed by the Replacement Contractor and/or Replacement Sub-contractor within the

time scales set out in clauses B12.6 to B12.8, such person shall be treated as a Relevant Employee.

B12.12 The Contractor shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the TUPE Regulations and shall perform and discharge, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of any person identified in the Contractor's Final Personnel 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 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:

- a) the Contractor and/or any Sub-contractor; and
- b) the Replacement Contractor and/or the Replacement Sub-contractor.

B12.13 The Contractor shall, and shall procure that each Sub-contractor shall, promptly provide to the Authority and any Replacement Contractor and/or Replacement Sub-contractor, in writing such information as is necessary to enable the Authority, the Replacement Contractor and/or Replacement Sub-contractor to carry out their respective duties under regulation 13 of the TUPE Regulations. The Authority shall procure that the Replacement Contractor and/or Replacement Sub-contractor shall promptly provide to the Contractor and each Sub-contractor in writing such information as is necessary to enable the Contractor and each Sub-contractor to carry out their respective duties under regulation 13 of the TUPE Regulations.

B12.14 Subject to clause B12.15, the Authority shall procure that the Replacement Contractor indemnifies the Contractor from and against all Loss in connection with, or as a result of;

- a) any claim or demand in respect of any Relevant Employee identified in the Contractor's Final Personnel List arising out of their employment or the termination of their employment provided that this arises from or as a result of any act, negligence, fault or omission of the Replacement Contractor or any Replacement Sub-contractor in relation to any such Relevant Employee, whether occurring before, on or after the Service Transfer Date;

- b) any claim or demand arising from or as a result of the breach or non-observance by the Replacement Contractor or any Replacement Sub-contractor occurring on or after the Service Transfer Date of:
 - i. any collective agreement applicable to the Relevant Employees identified in the Contractor's Final Personnel List; and/or
 - ii. any other custom or practice with a trade union or staff association in respect of any Relevant Employees identified in the Contractor's Final Personnel List which the Replacement Contractor or any Replacement Sub-contractor is contractually bound to honour;
- c) any claim by any trade union or other body or person representing any Relevant Employees identified in the Contractor's Final Personnel List arising from or connected with any failure by the Replacement Contractor or a Replacement Sub-contractor to comply with any legal obligations to such trade union, body or person arising on or after the Service Transfer Date; and
- d) any proposal by the Replacement Contractor and/or Replacement Sub-contractor to change the terms and conditions of employment or working conditions of any Relevant Employee identified in the Contractor's Final Personnel List on or after the Service Transfer Date (or any person who would have been a Relevant Employee but for their resignation or decision to treat their employment as terminated under Regulation 4(9) of the TUPE Regulations before the Service Transfer Date as a result of such proposed changes); and
- e) any statement communicated to or action undertaken by the Replacement Contractor or Replacement Sub-contractor to, or in respect of, any Relevant Employee identified in the Employees Contractor's Final Personnel List on or before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Contractor in writing;
- f) 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 Relevant Employee identified in the Employees Contractor's Final Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date; and

- b) in relation to any employee who is not a Relevant Employee identified in the Employees Contractor's Final Personnel List, and in respect of whom it is later alleged or determined that the TUPE Regulations applied so as to transfer his/her employment from the Contractor or Sub-contractor, to the Replacement Contractor or Replacement Sub-contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;
- g) a failure of the Replacement Contractor or Replacement Sub-contractor 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 Relevant Employees identified in the Employees Contractor's Final Personnel List in respect of the period from (and including) the Service Transfer Date; and
- h) any claim made by or in respect of a Relevant Employee identified in the Contractor's Final Personnel List or any appropriate employee representative (as defined in the TUPE Regulations) of any Relevant Employees relating to any act or omission of the Replacement Contractor or any Replacement Sub-contractor in relation to obligations under Regulations 13 of the TUPE Regulations.

B12.15 The indemnities in clause B12.14 shall not apply to the extent that the Losses arise or are attributable to an act or omission of the Contractor and/or any Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Losses arising from the failure by the Contractor and/or any Sub-contractor (as applicable) to comply with its obligations under the TUPE Regulations.

B13 Pension Protection

B13.1 The Contractor shall comply with the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff.

Participation

B13.2 The Contractor and the Authority undertake to do all such things and execute any documents (including the Admission Agreement) as may be required to enable the Contractor to participate in the Schemes in respect of the Fair Deal Employees.

B13.3 The Contractor shall bear its own costs and all costs that the Authority reasonably incurs in connection with the negotiation, preparation and execution of documents to facilitate the Contractor participating in the Schemes, including without limitation MyCSP's on-boarding costs.

B13.4 The Contractor shall notify the Authority in the event that it breaches any obligations it has under the Admission Agreement and provide details of when it intends to remedy such breaches, and the Contractor and the Authority agree that the Authority shall be entitled to terminate this Contract in the event that the Contractor:

- a) commits an irremediable breach of the Admission Agreement; or
- b) commits a breach of the Admission Agreement which, where capable of remedy, it fails to remedy within a reasonable time and in any event within twenty-eight (28) days of the date of a notice giving particulars of the breach and requiring the Contractor to remedy it.

B13.5 The Contractor shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the Schemes that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date, or where the Fair Deal Employees are returning to the Schemes for the first time to the relevant section of the Schemes that they became eligible to join on the Relevant Transfer Date. In either case, the Contractor shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of Schemes for service from (and including) the Relevant Transfer Date.

B13.6 The Contractor undertakes that should it cease to participate in the Schemes for whatever reason at a time when it has Eligible Employees, that it will, at no extra cost to the Authority, provide to any Fair Deal Employee who immediately prior to such cessation remained an Eligible Employee with access to an occupational pension scheme certified by the Government Actuary's Department or any actuary nominated by the Authority in accordance with relevant guidance produced by the Government Actuary's Department as providing benefits which are broadly comparable to those provided by the Schemes on the date the Eligible Employees ceased to participate in the Schemes.

B13.7 Where the Contractor has set up a broadly comparable pension scheme in accordance with clause B13.6, the Contractor agrees to:

- a) fully fund such broadly comparable pension scheme in accordance with the funding requirements set by that scheme's actuary or by the Government Actuary's Department;
- b) instruct any such broadly comparable pension scheme's actuary to, and to provide all such co-operation and assistance in respect of any such broadly comparable pension scheme as the Replacement Contractor and/or the Authority may reasonably require, to enable the Replacement Contractor to participate in the Schemes in respect of any Fair Deal Employee that remains eligible for New Fair Deal protection following a Service Transfer;

- c) allow, in respect of any Fair Deal Employee who remains eligible for New Fair Deal protection following a Service Transfer, the bulk transfer of past service on a day for day service basis and to give effect to any transfer of accrued rights required as part of the participation under New Fair Deal

and for the avoidance of doubt, should the amount offered by any such broadly comparable pension scheme be less than the amount required by the Schemes to fund day to day service, the Contractor agrees to pay any such shortfall to the Schemes and the contractor shall indemnify the Authority on demand for any failure to pay such shortfall.

B13.8 The Parties acknowledge that the Civil Service Compensation Scheme and the Civil Service Injury Benefit Scheme (established pursuant to section 1 of the Superannuation Act 1972) are not covered by the protection of new Fair Deal.

B13.9 The Contractor undertakes to pay to the Schemes all such amounts as are due under the Admission Agreement and shall deduct and pay to the Schemes such employee contributions as are required by the Schemes.

B13.10 The Contractor shall indemnify and keep indemnified the Authority on demand against any claim by, payment to, or loss incurred by, the Schemes in respect of the failure to account to the Schemes for payments received and the non-payment or the late payment of any sum payable by the Contractor to or in respect of the Schemes.

Provision of Information

B13.11 The Contractor and the Authority respectively undertake to each other:

- a) to provide all information which the other Party may reasonably request concerning matters (i) referred to in this clause B13, and (ii) set out in the Admission Agreement, and to supply the information as expeditiously as possible; and
- b) not to issue any announcements to the Fair Deal Employees prior to the Relevant Transfer Date which occurs on the commencement of the Services or any part of the Services concerning the matters stated in this clause B13 without the consent in writing of the other Party (not to be unreasonably withheld or delayed).

Indemnity

B13.12 The Contractor undertakes to the Authority to indemnify and keep indemnified the Authority on demand from and against all Loss arising out of or in connection with any liability towards the Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which occurs on the commencement of the Services or any relevant part of the Services which relate to the payment of benefits under and/or participation in an occupational pension scheme (within the meaning

provided for in section 1 of the Pension Schemes Act 1993) or the Schemes.

Subsequent Transfers

B13.13 The Contractor shall:

- a) not adversely affect pension rights accrued by any Fair Deal Employee in the period ending on the date of the Service Transfer Date;
- b) provide all such co-operation and assistance as the Schemes and the Replacement Contractor and/or the Authority may reasonably require to enable the Replacement Contractor to participate in the Schemes in respect of any Eligible Employee and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal; and
- c) for the period either
 - (i) after notice (for whatever reason) is given, in accordance with the other provisions of this Contract, to terminate the Contract or any part of the Services; or
 - (ii) after the date which is two (2) years prior to the date of expiry of this Contract;

ensure that no change is made to pension, retirement and death benefits provided for or in respect of any person who will transfer to the Replacement Contractor or the Authority, no category of earnings which were not previously pensionable are made pensionable and the contributions (if any) payable by such employees are not reduced without (in any case) the prior approval of the Authority (such approval not to be unreasonably withheld). Save that this clause shall not apply to any change made as a consequence of participation in an Admission Agreement.

B14 Third Party Rights in relation to TUPE and Pensions

B14.1 Notwithstanding any other provisions of this Contract for the purposes of clauses B10 to B14 (the “**Third Party Provisions**”) and in accordance with the Contracts (Rights of Third Parties) Act 1999 (“**CRTPA**”), the Parties accept that such provisions confer benefits on persons named in such provisions other than the Parties (each such person being a “**Third Party Beneficiary**” or “**Third Party Beneficiaries**”) and are intended to be enforceable by Third Party Beneficiaries by virtue of the CRTPA.

B14.2 No Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Authority, which may, if given, be given on and subject to such terms as the Authority may determine.

B14.3 If the Parties rescind this Contract or vary it in accordance with the relevant provisions of this Contract or terminate this Contract, the consent of any Third Party Beneficiary shall not be required for such rescission, Variation or termination.

B14.4 Clauses B10 to B13 and this clause B14 shall apply during the Contract Period and indefinitely thereafter.

C.PAYMENT AND CONTRACT PRICE

C1 Payment and Contract Price

C1.1 In consideration of the Contractor's performance of its obligations under the Contract, including the provision of the Services, the Authority shall pay undisputed sums of the Contract Price in accordance with this clause C and Schedule 4 (and for the avoidance of doubt where there is any conflict and/or ambiguity between the two the provisions of this clause C shall prevail) via a self-billing process approved by HMRC.

C1.2 The Parties acknowledge and agree that the Contract Price shall be the total amount payable by the Authority to the Contractor under or in relation to the Contract.

C1.3 If the Authority fails to pay any undisputed sums of the Contract Price properly invoiced under this Contract, the Contractor shall have the right to charge interest on the overdue amount at a rate of 0.01%, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

C1.4 The Authority shall have no obligation to pay any Contract Price to the Contractor after the last day of the Payment Tail Period.

C2A Extrapolation and Validation of Contractor Claimed Outcomes

C2A.1 Before or after payment of any part of the Contract Price by the Authority to the Contractor or using a combination of checks before or after payment, the Authority may undertake a check or checks to verify the validity of such Outcome. For the avoidance of doubt, where the Authority has undertaken a check pursuant to this clause C2A.1 it reserves the right to:

- (a) reject Outcomes that do not come supported by the information specified in the Contractor Guidance and such other information the Authority requests without undertaking any further check(s); or
- (b) include such payment in the relevant Outcome Sample for the Payment Validation Period in which it falls; or
- (c) reject any claims for payment made by the Contractor which fail any check(s) undertaken by the Authority pursuant to clause C2A.1 without undertaking any further check(s).

C2A.2 The Authority may select an Outcome Sample of up to 100% of payments for validation in respect of each Payment Validation Period.

C2A.3 For the avoidance of doubt, any sample of claims selected by the Authority pursuant to clause C2A.2 shall be selected by the Authority on a random basis (using a tool of the Authority's choice) except in cases where such a sample is composed from 100% of payments in the relevant Payment Validation Period.

C2A.4 The Authority may at any time check each Outcome Sample to verify that in respect of each and every payment in the Outcome Sample the relevant qualifying criteria, standards and requirements in the Contract have been satisfied.

C2A.5 In checking an Outcome Sample pursuant to clause C2A.4, the Authority may (but shall not be obliged to):

- (a) carry out checks of data pertaining to the Customer arising out of or in connection with the Contract;
- (b) carry out checks of data pertaining to the Customer arising out of or in connection with the Contract against the Authority's data;
- (c) contact the Customer;
- (d) treat any Unable to Validate Outcome Payment as an error or over claim for the purposes of clause C2A.6.

C2A.6 On expiry of each Payment Validation Period, where any error or over-claim has been identified by the Authority (in its sole opinion) in the Outcome Sample, the Authority shall be entitled to:

- (a) not pay or recover in part or full (as appropriate) from the Contractor the amount or value of all Outcome Fails and/or Outcome Technical Fails; and
- (b) determine (in its sole discretion) the Outcome Error Rate; and
- (c) extrapolate the Outcome Error Rate across all of the Outcome Payments from which the sample was drawn and which have been paid by the Authority to the Contractor (in respect of this Contract) in that Payment Validation Period to produce an aggregate value of monies overpaid (the "Outcome Aggregate Error Amount"); and
- (d) Not pay or recover in part or full (as appropriate) from the Contractor a sum equal to the Outcome Aggregate Error Amount less the sum of any monies recovered by the Authority pursuant to clause C2A.6(a).

C2A.7 For the avoidance of doubt, the Authority's rights in this clause C2A shall be without prejudice to any other rights or remedies that the Authority has under the Contract (including for the avoidance of doubt any rights of set-off pursuant to clause C3.1 (Recovery of Sums Due)).

C3 Recovery of Sums Due

C3.1 Wherever under the Contract any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Authority in respect of any breach of the Contract), the Authority may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Contract or under any other agreement or contract with the Authority.

C3.2 If any Ineligible Amount has been paid, then the Contractor shall forthwith repay such Ineligible Amount to the Authority.

C3.3 Any overpayment by either Party, whether of the Contract Price or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.

C3.4 The Contractor shall make all payments due to the Authority without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Contractor has a valid court order requiring an amount equal to such deduction to be paid by the Authority to the Contractor.

C3.5 All payments due shall be made within a reasonable time unless otherwise specified in the Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.

C4 Price adjustment on extension of the Initial Contract Period

C4.1 The Contract Price shall apply for the Initial Contract Period. In the event that the Authority agrees to extend the Initial Contract Period pursuant to clause F9 (Extension of Initial Contract Period), the Authority may, where applicable, in the six (6) Month period prior to the expiry of the Initial Contract Period, enter into good faith negotiations with the Contractor (for a period of not more than thirty (30) Working Days) to agree to a variation in the Contract Price. For the avoidance of doubt both Parties accept and acknowledge that any Variation to the Contract Price shall not have the effect of altering the economic balance of the Contract during the period of extension in favour of the Contractor in a manner not provided for in the terms of the Contract.

C4.2 If the Parties are unable to agree a Variation in the Contract Price (applicable to the period of extension) in accordance with clause C4.1, the Contract shall terminate at the end of the Initial Contract Period.

C4.3 If a Variation in the Contract Price is agreed between the Authority and the Contractor, the revised Contract Price will take effect from the first

day of any period of extension and shall apply during such period of extension.

- C4.4 Any increase in the Contract Price pursuant to clause C4.1 shall not exceed the percentage change in the Office of National Statistics' Consumer Prices Index (CPI) (or another such index specified in Schedule 4 (Contract Price)) between the Commencement Date and the date six (6) Months before the end of the Initial Contract Period.

C5 Currencies other than Sterling

- C5.1 Any requirement of Law to account for the Services in any currency other than Sterling (or to prepare for such accounting) instead of and/or in addition to sterling, shall be implemented by the Contractor free of charge to the Authority.

- C5.2 The Authority shall provide all reasonable assistance to facilitate compliance with clause C5.1 by the Contractor.

C6 Third Party Revenue

- C6.1 The Contractor may not obtain any third party revenue, income or credit based on the Services and/or copyright works delivered under this Contract without the express prior written agreement of the Authority.

- C6.2 Neither the Contractor nor its agents or Sub-contractors, shall levy any charge, fee or any other sum on the Participants in connection with the Services without Approval which may be granted or refused at the Authority's sole discretion.

D.STATUTORY OBLIGATIONS AND REGULATIONS

D1 Prevention of Bribery and Corruption

- D1.1 The Contractor shall not, and shall ensure that any Staff shall not, commit any of the prohibited acts listed in this clause D1. For the purposes of this clause D1, a prohibited act is committed when the Contractor or any Staff:

- a) directly or indirectly offers, promises or gives any person working for or engaged by the Authority a financial or other advantage to:
 - (i) induce that person to perform improperly a relevant function or activity; or
 - (ii) reward that person for improper performance of a relevant function or activity;
- b) directly or indirectly requests, agrees to receive or accepts any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract;
- c) commits any offence:

- (i) under the Bribery Act 2010;
- (ii) under legislation creating offences concerning fraudulent acts;
- (iii) at common law concerning fraudulent acts relating to the Contract or any other contract with the Authority; or
- (iv) defrauding, attempting to defraud or conspiring to defraud the Authority.

D1.2 The Contractor warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Authority, or that an agreement has been reached to that effect, in connection with the execution of the Contract, excluding any arrangement of which full details have been disclosed in writing to the Authority before execution of the Contract.

D1.3 The Contractor shall if requested, provide the Authority with any reasonable assistance, at the Authority's reasonable cost, to enable the Authority to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act 2010.

D1.4 The Contractor shall have an anti-bribery policy which prevents any Staff from committing any prohibited acts as set out in clause D1.1 and a copy of this shall be provided to the Authority upon request.

D1.5 The Contractor shall immediately notify the Authority in writing if it becomes aware of or suspects any Default of clauses D1.1 or D1.2, or has reason to believe that it has or any of its Staff has:

- (a) been subject to an investigation or prosecution which relates to an alleged prohibited act in clauses D1.1 or D1.2;
- (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; or
- (c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Contract or otherwise suspects that any person or party directly or indirectly connected with this Contract has committed or attempted to commit a prohibited act in clauses D1.1 or D1.2.

D1.6 If the Contractor notifies the Authority that it suspects or knows that there may be a Default of clause D1.1 or D1.2, the Contractor must respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit books, records and any other relevant documentation.

D1.7 If the Contractor, its Staff or anyone acting on the Contractor's behalf engages in conduct prohibited by clause D1.1 or D1.2, this shall be deemed to be a Material Breach and the Authority may notwithstanding its other rights under the Contract or otherwise;

(a) terminate the Contract and recover from the Contractor the amount of any Loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Services and any additional expenditure incurred by the Authority throughout the remainder of the Contract Period; and

(b) recover in full from the Contractor any other Loss sustained by the Authority in consequence of any Default of those clauses.

D1.8 Notwithstanding clause I (Disputes and Law), any dispute relating to:

(a) the interpretation of clause D1; or

(b) the amount or value of any gift, consideration or commission,

shall be determined by the Authority, acting reasonably having given due consideration to all relevant factors, and its decision shall be final and conclusive.

D1.9 Any termination under clause D1.7 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Authority under the Contract or otherwise.

D1.10 In exercising its rights or remedies under clause D1.7, the Authority shall act in a reasonable and proportionate manner having regard to such matters as the gravity of the conduct prohibited by clauses D1.1 or D1.2 and the identity of, the person performing that prohibited conduct.

D2 Discrimination

D2.1 The Contractor shall not unlawfully discriminate either directly or indirectly on such grounds as age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex or sexual orientation and without prejudice to the generality of the foregoing the Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.

D2.2 The Contractor shall take all reasonable steps to secure the observance of clause D2.1 by all Staff.

D2.3 The Contractor shall comply with the provisions of the Human Rights Act 1998.

D3 The Contracts (Rights of Third Parties) Act 1999

A person who is not a party to the Contract shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of both Parties except as specified in this Contract. This clause does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.

D4 Environmental Requirements

D4.1 In delivering the Services, the Contractor shall comply at all times with the requirements set out in Schedule 7 (Sustainable Development Requirements) or such other requirements as notified by the Authority to the Contractor from time to time.

D4.2 If the Contractor purchases new products partially or wholly to provide the Services, the Contractor must ensure that:

- a) any purchase of products or goods listed in Schedule 1 to the Energy Information Regulations 2011 (products with energy labels) has the highest energy efficiency class possible;
- b) any purchase of products listed in Schedule 1 to the Energy Information Regulations 2011, which is not a product with energy labels within the meaning of clause D4.2(a), complies with the relevant energy efficiency benchmark for that product in paragraph 4 to Schedule 1 of the Eco-Design for Energy-Related Products Regulations 2010;
- c) any purchase of products listed in Annex C of 2006/1005/EC (Council Decision of 18 December 2006 concerning the conclusion of the agreement between the government of the United States of America and the European Community on the Coordination of the energy efficiency labelling programme for office equipment) complies with energy efficiency requirements not less demanding than those listed in Annex C of that Council Decision; and
- d) any purchase of tyres carrying a label as specified in Annex II to Regulation (EC) Number 1222/2009 of the European Parliament and of the Council of 25 November 2009 (on the labelling of tyres with respect to fuel efficiencies and other parameters) has the highest fuel energy efficiency class (as defined by that Regulation).

D4.3 The new purchases that the Contractor makes in clause D4.2 should be cost-effective and technically suited to the Services. For the avoidance of doubt, the Contractor is not required to purchase products under clause D4.2 where those products are not cost-effective or are not technically suited to the provision of the Services.

D5 Health and Safety

- D5.1 The Contractor shall promptly notify the Authority of any health and safety hazards which may arise in connection with the performance of its obligations under the Contract.
- D5.2 The Authority shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the Authority's Premises and which may affect the Contractor in the performance of its obligations under the Contract.
- D5.3 While on the Authority's Premises, the Contractor shall comply with any health and safety measures implemented by the Authority in respect of Staff and other persons working there.
- D5.4 The Contractor shall notify the Authority immediately in the event of any incident occurring in the performance of its obligations under the Contract on the Authority's Premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- D5.5 The Contractor shall comply with the requirements of the Health and Safety at Work Act etc.1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Staff and other persons working on the Authority's Premises in the performance of its obligations under the Contract.
- D5.6 The Contractor shall ensure that its health and safety policy statement (as required by the Health and Safety at Work Act etc.1974) is made available to the Authority on request.

D6 Not Used

D7 Tax Compliance

- D7.1 The Contractor represents and warrants that as at the Commencement Date, it has notified the Authority in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any occasions of Tax Non-Compliance.
- D7.2 If at any point during the Contract Period, an Occasion of Tax Non-Compliance occurs, the Contractor shall:
- (a) notify the Authority in writing of such fact within five (5) Working Days of its occurrence; and
 - (b) promptly provide to the Authority:
 - (i) details of the steps taken by the Contractor and any steps that the Contractor will take to address the Occasion of Tax Non-

Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and

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

D8 Termination Rights due to any Occasion of Tax Non-Compliance

D8.1 The Authority shall be entitled to terminate the Contract in the event that:

- (a) the warranty given by the Contractor pursuant to clause D7.1 is false;
- (b) the Contractor fails to notify the Authority of any Occasion of Tax Non-Compliance as required by clause D7.2; or
- (c) the Contractor fails to provide details of proposed mitigating factors which in the reasonable opinion of the Authority are acceptable.

For the avoidance of doubt any breach of this clause D8.1 shall constitute a Material Breach.

E.PROTECTION OF INFORMATION

E1 Authority Data

E1.1 The Contractor shall not delete or remove any proprietary notices contained within or relating to the Authority Data.

E1.2 The Contractor shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Contractor of its obligations under this Contract or as otherwise expressly authorised in writing by the Authority.

E1.3 To the extent that Authority Data is held and/or processed by the Contractor, the Contractor shall supply that data to the Authority as requested.

E1.4 The Contractor shall take responsibility for preserving the integrity of Authority Data and preventing the corruption or loss of that data.

E1.5 The Contractor shall perform secure back-ups of all Authority Data and shall ensure that up-to-date back-ups are stored off-site in accordance with the Business Continuity Plan. The Contractor shall ensure that such back-ups are available to the Authority at all times upon request and are delivered to the Authority at no less than three (3) Monthly intervals.

E1.6 The Contractor shall ensure that any system or media on which the Contractor holds any Authority Data, including back-up data, is a secure system that complies with the Security Policy detailed in Schedule 6 Appendix A.

- E1.7 If the Authority Data is corrupted, lost or sufficiently degraded as a result of the Contractor's default so as to be unusable, the Authority may:
- (a) require the Contractor (at the Contractor's expense) to restore or provide for the restoration of the Authority Data and the Contractor shall do so as soon as practicable but not later than ten (10) days; and/or;
 - (b) itself restore or provide for the restoration of the Authority Data, and shall be repaid by the Contractor any reasonable expenses incurred in doing so.
- E1.8 If at any time the Contractor suspects or has reason to believe that the Authority Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Contractor shall notify the Authority immediately and inform the Authority of the remedial action the Contractor proposes to take.
- E1.9 In accordance with the DWP Offshoring Policy and while not in any way limiting any other provision of this Contract, the Contractor and any of its Sub-contractors, shall not process or transfer Authority Data (as described in the DWP Offshoring Policy) outside the United Kingdom without the prior written consent of the Authority, and where the Authority gives consent, the Contractor shall comply with any reasonable instructions notified to it by the Authority in relation to the Authority Data in question.
- E1.10 Where the Authority has given its prior written consent to the Contractor to process, host or access Authority Data from premises outside the United Kingdom (in accordance with clause E1.9 of the Contract):
- a) the Contractor must notify the Authority (in so far as they are not prohibited by Law) where any Regulatory Bodies seek to gain or has gained access to such Authority Data;
 - b) the Contractor shall take all necessary steps in order to prevent any access to, or disclosure of, any Authority Data to any Regulatory Bodies outside the United Kingdom unless required by Law without any applicable exception or exemption.
- E1.11 Any breach by the Contractor of this clause E1 shall be a Material Breach entitling the Authority to exercise its rights under clause F5.3A.
- E1.12 In the event the Contractor goes into Liquidation as outlined in clause H1 or the Contract is terminated by the Authority pursuant to the provisions of the Contract relating to termination on insolvency in accordance with clause H1, the Contractor (or a liquidator or provisional liquidator acting on behalf of the Contractor) shall at its own cost and at no cost to the Authority;

- (a) conduct a full and thorough search for any electronic and paper records held by the Contractor which contain Authority Data/Information relating to the Customers/Information; in accordance with the Authority instructions;
- (b) return all such records to the Authority in accordance with their instructions;
- (c) permanently destroy all copies of any relevant electronic records; and
- (d) provide written confirmation to the Authority that the actions outlined above in this clause have been completed.

E1.13 In the event of a Sub-contractor being in Liquidation then it is the responsibility of the Contractor to recover records held by the Sub-contractor and provide assurance to the Authority that they have been recovered.

E1.14 In the event the Contractor is put into Administration as outlined in clause H1 the Authority will work closely with the administrator to ensure the Contractor is able to maintain Authority and other records they have created and held in accordance with this clause E1 and maintain these standards in the safekeeping of Authority information, i.e. these records must be stored in accordance with Authority information assurance and HMG Cabinet Office information security standards.

E1.15 Whilst in Administration the duty of the administrator is to help the Contractor trade. This may involve the administrator seeking an organisation to buy the Contractor's business or any part of it. The assignment or novation of this Contract to new ownership is not automatic and the Authority must be consulted (in accordance with clause F1.1) and prior Approval obtained. Where the Contract is assigned or novated with prior Approval, Remploy Ltd must provide the Authority with all the relevant information and records necessary for the assigned or novated contract to continue to be performed.

E2 Protection of Personal Data and Special Categories of Personal Data

E2.1 Each of the Parties including the personnel of each Party (personnel shall include directors, officers, employees, servants, agents, consultants, suppliers and sub-contractors) will comply with all of its applicable requirements of the Data Protection Legislation and shall not knowingly or negligently by any act or omission, place the other Party in breach, or potential breach of Data Protection Legislation. This clause is in addition to and does not relieve, remove or replace a Party's obligations under the Data Protection Legislation.

E2.1A The Data Controller is responsible for ensuring that Personal Data and Special Categories of Personal Data is processed in accordance with Data Protection Legislation.

- E2.1B The Authority shall be the Data Controller of the information listed in Schedule 14 Annex B Part 1.
- E2.1C The Contractor shall be the Data Controller of the information listed in Schedule 14 Annex B Part 2.
- E2.1D Where the Contractor is a Data Controller, it shall comply with the Data Controller obligations specified in Data Protection Legislation and shall implement appropriate technical and organisational measures to ensure and be able to demonstrate that processing is performed in accordance with the GDPR.
- E2.2 Notwithstanding the general obligations in clauses E2.1, E2.1A, E2.1B, E2.1C and E2.1D, where the Contractor is a Data Processor, the Contractor shall as Data Processor meet the obligations in clauses E2.3 - E2.15 (inclusive) for Personal Data and Special Categories of Personal Data.
- E2.3 The Contractor shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.
- E2.4 The Contractor shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, include (without limitation):-
- a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - c) an assessment of the risks to the rights and freedoms of Data Subjects;
 - d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data and Special Categories of Personal Data; and
 - e) upon request provide a copy of the record of the processing of any Personal Data and Special Categories of Personal Data it carries out on behalf of the Authority including (without limitation) the records specified in Article 30(2) of the GDPR.
- E2.5 The Contractor shall, in relation to any Personal Data and Special Categories of Personal Data processed or to be processed in connection with its obligations under this Contract:-
- a) process that Personal Data and Special Categories of Personal Data only to the extent and in such manner as is necessary for the purposes specified in this Contract and in accordance with Schedule 14, unless the Contractor is required to process the Personal Data and Special Categories of Personal Data otherwise by Law. In such case, the Contractor shall inform the

Authority of that legal requirement unless the Law prevents such disclosure on the grounds of public interest;

- b) ensure that it has in place Protective Measures, which have been reviewed and approved by the Authority as appropriate to protect against a Data Loss Event having taken account of the:-
 - (i) nature of the Personal Data and Special Categories of Personal Data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) implement any Protective Measures at the Contractor's own expense and at no cost to the Authority;

Review and approval of the Protective Measures by the Authority shall not relieve the Contractor of its obligations under Data Protection Legislation including, for the avoidance of doubt, putting sufficient Protective Measures in place.

- c) ensure that it and its Staff:-
 - (i) do not process Personal Data and Special Categories of Personal Data except in accordance with this Contract and Data Protection Legislation and access to such data is limited to those Staff who need to access Personal Data and Special Categories of Personal Data to meet the Contractor's Data Processor duties under the Contract and Data Protection Legislation and only collect Personal Data and Special Categories of Personal Data on behalf of the Authority in the format agreed with the Authority which shall contain a data protection notice informing the Data Subject of the identity of the Data Controller, the identity of any data protection representative it may have appointed, the purpose(s) for which the Data Subject's Personal Data and Special Categories of Personal Data will be processed and any other information, which is necessary to comply with Data Protection Legislation. The Contractor shall not modify the format agreed with the Authority without the prior written consent of the Authority;
 - (ii) take all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and Special Categories of Personal Data and ensure that they:-
 - (A) are aware of and comply with the Contractor's duties under this clause E2;
 - (B) are subject to appropriate confidentiality undertakings including between the Contractor and any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and Special Categories of Personal Data and do not publish, disclose or divulge any of the Personal Data and

Special Categories of Personal Data to any third party unless directed in writing to do so by the Authority or as otherwise permitted by this Contract or required to do so under a legal requirement/court order (provided that the Contractor shall give notice to the Authority of any disclosure of Personal Data and Special Categories of Personal Data that it or any of its Staff is required to make under such a legal requirement or court order immediately when it is made aware of such a requirement); and

- (D) have undergone adequate training in the use, care, protection and handling of Personal Data and Special Categories of Personal Data; and
- d) not transfer Personal Data and Special Categories of Personal Data outside of the European Economic Area or International Organisation unless the prior written consent of the Authority has been obtained and provided the following conditions are fulfilled:-
 - (i) the Authority or the Contractor has provided appropriate safeguards in relation to the transfer;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data and Special Categories of Personal Data that is transferred; and
 - (iv) the Contractor complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data and Special Categories of Personal Data;
- e) at the written direction of the Authority, delete or return Personal Data and Special Categories of Personal Data (and any copies of it) using a secure method of transfer to the Authority on termination of the Contract unless the Contractor is required by Law to retain the Personal Data and Special Categories of Personal Data;
- f) permit the Authority or the Authority's Representative to inspect and audit the Contractor's Data Processor activities (and/or those of its Staff) and comply with all reasonable requests or directions by the Authority to enable the Authority to verify that the Contractor is in full compliance with its obligations under the Contract.

E2.6 Subject to clause E2.7, the Contractor shall notify the Authority immediately if it:-

- a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- b) receives a request to rectify, block or erase any Personal Data;

- c) receives any other request, notice, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data and Special Categories of Personal Data processed under this Contract;
- e) receives a request from any third party for disclosure of Personal Data and Special Categories of Personal Data where compliance with such request is required or purported to be required by Law; or
- f) becomes aware of a Data Protection Breach or a Data Loss Event.

E2.7 The Contractor's obligation to notify the Authority under clause E2.6 shall include the provision of further information to the Authority promptly.

E2.8 Taking into account the nature of the processing, the Contractor shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause E2.6 (and insofar as possible within the timescales reasonably required by the Authority) at no cost to the Authority including by promptly providing:-

- a) the Authority with full details and copies of the complaint, communication or request;
- b) such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Access Request promptly;
- c) the Authority, at its request, with any Personal Data and Special Categories of Personal Data it holds in relation to a Data Subject;
- d) assistance as requested by the Authority following any Data Loss Event and/or Data Protection Breach to enable the Authority to mitigate the impact of the Personal Data Breach, to ensure that Personal Data Breaches of the same nature do not occur again, to notify the competent regulatory body of the Personal Data Breach and/or to notify the Data Subjects of the Personal Data Breach;
- e) assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.

E2.9 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with its Data Processor obligations under this clause E2. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:-

- a) the Authority determines the processing is not occasional;

- b) the Authority determines the processing includes any Special Categories of Personal Data and/or Personal Data and Special Categories of Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - c) the Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- E2.10 The Contractor shall allow for audits of its Data Processing activity by the Authority or the Authority's designated auditor. The Contractor shall keep a record of any processing of Personal Data and Special Categories of Personal Data it carries out on behalf of the Authority including (without limitation) the records specified in Article 30(2) of the GDPR.
- E2.11 The Contractor shall designate a Data Protection Officer if required by Data Protection Legislation or by the Authority in writing.
- E2.12 Before allowing any Sub-processor to process any Personal Data and Special Categories of Personal Data under this Contract, the Contractor must:-
- a) notify the Authority in writing of the intended Sub-processor and processing;
 - b) obtain the advance written consent of the Authority to allow the Sub-processor to process any Personal Data and Special Categories of Personal Data under the Contract; and
 - c) enter into a written contract with the Sub-processor which reflects the terms set out in this clause E2 such that they apply to the Sub-Processor as a Data Processor.
- E2.13 The Contractor shall remain fully liable for all acts or omissions of any Sub- processor and Staff.
- E2.14 The Authority may, at any time on not less than thirty (30) Working Days' advance notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme under Article 43 of the GDPR (which shall apply when incorporated by an attachment to this Contract).
- E2.15 The Contractor shall comply with guidance issued by the Information Commissioner's Office. The Authority may on not less than thirty (30) Working Days' notice to the Contractor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioners Officer and/or any changes to Data Protection Legislation.
- E2.16 The Contractor shall indemnify and keep the Authority indemnified in full from and against all claims, proceedings, actions, damages, loss, penalties, fines, levies, costs and expenses and all loss of profits, business revenue or goodwill (whether direct or indirect) and all consequential or indirect loss howsoever arising out of, in respect of or in connection with, any breach by the Contractor or any of its Staff of this clause E2.

E3 Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989

E3.1 The Contractor shall comply with, and shall ensure that it's Staff comply with, the provisions of:

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

E3.2 Any breach by the Contractor of this clause E3 shall be deemed to be a Material Breach entitling the Authority to exercise its rights under clause F5.3A.

E4 Confidential Information

E4.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each Party shall:

- (a) treat the other Party's Confidential Information as confidential and safeguard it accordingly; and
- (b) not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.

E4.2 Clause E4 shall not apply to the extent that;

- (a) such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to clause E5 (Freedom of Information);
- (b) such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
- (c) such information was obtained from a third party without obligation of confidentiality;
- (d) such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or
- (e) it is independently developed without access to the other Party's Confidential Information.

E4.3 The Contractor may only disclose the Authority's Confidential Information to the Staff who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality.

- E4.4 The Contractor shall not, and shall procure that the Staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes of this Contract.
- E4.5 At the written request of the Authority, the Contractor shall procure that members of Staff or such professional advisors or consultants identified by the Authority give a confidentiality undertaking before commencing any work in accordance with this Contract.
- E4.6 Nothing in this Contract shall prevent the Authority from disclosing the Contractor's Confidential Information:
- (a) to any government department, any part of the Crown, or any other Contracting Authority. All government departments, any part of the Crown or Contracting Bodies receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other government departments, other parts of the Crown or other Contracting Bodies on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department, the Crown or any Contracting Authority;
 - (b) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
 - (c) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
 - (d) to any consultant, professional adviser, contractor, supplier or other person engaged by the Authority or any person conducting a Cabinet Office gateway review;
 - (e) on a confidential basis for the purpose of the exercise of its rights under the Contract, including (but not limited to) for auditing purposes (clause E9), to a body to novate, assign or dispose of its rights under the Contract (clause F1.8), to a Replacement Contractor (clause H6.2) and for the purpose of the examination and certification of the Authority's accounts; or
 - (f) for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources.
- E4.7 The Authority shall use all reasonable endeavours to ensure that any government department, part of the Crown, Contracting Authority, employee, third party or sub-contractor to whom the Contractor's Confidential Information is disclosed pursuant to clause E4 is made aware of the Authority's obligations of confidentiality.

- E4.8 Nothing in this clause E4 shall prevent either Party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other Party's Confidential Information or an infringement of Intellectual Property Rights.
- E4.9 Any breach by the Contractor of clauses E4.1-E4.3 shall be deemed to be a Material Breach entitling the Authority to exercise its rights under clause F5.3A.
- E4.10 Clauses E4.1-E4.6 are without prejudice to the application of the Official Secrets Acts 1911 to 1989 to any Confidential Information.
- E4.11 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Authority shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.
- E4.12 Notwithstanding any other term of this Contract, the Contractor hereby gives consent for the Authority to publish the Contract in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including from time to time agreed changes to the Contract, to the general public.

E5 Freedom of Information

- E5.1 The Contractor acknowledges that the Authority is subject to the requirements of the FOIA and the Environmental Information Regulations. The Contractor shall assist and cooperate with the Authority to enable the Authority to comply with its Information disclosure obligations.
- E5.2 The Contractor shall and shall procure that its Sub-contractors shall;
- (a) transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information;
 - (b) provide the Authority with a copy of all Information in its possession or power in the form that the Authority requires within five (5) Working Days (or such other period as the Authority may specify) of the Authority's request; and
 - (c) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to the Request for Information within the time for compliance set out in Section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations.

E5.3 The Authority shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.

E5.4 In no event shall the Contractor respond directly to a Request for Information unless expressly authorised in writing to do so by the Authority.

E5.5 The Contractor acknowledges that (notwithstanding the provisions of clause E5) the Authority may, acting in accordance with the Department for Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under section 45 of FOIA ("**the Code**"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Contractor or the Services:-

(a) in certain circumstances without consulting the Contractor; or

(b) following consultation with the Contractor and having taken their views into account.

E5.6 Where clause E5.5 (a) applies the Authority shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advance notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.

E5.7 The Contractor shall ensure that all Information is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.

E5.8 The Contractor acknowledges that the Commercially Sensitive Information listed in Schedule 5 (Commercially Sensitive Information) is of indicative value only and that the Authority may be obliged to disclose it in accordance with clause E5.5 and/or any other legal requirement.

E6 Publicity, Media and Official Enquiries

E6.1 The Contractor shall not:

(a) make any press announcements or publicise this Contract or its contents in any way; or

(b) use the Authority's name or brand in any promotion or marketing or announcement of orders;

without the written consent of the Authority, which shall not be unreasonably withheld or delayed.

- E6.2 The Contractor shall pay the utmost regard to the standing and reputation of the Authority and shall ensure that it does anything (by act or omission) which causes material adverse publicity for the Authority, brings the Authority into disrepute, damages the reputation of the Authority or harms the confidence of the public in the Authority, regardless of whether or not such act or omission is related to the Contractor's obligations under the Contract.
- E6.3 The Contractor shall at all times supply the Services with due regard to the need for those in a public service environment to observe the highest standards of efficiency, economy, courtesy, consideration and hygiene.
- E6.4 The Contractor shall take reasonable steps to ensure that its Staff comply with clauses E6.1 to E6.3 (inclusive).

E7 Security

- E7.1 The Authority shall be responsible for maintaining the security of the Authority Premises in accordance with its standard security requirements. The Contractor shall comply with all security requirements of the Authority while on the Authority Premises, and shall ensure that all Staff comply with such requirements.
- E7.2 The Contractor shall ensure that the Security Plan produced by the Contractor fully complies with the Security Policy.
- E7.3 The Contractor shall comply, and shall procure the compliance of its Staff, with the Security Plan and the Security Policy.
- E7.4 The Authority shall notify the Contractor of any changes or proposed changes to the Security Policy. Any changes shall be agreed in accordance with the procedure in clause F3.
- E7.5 Until and/or unless a change to the Security Policy is agreed by the Authority pursuant to clause E7.4 the Contractor shall continue to perform the Services in accordance with its existing obligations.

E8 Intellectual Property Rights

- E8.1 Save as granted under the Contract, neither the Authority nor the Contractor shall acquire any right, title or interest in the other's Pre-Existing Intellectual Property Rights. The Contractor acknowledges that the Authority Data is the property of the Authority and the Authority hereby reserves all Intellectual Property Rights which may exist in the Authority Data.
- E8.2 The Authority shall grant the Contractor a non-exclusive, revocable, free licence for the Contract Period to use the Authority's Intellectual Property Rights where it is necessary for the Contractor to supply the Services. The Contractor shall have the right to sub license the Sub-contractor's use of the Authority's Intellectual Property Rights. At the end of the

Contract Period the Contractor shall cease use, and shall ensure that its Staff cease use of the Authority's Intellectual Property Rights.

E8.3 The Contractor shall grant the Authority a non-exclusive, revocable, free licence for the Contract Period to use the Contractor's Intellectual Property Rights where it is necessary for the Authority in the provision of the Services. At the end of the Contract Period the Authority shall cease use of the Contractor's Intellectual Property Rights.

E8.4 All Intellectual Property Rights in any Authority Data or other material:

- a) furnished to or made available to the Contractor by or on behalf of the Authority shall remain the property of the Authority; or
- b) prepared by or for the Contractor on behalf of the Authority for use, or intended use, in relation to the performance by the Contractor of its obligations under the Contract shall belong to the Authority;

and the Contractor shall not, and shall ensure that the Staff shall not, (except when necessary for the performance of the Contract) without prior Approval, use or disclose any such Intellectual Property Rights.

E8.5 The Contractor shall obtain approval before using any material, in relation to the performance of its obligations under the Contract which is or may be subject to any third party Intellectual Property Rights. The Contractor shall ensure that the owner of those rights grants to the Authority a non-exclusive licence, or if itself a licensee of those rights, shall grant to the Authority an authorised sub-licence, to use, reproduce, modify, develop and maintain the material. Such licence or sub-licence shall be non-exclusive, perpetual, royalty-free and irrevocable. That licence or sub-licence shall also include the right for the Authority to sub-licence, transfer, novate or assign to another Contracting Authority, the Replacement Contractor or to any other third party supplying services to the Authority.

E8.6 The Contractor shall not infringe any Intellectual Property Rights of any third party in supplying the Services. The Contractor shall, during and after the Contract Period, indemnify and keep indemnified and hold the Authority and the Crown harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority or the Crown may suffer or incur as a result of or in connection with any breach of this clause, except where any such claim arises from;

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

- E8.7 The Authority shall notify the Contractor in writing of any claim or demand brought against the Authority for infringement or alleged infringement of any Intellectual Property Right in materials supplied or licensed by the Contractor. The Contractor shall at its own expense conduct all negotiations and any litigation arising in connection with any claim for breach of Intellectual Property Rights in materials supplied or licensed by the Contractor, provided always that the Contractor:
- (a) shall consult the Authority on all substantive issues which arise during the conduct of such litigation and negotiations;
 - (b) shall take due and proper account of the interests of the Authority; and
 - (c) shall not settle or compromise any claim without the Authority's prior written consent (not to be unreasonably withheld or delayed).
- E8.8 The Authority shall at the request of the Contractor provide to the Contractor all reasonable assistance for the purpose of contesting any claim or demand made or action brought against the Authority or the Contractor for infringement or alleged infringement of any Intellectual Property Right in connection with the performance of the Contractor's obligations under the Contract. The Contractor shall indemnify the Authority for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so save to the extent that such claim or demand is caused by the negligence or breach of contract of the Authority.
- E8.9 The Authority shall not make any admissions which may be prejudicial to the defence or settlement of any claim, demand or action for infringement or alleged infringement of any Intellectual Property Right by the Authority or the Contractor in connection with the performance of its obligations under the Contract.
- E8.10 If a claim, demand or action for infringement or alleged infringement of any Intellectual Property Right is made in connection with the Contract or in the reasonable opinion of the Contractor is likely to be made, the Contractor shall notify the Authority and, at its own expense and subject to the consent of the Authority (not to be unreasonably withheld or delayed), use its best endeavours to:
- (a) modify any or all of the Services without reducing the performance or functionality, or substitute alternative Services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement, provided that the provisions herein shall apply with any necessary changes to such modified Services or to the substitute Services; or

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

and in the event that the Contractor is unable to comply with clauses E8.10 (a) or (b) within twenty (20) Working Days of receipt of the Contractor's notification the Authority may terminate the Contract with immediate effect by notice in writing.

E9 Audit, the National Audit Office and Open Book Data

E9.1 The Contractor shall keep and maintain until six (6) years after the end of the Contract Period, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Services supplied under it, all expenditure reimbursed by the Authority, and all payments made by the Authority. The Contractor shall on request afford the Authority or the Authority's Representative(s) such access to those records as may be requested by the Authority in connection with the Contract.

E9.2 The Contractor including its Staff shall:-

- (i) permit the Comptroller and Auditor General (and his appointed representatives) access free of charge during normal business hours on reasonable notice to all such documents (including computerised documents and data) and other information as the Comptroller and Auditor General may reasonably require for the purpose of his financial audit of the Authority and for carrying out examinations into the economy, efficiency and effectiveness with which the Authority has used its resources. The Contractor shall provide such explanations as are reasonably required for these purposes. This clause does not constitute a requirement or agreement for the examination, certification or inspection of the accounts of the Contractor under Section 6(3)(d) and 6(5) of the National Audit Act 1983; and
- (ii) where applicable, the Authority shall give the Contractor advance notice of proposed visits to the Premises or any premises of its Sub-contractors (including visits by Members of Parliament, members of the press and media) to observe the delivery of the Service(s) by the Contractor and/or its Sub-contractors.

E9.3 Except where an audit is imposed on the Authority by a Regulatory body, the Authority may at any time during the Contract Period and for a period of twelve (12) months after the Contract Period, conduct an audit for the following purposes:

- (a) to verify the accuracy of any charges that become due and payable by the Authority to the Contractor in respect of the Services (and proposed or actual variations to them in accordance with the Contract), or the costs of all suppliers used by the Contractor (including Sub-contractors) in the provision of Services;

- (b) to review the integrity, confidentiality and security of the Authority Data;
 - (c) to review the Contractor's compliance with the DPA, FOIA and other Law applicable to the Services;
 - (d) to review the Contractor's compliance with its obligations under the Contract;
 - (e) to review any records created during the provision of the Services;
 - (f) to review any books of account kept by the Contractor in connection with the provision of the Services;
 - (g) to carry out the audit and certification of the Authority's accounts;
 - (h) to carry out an examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources; and
 - (i) to verify the accuracy and completeness of any Management Information delivered or required by this Contract.
- E9.4 The Authority shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the provision of the Services.
- E9.5 Subject to the Authority's obligations of confidentiality, the Contractor shall on demand provide the Authority, the Comptroller and Auditor General and any relevant Regulatory Body (and/or their agents or representatives) with all reasonable co-operation, access and assistance in relation to each audit, including:
- (a) all Information requested within the permitted scope of the audit;
 - (b) reasonable access to any Premises or sites controlled by the Contractor and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
 - (c) access to the Staff;
 - (d) access to the Contractor Software and ICT Environment;
 - (e) accommodation (including desks) at the Premises as reasonably required to conduct the audit; and
 - (f) any information and/or documents in connection with the Services required by the Authority to respond to Official Correspondence.

E9.6 The Authority shall endeavour to (but is not obliged to) provide at least fifteen (15) days notice of its intention to conduct an audit.

E9.7 If an audit identifies that:

- (a) the Contractor has committed a material Default capable of remedy; the Contractor shall correct such Default as soon as reasonably practicable and as directed by the Authority in accordance with clause F5.3.1;
- (b) the Authority has overpaid any charges that become due and payable by the Authority to the Contractor in respect of the Services, the Contractor shall pay to the Authority the amount overpaid within twenty (20) Working Days. The Authority may deduct the relevant amount from the charges if the Contractor fails to make this payment; and
- (c) the Authority has underpaid any charges that become due and payable by the Authority to the Contractor in respect of the Services, the Authority shall pay to the Contractor the amount of the underpayment less the cost of audit incurred by the Authority if this was due to a Default by the Contractor within twenty (20) Working Days.

Open Book Data

E9.8 The Contractor shall at all times keep and maintain, until six (6) years after the end of the Contract Period, or as long a period as may be agreed between the Parties, the Open Book Data.

E9.9 Without prejudice to the generality of clause E9.8 the Contractor shall, at all times, upon written request by the Authority, provide written confirmation of a summary of any of the Open Book Data, including details of any funds held by the Contractor specifically to cover its on-going costs, in such other form and detail as the Authority may reasonably require, to enable the Authority to monitor the performance by the Contractor of its obligations under the Contract, its solvency and the level of profit the Contractor is making from the supply of the Services.

E9.10 The Contractor shall provide (or procure provision of) access at all reasonable times to the Authority, its duly authorised staff or agents and any Audit Agents to inspect the Open Book Data and such records and accounts (including those of Sub-contractors) as the Authority may require from time to time. The Authority shall be entitled to interview the Staff in order to obtain appropriate oral explanations of the records and accounts and the Contractor shall provide (or procure provision of) access to the relevant Staff at such times as may be reasonably required to enable the Authority to do so.

E9.11 The Parties referenced in clause E9.16 shall have the right to visit sites controlled by the Contractor and to be given free access to the Staff and

to Customers during the hours when the Contractor is supplying the Services with a view to verifying that the Contractor is supplying the Services in accordance with the Contract.

E9.12 The Contractor shall provide the Open Book Data and all records and accounts referred to in this clause E9 (together with copies of the Contractor's published accounts) until the date specified in accordance with clause E9.8, and shall provide such records and accounts on request until the date specified in accordance with clause E9.8, to the Authority and the Audit Agents.

E9.13 The Authority shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the supply of the Services; save insofar as the Contractor accepts and acknowledges that control over the conduct of audits carried out by the Audit Agents is outside of the control of the Authority.

E9.14 The Contractor shall ensure that all of its contracts with Sub-contractors include obligations reflecting the requirements of the Authority under this clause E9.

E9.15 The Contractor shall provide the rights set out in this clause E9 to any duly authorised staff or agents of the Authority, the National Audit Office, the Audit Agents and any third parties as notified by the Authority to the Contractor from time to time.

E9.16 Without prejudice to the foregoing, in the event of an investigation into allegations of fraudulent activity or other impropriety by the Contractor or any third party in relation to supply of the Services, the Authority reserves for itself and any Audit Agents or any government department the right of immediate access to the Open Book Data and all records and accounts referred to in this clause E9 and the Contractor agrees to render all necessary assistance to the conduct of such investigation at all times during the Contract or at any time thereafter.

E9.17 The Contractor shall indemnify and keep indemnified the Authority in full from and against all claims, proceedings, actions, damages, losses, costs and expenses and all loss of profits, business revenue or goodwill (whether direct or indirect) and all consequential or indirect loss howsoever arising out of, in respect of or in connection with, any breach by the Contractor (or any Sub-contractor) of this clause E9.

E10 Exceptional Audits

E10.1 The Contractor shall permit the Authority and/or its appointed representative's access to conduct an audit (an "**Exceptional Audit**") of the Contractor in any of the following circumstances:

- (a) actual or suspected impropriety or Fraud;
- (b) there are reasonable grounds to suspect that:

- (i) the Contractor is in Default under the Contract;
- (ii) the Guarantor may be in default of the Guarantee;
- (iii) the Contractor is in financial distress or at risk of insolvency or bankruptcy, or any fact, circumstance or matter which is reasonably likely to cause the Contractor financial distress and result in a risk of the Contractor becoming insolvent or bankrupt has occurred; or
- (iv) a breach of the Security Policy or the Security Plan has occurred under the Contract,

(each an "**Exceptional Circumstance**").

E10.2 If the Authority notifies the Contractor of an Exceptional Circumstance and that it wishes to conduct an Exceptional Audit, the Contractor shall provide access in accordance with clauses E9.5 and E9.10 as soon as reasonably practicable after such request and in any event within forty eight (48) hours.

E11 Audit Costs

E11.1 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under clauses E9.3 to E10.2 (inclusive), unless an audit identifies a material Default by the Contractor in which case the Contractor shall reimburse:

- (a) the Authority for all the Authority's identifiable, reasonable costs and expenses properly incurred in the course of the audit; and
- (b) where the Authority, a Regulatory Body, or the Comptroller and Auditor General appoint another Contracting Authority to conduct an audit under this clause, the Authority shall be able to recover on demand from the Contractor the identifiable, reasonable and properly incurred costs and expenses of the relevant Contracting Authority.

E12 Malicious Software

E12.1 The Contractor shall ensure anti-virus software is updated as frequently as is necessary in order to provide protection against the latest threats and delete Malicious Software from the ICT Environment.

E12.2 Notwithstanding clause E12.1, 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 Authority Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.

E12.3 Any cost arising out of the actions of the Parties taken in compliance with the provisions of clause E12.2 shall be borne by the Parties as follows:

- (a) by the Contractor where the Malicious Software originates from the Contractor Software, the Third Party Software or the Authority Data (whilst the Authority Data was under the control of the Contractor); and
- (b) by the Authority if the Malicious Software originates from the Authority Software, the Third Party Software or the Authority Data (whilst the Authority Data was under the control of the Authority).

E13 Provision of Management Information

The Contractor shall operate and maintain appropriate systems, processes and records to ensure that it can, at all times, deliver timely and accurate Management Information to the Authority in accordance with the provisions of this clause E13 and Schedule 13 (Management Information).

E14 Records Relating to the Provision of the Services

Notwithstanding the provisions of clause A2.3 or clause E9 in respect of Open Book Data, the Contractor shall, during the Contract Period and the period of at least six (6) years following the expiry or termination of this Contract, maintain or cause to be maintained, complete and accurate documents and records in relation to the provision of the Services.

F.CONTROL OF THE CONTRACT

F1 Transfer and Sub-Contracting

- F1.1 Except where clauses F1.4 and F1.5 apply, the Contractor shall not assign, sub-contract or in any other way dispose of the Contract or any part of it without prior Approval. Sub-contracting any part of the Contract shall not relieve the Contractor of any of its obligations or duties under the Contract.
- F1.2 The Contractor shall be responsible for the acts and omissions of its Sub-contractors as though they are its own.
- F1.3 Where the Authority has consented to the placing of Sub-contracts, copies of each Sub-contract shall, at the request of the Authority, be sent by the Contractor to the Authority or as soon as reasonably practicable if requested within ten (10) Working Days.
- F1.4 Notwithstanding clause F1.1, the Contractor may assign to a third party ("**the Assignee**") the right to receive payment of the Contract Price or any part thereof due to the Contractor under this Contract. Any assignment under this clause F1.4 shall be subject to:
 - (a) reduction of any sums in respect of which the Authority exercises its right of recovery under clause C3 (Recovery of Sums Due);

(b) all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and

(c) the Authority receiving notification under both clauses F1.5 and F1.6.

F1.5 In the event that the Contractor assigns the right to receive the Contract Price under clause F1.4, the Contractor or the Assignee shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.

F1.6 The Contractor shall ensure that the Assignee notifies the Authority of the Assignee's contact information and bank account details to which the Authority shall make payment at least five (5) Working Days prior to submission of the relevant invoice.

F1.7 The provisions of clause C (Payment and Contract Price) shall continue to apply in all other respects after the assignment and shall not be amended without Approval.

F1.8 Subject to clause F1.10, the Authority may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:

(a) any Contracting Authority;

(b) any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or

(c) any private sector body which substantially performs the functions of the Authority,

provided that any such assignment, novation or other disposal shall not increase the burden of the Contractor's obligations under the Contract.

F1.9 Any change in the legal status of the Authority such that it ceases to be a contracting authority (as defined in the Public Contracts Regulations 2015) shall not, subject to clause F1.8, affect the validity of the Contract. In such circumstances, the Contract shall continue in full force and effect for bind and inure to the benefit of any successor body to the Authority.

F1.10 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to clause F1.8 to a body which is not a Contracting Authority or if there is a change in the legal status of the Authority such that it ceases to be a contracting authority (as defined in the Public Contracts Regulations 2015) (in the remainder of this clause both such bodies being referred to as the "**Transferee**"):

(a) the rights of termination of the Authority in clauses H1 (Termination by the Authority) and H2 (Termination by the Contractor) shall be

available to the Contractor in the event of respectively, the bankruptcy or insolvency, or Default of the Transferee; and

- (b) the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the prior consent in writing of the Contractor.

F1.11 The Authority may disclose to any Transferee any Confidential Information of the Contractor which relates to the performance of the Contractor's obligations under the Contract. In such circumstances the Authority shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Contractor's obligations under the Contract and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.

F1.12 Each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure it carries out whatever further actions (including the execution of further documents) the other Party reasonably requires from time to time for the purpose of giving that other Party the full benefit of the provisions of the Contract.

F2 Waiver

F2.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not diminish or affect any other cause a diminution of the obligations established by the Contract.

F2.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause A5 (Notices).

F2.3 A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

F3 Contract Change

F3.1 No change, amendment, Variation, restatement or supplement to this Contract shall be effective unless it is made in writing in accordance with the Change Control Procedure as specified in Schedule 12 (Change Control Procedure) and signed on behalf of the Parties.

F3.2 The Parties acknowledge and agree that no Contract Change or Operational Change may be made to this Contract which has the effect of:

- (a) rendering this Contract materially different in character from this Contract as at the date of this Contract;

(b) changing the economic balance of this Contract in favour of the Contractor in a manner which is not provided for in this Contract as at the date of this Contract; or

(b) extending the scope of this Contract considerably.

F4 Severability

F4.1 If any provision of the Contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of the Contract shall continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.

F5 Remedies in the Event of Inadequate Performance

F5.1.1 The Authority shall be entitled to take all reasonable steps to investigate any complaint it receives regarding:

(a) the standard of Services;

(b) the manner in which any Services have been supplied;

(c) the manner in which work has been performed;

(d) the Equipment, materials or procedures the Contractor uses; or

(e) any other matter connected with the performance of the Contractor's obligations under the Contract.

F5.1.2 Without prejudice to its other rights and remedies under the Contract or otherwise, the Authority may, in its sole discretion, uphold a complaint and take further action in accordance with clause F5.3.1 or clause F5.3A of the Contract (as appropriate).

F5.2 Notwithstanding clause A5.2, any notice or other communication which is to be given by the Authority under clause F5 shall be given by letter (delivered by hand, or sent by registered post or by the recorded delivery service) or by email at the Authority's discretion. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two (2) Working Days after the day on which the letter was posted or four (4) hours after the email is sent where the notice is sent by email or sooner where the Contractor acknowledges receipt of such letter or email. Such letter or email shall be addressed to the Contractor in the manner referred to in clause A5.3.

F5.3.1 In the event that the Authority reasonably believes that there has been a Default of the Contract by the Contractor, irrespective of whether the Default is a Material Breach, then the Authority may at no additional cost to the Authority and at the Contractor's own cost, without prejudice to its

rights and remedies under the Contract or otherwise do any of the following:-

- a) request in writing that the Contractor remedies the Default within a period specified by the Authority; or
- b) require the Contractor to follow the informal process for dealing with Defaults under paragraph 9 of the Specification (**“Informal Process”**); or
- c) require the Contractor to submit a Performance Improvement Plan in accordance with clause F5.3.2.

F5.3.2 The Contractor shall provide a Performance Improvement Plan within ten (10) Working Days (or such other period as notified by the Authority to the Contractor) of a written request from the Authority. The Performance Improvement Plan shall include details of why the Default has occurred, how the Default will be remedied and the date by which the Default will be remedied.

- (a) The Authority shall either approve or reject in writing the Performance Improvement Plan within ten (10) Working Days (or such other period as notified by the Authority to the Contractor) of its receipt pursuant to this clause F5.3.2.
- (b) If the Authority rejects the Performance Improvement Plan it shall set out the reasons and the Contractor shall address all such reasons in a revised Performance Improvement Plan, which it shall submit to the Authority within a further period of ten (10) Working Days (or such other period as notified by the Authority to the Contractor) (**“Revised Performance Improvement Plan”**) of its receipt of the Authority's reasons, as calculated in accordance with clause F5.2.
- (c) If the Performance Improvement Plan or Revised Performance Improvement Plan (as appropriate) is agreed the Contractor shall immediately start work on the actions set out in the Performance Improvement Plan or Revised Performance Improvement Plan (as appropriate).
- (d) If, despite the measures taken under this clause F5.3.2 the Revised Performance Improvement Plan cannot be agreed within a period of ten (10) Working Days (or such other period as notified by the Authority to the Contractor) of receipt by the Contractor of the Authority's reasons in respect of the Performance Improvement Plan then the Authority may:-
 - (i) end the Performance Improvement Plan process and refer the matter for resolution by the dispute resolution procedure set out in clause I.2 (Dispute Resolution); or

- (ii) deem the Default as a Material Breach and exercise its rights under clause F5.3A.

F5.3.3 In the event that:-

- (a) there is any subsequent Default which the Authority regards, at its sole discretion, as being substantially the same in character to a Default in respect of which a Performance Improvement Plan has been requested by the Authority in accordance with clause F5.3.1(c) or F5.3.4(i) which occurs within six (6) months of the request by the Authority for a Performance Improvement Plan to be provided under clause F5.3.2; or
- (b) the Contractor is requested to provide a Performance Improvement Plan or Revised Performance Improvement Plan (as appropriate) in accordance with clause F5.3.2 or F5.3.4(i) but fails to provide a Performance Improvement Plan or Revised Performance Improvement Plan (as appropriate) at all;

then such Default shall be deemed to be a Material Breach of the Contract.

F5.3.4 In the event that a Default is not remedied to the satisfaction of the Authority in accordance with clause F5.3.1(a), (b) or (c) the Authority may:

- (i) request a Performance Improvement Plan from the Contractor in respect of the Default in accordance with clause F5.3.2, irrespective of whether a previous Performance Improvement Plan has previously been requested been approved; or
- (ii) refer the matter for resolution by the dispute resolution procedure set out in clause 1.2 (Dispute Resolution); or
- (iii) deem the Default as a Material Breach and exercise its rights under clause F5.3A.

F5.3A Without prejudice to clause F5.3.1, in the event that the Authority reasonably believes that there has been a Material Breach of the Contract by the Contractor, then the Authority may, without prejudice to its rights and remedies under the Contract or otherwise, do any of the following:-

- (a) without terminating the Contract, itself supply or procure the supply of all or part of the Services until such time as the Contractor has demonstrated to the reasonable satisfaction of the Authority that the Contractor can once more be able to supply all or such part of the Services in accordance with the Contract; or

- (b) without terminating the whole of the Contract, terminate the Contract in respect of part of the Services only (whereupon a corresponding reduction in the Contract Price shall be made) and thereafter itself supply or procure a third party to supply such part of the Services; or
- (c) terminate the whole of the Contract, in accordance with clause H2.1(b) (Termination on Default).

F5.4 Without prejudice to its rights under clause C3 (Recovery of Sums Due) the Authority may charge the Contractor for any costs reasonably incurred and any reasonable administration costs in respect of the supply of any part of the Services by the Authority or a third party in accordance with clauses F5.3A (a) or (b) to the extent that such costs exceed the payment which would otherwise have been payable to the Contractor for such part of the Services and provided that the Authority uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Services and the Contractor shall be responsible for its own costs.

F6 Remedies Cumulative

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

F7 Monitoring of Contract Performance

F7.1 The Contractor shall comply with the monitoring arrangements set out in these terms and conditions of Contract, the Specification, the Contractor Guidance and Schedule 3 (Monitoring Requirements) including, but not limited to, providing such data and information as the Contractor may be required to produce under the Contract in accordance with the timescales in the Specification.

F7.2 The Authority may share the performance management information (together with any analysis or statistics produced using the performance management information) with:-

- (a) any Crown Body;
- (b) any other Contracting Authority;
- (c) any organisation involved in delivery of the Services, including but not limited to local authorities and/or their agents, and the sub-contractors or other agents of all contractors in order to enable the Authority to manage the detail and efficiency of the supply of the Services (subject to data protection, commercial sensitivity and confidentiality consideration); and/or

(d) any other third party as may be agreed by the Authority and the Contractor from time to time (subject to data protection, commercial sensitivity and confidentiality consideration).

F7.3 The Authority may use (and permit others to use) the performance management information to produce official statistics and the Contractor hereby gives its consent to such use of the performance management information (together with any associated publication or release) (subject to data protection, commercial sensitivity and confidentiality consideration).

F7.4 The Authority may publish (and permit others to publish) the Management Information (together with any analysis or statistics produced using the Management Information) and the Contractor hereby gives its consent to such publication (subject to data protection, commercial sensitivity and confidentiality consideration).

F7.5 The performance management information may form part of an official statistics publication. To support the Authority in meeting its commitment to transparency, neutrality and comprehension in statistical release practices, the Contractor shall not, (and shall procure that its Sub-contractors shall not), without Approval, at any time publish, disclose or divulge any of the performance management information to any third party until such Approval is obtained and until the date of publication of the official statistics (save that the Contractor may disclose the performance management information prior to the date of publication of the official statistics to any of its Affiliates or any of its Sub-contractors who are directly involved in the supply of the Services and who need to know the information, and the Contractor shall ensure that such Affiliate or Sub-contractor are aware of, and shall comply with these obligations as to the confidentiality of performance management information).

F7.6 At all times prior to the publication of the official statistics, the Contractor shall treat the performance management information as confidential.

F7.7 The Authority may make changes to the performance management information which the Contractor is required to disclose to the Authority in accordance with this clause F7. The Authority will make any such changes in accordance with clause F3.

F8 Financial Assurance

F8.1 The Contractor is required to disclose immediately to the Authority any material changes to its organisation that impacts on its on-going financial viability including details of the revenue replacement strategy and impact awareness on its organisation's profitability and stability where significant contracts are due to end.

F8.2 The Contractor is required to notify the Authority immediately of proposed changes to the organisational control or group structure,

proposed mergers or acquisitions or proposed changes to the Contractor's financial viability.

F8.3 Only where requested by the Authority, the Contractor is required to provide any financial information which could include but is not limited to a copy of the annual accounts and annual returns.

F8.4 If requested by the Authority, where a Parent Company Guarantee has been provided, the Contractor is required to provide the documents detailed in clause F8.3 for the Parent Company, including a translation and conversion (Profit and Loss, balance sheet and key balance sheet notes) into GBP (£), stating the conversion rate used.

F9 Extension of Initial Contract Period

F9.1 The Authority may unilaterally extend the Referral Period End Date by one (1) or more extensions up to a maximum of twenty-four (24) Months in total. Where the Authority chooses to extend the Referral Period End Date pursuant to this clause F9.1, the Authority will give written notice to the Contractor of not less than six (6) Months (or on such shorter notice period as may be agreed by the Parties) prior to the Referral Period End Date.. The provisions of the Contract will apply (subject to any Variation or adjustment to the Contract Price pursuant to clause C4 (Price adjustment on extension of the Initial Contract Period) throughout any such extended period.

F10 Entire Agreement

F10.1 The Contract constitutes the entire agreement between the Parties in respect of the matters dealt with therein. The Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, with the exception that this clause shall not exclude liability in respect of any Fraud or fraudulent misrepresentation.

F10.2 Each of the Parties acknowledges and agrees that in entering into the Contract it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in the Contract. The only remedy available to either Party for any such statements, representation, warranty or understanding shall be for breach of contract under the terms of the Contract.

F10.3 In the event of, and only to the extent of, any conflict between the clauses of the Contract, any document referred to in those clauses and the Schedules, the conflict shall be resolved in accordance with the following order of precedence:

- (a) the clauses of the AtW Terms and Conditions;
- (b) the AtW Specification;

- (c) the Q&A;
- (d) the remaining Schedules and any Appendices or Annexes to the AtW Terms and Conditions;
- (e) the Provider Guidance;
- (f) the Tender;
- (g) the Tender Clarification;
- (h) any other document referred to in the AtW Contract

F11 Counterparts

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

G. LIABILITIES

G1 Liability, Indemnity and Insurance

G1.1 Neither Party excludes or limits liability to the other Party for:

- (a) death or personal injury caused by its negligence;
- (b) Fraud;
- (c) fraudulent misrepresentation; or
- (d) any Default of any obligations implied by Section 2 of the Supply of Goods and Services Act 1982.

G1.1.2 The Contractor's liability in respect of the indemnities in clauses B10, B12, B13, D1.7(b), E8.6 and E8.8 shall be unlimited.

G1.1.3 The Authority's liability in respect of the indemnities in clause B10 shall be unlimited.

G1.2 Subject to clause G1.3, the Contractor shall indemnify the Authority and keep the Authority indemnified fully:

- (a) in respect of any personal injury or loss of or damage to tangible property incurred by the Authority or its employees and agents to the extent that such personal injury or loss of property is directly caused by any Default of the Contractor and/or its Staff or by circumstances within its or their control in connection with the performance or purported performance of the Contract; and
- (b) against all claims, proceedings, actions, damages, costs, expenses (including but not limited to legal costs and disbursements on a solicitor and client basis) and any other liabilities in respect of any

personal injury or damage arising from or incurred by reason of the use of the Services by any Customer; and

(c) against all claims, proceedings, actions, damages, costs, expenses (including but not limited to legal costs and disbursements) which may arise out of, or in consequence of:

- (i) the supply (or the late or purported supply), of the Services;
- (ii) the performance or non-performance by the Contractor of its obligations under the Contract;
- (iii) the presence of the Contractor or any of its Staff on the Authority's Premises, including financial loss arising from any advice given or omitted to be given by the Contractor; or
- (iv) any other loss which is caused directly or indirectly by any act or omission of the Contractor.

G1.3 The Contractor shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Authority or by Default by the Authority of its obligations under the Contract.

G1.4 Subject always to clause G1.1 and without prejudice to clause H2, the liability of either Party for Defaults shall be subject to the following financial limit:

- (a) the annual aggregate liability under the Contract of either Party for all Defaults shall in no event exceed the greater of one million pounds (£1,000,000) payable by the Authority to the Contractor in the year in which the liability arises.

G1.5 Subject always to clauses G1.1 and G2 and except as specified in clauses E2.4 and E9.17, in no event shall either Party be liable to the other for any:

- (a) loss of profits, business, revenue or goodwill; and
- (b) indirect or consequential loss or damage.

G1.6 The Contractor shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of its obligations under the Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Contractor. Such insurance shall be maintained for the duration

of the Contract Period and for a minimum of six (6) years following the expiration or earlier termination of the Contract.

- G1.7 The Contractor shall hold employer's liability insurance in respect of Staff in accordance with any legal requirement from time to time in force.
- G1.8 The Contractor shall give the Authority, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- G1.9 If, for whatever reason, the Contractor fails to give effect to and maintain the insurances required by the provisions of the Contract the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.
- G1.10 The provisions of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract. It shall be the responsibility of the Contractor to determine the amount of insurance cover that will be adequate to enable the Contractor to satisfy any liability referred to in clause G1.2.

G2 Professional Indemnity

- G2.1 The Contractor shall maintain appropriate professional indemnity insurance cover during the Contract Period and shall ensure that all agents, professional consultants and Sub-contractors involved in the supply of the Services do the same. To comply with its obligations under this clause and as a minimum, the Contractor shall ensure professional indemnity insurance held by the Contractor and by any agent, Sub-contractor or consultant involved in the supply of the Services has a limit of indemnity of not less than one million pounds (£1,000,000) for each individual claim (or such higher limit as the Authority may reasonably require, and as required by law, from time to time). Such insurance shall be maintained for a minimum of six (6) years following the expiration or earlier termination of the Contract.
- G2.2 Any excess or deductibles under the insurance referred to in clause G2.1 shall be the sole and exclusive responsibility of the Contractor or the Contractor's agents, professional consultants or Sub-contractors, as applicable.
- G2.3 The terms of any insurance or the amount of insurance cover shall not relieve the Contractor of any liabilities arising under the Contract.
- G2.4 The Contractor shall, on request, provide the Authority with copies of all insurance policies referred to in clause G2.1 or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

G2.5 If, for whatever reason, the Contractor fails to give effect to and maintain the insurances required by this clause then the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.

G3 Warranties and Representations

G3.1 The Contractor warrants and represents that:

- (a) it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its parent company) to enter into and perform its obligations under the Contract and that the Contract is executed by a duly authorised representative of the Contractor;
- (b) in entering the Contract it has not committed any Fraud;
- (c) as at the Commencement Date, all information contained in the Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract;
- (d) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Contract;
- (e) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Contract;
- (f) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Contractor's assets or revenue;
- (g) it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract;
- (h) in the three (3) years prior to the date of the Contract:
 - (i) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;

- (ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
- (iii) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an on-going business concern or its ability to fulfil its obligations under the Contract.

G4 Deed of Guarantee

G4.1 Where a Guarantee is requested by the Authority, this Contract is conditional upon the Contractor procuring that the Guarantor shall:

- (a) execute and deliver to the Authority the Guarantee; and
- (b) deliver to the Authority a certified copy of the board minutes of the Guarantor approving the execution of the Guarantee.

G4.2 On satisfaction of clause G4.1, the Authority shall promptly notify the Contractor that those conditions have been satisfied.

G4.3 The conditions specified in this clause G4 are inserted solely for the Authority's benefit. The Authority may waive them, in whole or in part and with or without conditions, without prejudicing the Authority's right to require subsequent fulfilment of such conditions.

G4.4 Where a Guarantee has been requested by the Authority, for the avoidance of doubt, if clause G4.1 has not been satisfied, on or before Commencement Date this Contract shall not take effect.

H TERMINATION RIGHTS AND DISRUPTION

H1 Termination by the Authority

H1.1 The Authority may terminate this Contract by issuing a Termination Notice to the Contractor:

- (a) for convenience at any time, including where the Contract should not have been entered into in view of a serious infringement of obligations under European Law declared by the Court of Justice of the European Union under Article 258 of the Treaty on the Functioning of the EU;
- (b) if a Contractor Termination Event occurs;
- (c) if a Force Majeure Event endures for a continuous period of more than 90 days; or

- (d) if the Contract has been substantially amended to the extent that the Public Contracts Regulations 2015 require a new procurement procedure,

and this Contract shall terminate on the date specified in the Termination Notice.

H1.2 Where the Authority:

- (a) is terminating this Contract under Clause H1.1(b) due to the occurrence of limb (b) of the definition of Contractor Termination Event, it may rely on a single material Default or on a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are cured) which taken together constitute a material Default; and/or
- (b) has the right to terminate this Contract under Clause H1.1(b) or Clause H1.1(c),

it may, prior to or instead of terminating the whole of this Contract, serve a Termination Notice requiring the partial termination of this Contract to the extent that it relates to any part of the Services which are materially affected by the relevant circumstances (a “**Partial Termination**”).

H2 Termination by the Contractor

H2.1 The Contractor may, by issuing a Termination Notice to the Authority, terminate:

- (a) this Contract if the Authority fails to pay an undisputed sum due to the Contractor under this Contract which in aggregate exceeds 2% of the Anticipated Contract Value and such amount remains outstanding 60 Working Days after the receipt by the Authority of a notice of non-payment from the Contractor, save that such right of termination shall not apply where the failure to pay is due to the Authority exercising its rights under clause C5; or
- (b) any Services that are materially impacted by a Force Majeure Event that endures for a continuous period of more than 90 days,

and this Contract or the relevant Services (as the case may be) shall then terminate on the date specified in the Termination Notice (which shall not be less than 20 Working Days from the date of the issue of the Termination Notice). If the operation of clause H2.1(b) would result in a Partial Termination, the provisions of clause H3 (Partial Termination) shall apply.

H3 Partial Termination

H3.1 If the Contractor notifies the Authority pursuant to clause H2.1(b) (Termination by the Contractor) that it intends to terminate this Contract in part and the Authority, acting reasonably, believes that the effect of

such Partial Termination is to render the remaining Services incapable of meeting a significant part of the Authority Requirements, then the Authority shall be entitled to terminate the remaining part of this Contract by serving a Termination Notice to the Contractor within 1 month of receiving the Contractor's Termination Notice. For the purpose of this clause H3.1, in assessing the significance of any part of the Authority Requirements, regard shall be had not only to the proportion of that part to the Authority Requirements as a whole, but also to the importance of the relevant part to the Authority.

H3.2 The Parties shall agree the effect of any change to this Contract necessitated by a Partial Termination in accordance with the Change Control Procedure, including the effect the Partial Termination may have on any other Services and the Contract Price, provided that:

- (a) the Contractor shall not be entitled to an increase in the Contract Price in respect of the Services that have not been terminated if the Partial Termination arises due to the occurrence of a Contractor Termination Event; and
- (b) the Contractor shall not be entitled to reject the change to the Contract.

CONSEQUENCES OF EXPIRY OR TERMINATION

H4 General Provisions on Expiry or Termination

H4.1 Unless otherwise expressly provided in the Contract:

- (a) the provisions of Clauses A7 (Conflicts of Interest), B10 Transfer of Undertakings (Protection of Employment) (TUPE), B11 (Pre-Service Transfer Obligations), B12 (Application of TUPE Regulations on Exit), B13 Pension Protection), B14 (Third Party Rights in relation to TUPE and Pensions), C (Payment and Contract Price), C3 (Recovery of Sums), D1 (Prevention of Bribery and Corruption), E1 (Authority Data), E2 (Protection of Personal Data and Special Categories of Personal Data), E3 (Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989), E4 (Confidential Information), E5 (Freedom of Information), E8 (Intellectual Property Rights), E9 (Audit and National Audit Office), F6 (Remedies Cumulative), G1 (Liability, Indemnity and Insurance), G2 (Professional Indemnity), H4 (General Provisions on Expiry or Termination), H6 (Payments by the Authority), I1 (Governing Law and Jurisdiction), Schedule 10 (Exit Management) and Schedule 10A (Allocation of Costs on Termination), shall survive the termination or expiry of this Contract; and
- (b) termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration. Nothing in the Contract shall prejudice the

right of either Party to recover any amount outstanding at such termination or expiry.

H5 Exit Management

H5.1 The Parties shall comply with the provisions of Schedule 10 (Exit Management) and any current Exit Plan in relation to orderly transition of the Services to the Authority or a Replacement Contractor.

H6 Payments by the Authority

H6.1 If this Contract is terminated by the Authority pursuant to Clause H1.1(a) (Termination by the Authority) or by the Contractor pursuant to Clause H2.1(a) (Termination by the Contractor), the Authority shall pay the Contractor the following payments (which shall be the Contractor's sole remedy for the termination of this Contract):

- (a) the Termination Payment; and
- (b) the Compensation Payment, if either of the following periods is less than 365 days:
 - (i) the period from (but excluding) the date that the Termination Notice is given by the Authority pursuant to Clause H1.1(a) (Termination by the Authority)) to (and including) the Termination Date; or
 - (ii) the period from (and including) the date of the non-payment by the Authority referred to in Clause H2.1(a) (Termination by the Contractor) to (and including) the Termination Date.

H6.2 If this Contract is terminated (in part or in whole) by the Authority pursuant to Clauses H1.1(b), H1.1(c) and/or H1.2 (Termination by the Authority), or the term expires, the only payments that the Authority shall be required to make as a result of such termination (whether by way of compensation or otherwise) are:

- (a) payments in respect of any Assets or apportionments in accordance with Schedule 10 (Exit Management); and
- (b) payments in respect of unpaid Contract Price for Services received up until the Termination Date.

H6.3 The costs of termination incurred by the Parties shall lie where they fall if:

- (a) either Party terminates or partially terminates this Contract for a continuing Force Majeure Event pursuant to Clauses H1.1(c) or H1.2(b) (Termination by the Authority) or H2.1(b) (Termination by the Contractor); or
- (b) the Authority terminates this Contract under Clause (d)H1.1(d).

H6.4 If this Contract is terminated in whole by the Authority pursuant to Clauses H1.1(b), H1.1(c) and/or H1.2 (Termination by the Authority), or the term expires, the Contractor shall not have any right to receive any Outcome Payment in respect of any Participant.

H6.5 If this Contract is terminated in part by the Authority pursuant to Clauses H1.1(b), H1.1(c) and/or H1.2 (Termination by the Authority), the Contractor shall not have any right to receive any Outcome Payment in respect of any Participant who receives or has received any Services which are subject to such partial termination.

H7 Payments by the Contractor

H7.1 In the event of termination or expiry of this Contract, the Contractor shall repay to the Authority all Contract Price it has been paid in advance in respect of Services not provided by the Contractor as at the date of expiry or termination.

H7.2 Where the Authority terminates the Contract under clause H1.1(b) (Termination by the Contractor) and then makes other arrangements for the supply of Services ("Other Arrangements") , the Authority may recover from the Contractor the cost of making such Other Arrangements and any expenditure incurred (including but not limited to legal costs) by the Authority in connection with such Other Arrangements in accordance with Schedule 10A (Allocation of Costs on Termination). The Authority shall take all reasonable steps to mitigate such cost and expenditure.

H7.3 Where a Contract is terminated under clause H1.1(b), the Authority shall be entitled to withhold payment of any amount otherwise due to the Contractor under this Contract until such time as the Authority has been able to establish the cost of making such Other Arrangements. For the avoidance of doubt, no interest shall accrue on any payments that are withheld under this clause H7.3.

H8 Disruption

H8.1 The Contractor shall take all reasonable care to ensure that in performing of its obligations under the Contract it does not disrupt the operations of the Authority, its employees or any other contractor employed by the Authority.

H8.2 The Contractor shall immediately notify the Authority of any actual or potential industrial action, whether such action is by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.

H8.3 In the event of industrial action by the Staff, the Contractor shall seek Approval to its proposals to continue to perform its obligations under the Contract.

- H8.4 If the Contractor's proposals referred to in clause H8.3 are considered insufficient or unacceptable by the Authority (acting reasonably), the Authority may terminate the Contract with immediate effect by notice in writing.
- H8.5 If the Contractor is temporarily unable to fulfil the requirements of the Contract owing to disruption of normal business by direction of the Authority, an appropriate allowance by way of extension of time will be approved by the Authority. In addition, the Authority will reimburse any additional expense reasonably incurred by the Contractor as a direct result of such disruption.

I.DISPUTES AND LAW

I 1 Governing Law and Jurisdiction

This Contract and any dispute or claims (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and interpreted in accordance with English law and the Parties irrevocably submit to the jurisdiction of the English courts. Each Party irrevocably waives any objection which it might at any time have to the courts of England being nominated as the forum to hear and decide any proceedings and to settle any disputes and agrees not to claim that the courts of England are not a convenient or appropriate forum.

I 2 Dispute Resolution

- I 2.1 Subject to clause B6 and clause D1.8, the Parties shall resolve Disputes arising out of or in connection with this Contract in accordance with the Dispute Resolution Procedure.
- I 2.2 The Contractor shall continue to provide the Services in accordance with the terms of this Contract until a Dispute has been resolved.

FORM OF AGREEMENT

This Contract has been entered into on the Commencement Date stated at A2 (Initial Contract Period).

SIGNED for and on behalf of

SIGNED for and on behalf of

The Secretary of State for Work and
Pensions (the Authority) acting as part of the Crown

Remploy Ltd

Name [REDACTED]

Name [REDACTED]

Position [REDACTED]

Position [REDACTED]

Signature [REDACTED]

Signature [REDACTED]

SCHEDULE 1 – THE SERVICES

1 General

The following additional documents shall be deemed to be incorporated into this Contract:

Document	Dated
MHSS Specification	Issued on Bravo as part of the ITT on 24 November 2017 at 16:14 a copy of which is attached at the Appendix 1 to this Schedule 1.
Tender	Received through Bravo on 23 March 2018 at 9:00 a copy of which is attached at the Appendix 2 to this Schedule 1.
Question & Answers Log (Q&A)	Response to the Q&A Log during the bidding period, as posted on Bravo on 30 January 2018 (Supplier Questionnaire) and 26 February 2018 (ITT) a copy of which is attached at the Appendix 3 to this Schedule 1.
Implementation Plan	Received through Bravo on 01/03/2018 at 13:39 a copy of which is attached at the Appendix 4 to this Schedule 1
Tender Clarification	Responses to clarification questions received through Bravo on 9 April 2018 at 12:28. Financial Clarification information received through Bravo on 9 April 2018 at 12:28.
Provider Guidance	Available at https://www.gov.uk/government/collections/dwp-provider-guidance
Key Staff – Annex J	Received through Bravo on 01/03/2018 at 13:39 a copy of which is attached to Appendix 5 this Schedule 1.
Merlin Standard	Available at: https://www.gov.uk/government/publications/the-merlin-standard-guide-for-dwp-providers
Disability Confident Guidance	Available at: https://www.gov.uk/guidance/disability-confident-how-to-sign-up-to-the-employer-scheme#level-3-disability-confident-leader

2 Recruitment Through Jobcentre Plus

2.1 One of the key objectives of the Department for Work and Pensions is to move people from welfare into employment. DWP has a Great Britain-wide network of Jobcentre Plus offices that provide job broking services for unemployed people. The Contractor is therefore required to notify Jobcentre Plus when recruiting staff for any entry-level job vacancies located within Great Britain, which may arise from the delivery of their Contract to the Authority.

2.2 The Contractor is also encouraged to notify Jobcentre Plus of any other vacancies that may arise. The Contractor may in addition use other recruitment methods.

Appendix 1 – Specification

**Access to Work
Mental Health Support Service
(MHSS)

Specification**

Access to Work MHSS Detailed Specification

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1. Abbreviations

AtW Access to Work
 BACS Bankers Automated Clearing System
 BC Business Continuity
 BCP Business Continuity Plan
 BIA Business Impact Analysis
 BS British Standard
 CD Commercial Directorate
 CPD Continuing Professional Development
 DfE Department for Education
 DWP Department for Work and Pensions
 EA Equality Act
 EG Employment Group
 GO Government Office Region
 IT Information Technology
 JCP Jobcentre Plus
 KPI Key Performance Indicator
 MHSS Mental Health Support Service
 MI Management Information
 MPL Minimum Performance Levels
 MTPD Maximum Tolerable Periods of Disruption
 PGPP Pretty Good Privacy
 PRaP Provider Referrals and Payments (System)
 RTO Recovery Time Objectives
 TPL Tender minimum Performance Levels
 URN Unique Reference Number

2. Definitions

Authority	The Department for Work and Pensions (DWP)
Access to Work Advisors	Members of The Authority's Access to Work Team dealing with the Customer's Access to Work case
Access to Work Team	Members of The Authority's Access to Work support staff
Authority's Representative	Shall have the meaning given in the terms and conditions of Contract
Competing Contractor	One of the two contractors that the Authority will contract with, that together will deliver the specified services.
Contractor's Representative	Shall have the meaning given in the terms and conditions of Contract
Customer	Shall have the meaning given in the terms and conditions of Contract
Disability Confident Employer	Means an employer who has achieved this status through the Disability Confident scheme and has registered their commitment to recruit and retain disabled people and people with health conditions
Employer	Means the employer of the Customer

Employment	Means an individual is undertaking paid work (during the claim period a minimum of an hour in the past week)
Exit Report	DWP template completed at the end of the support and sustainment periods, providing details of the support provided and outcomes achieved through the MHSS
Mental Health Support Service	Service providing flexible and personalised support for Customers experiencing mental health conditions and issues within the workplace, to sustain employment
Support Plan	DWP template to be completed in conjunction with the Customer, outlining the support to be provided, the steps that will be taken and who is accountable for delivery
Supporting Apprentices	Delivery of the core service to apprentices – including recording them separately

3.Introduction to Access to Work (AtW)

3.1 The Access to Work (AtW) programme is a Jobcentre Plus (JCP) discretionary grant scheme that has been in existence since 1994. It assists disabled people who are in paid employment, self-employed or participating in a Jobcentre Plus agreed Job/Work Trial which may have already commenced or is due to commence. AtW provides practical support, beyond the “reasonable adjustments” that employers are required to provide under the Equality Act 2010, to overcome work related obstacles resulting from their disability. Support is also available for young disabled people to enable them to take up an offer of a supported internship and certain other limited instances of unwaged pre-employment activity in a workplace setting.

3.2 To receive AtW help the following eligibility conditions must be satisfied. Customers must:

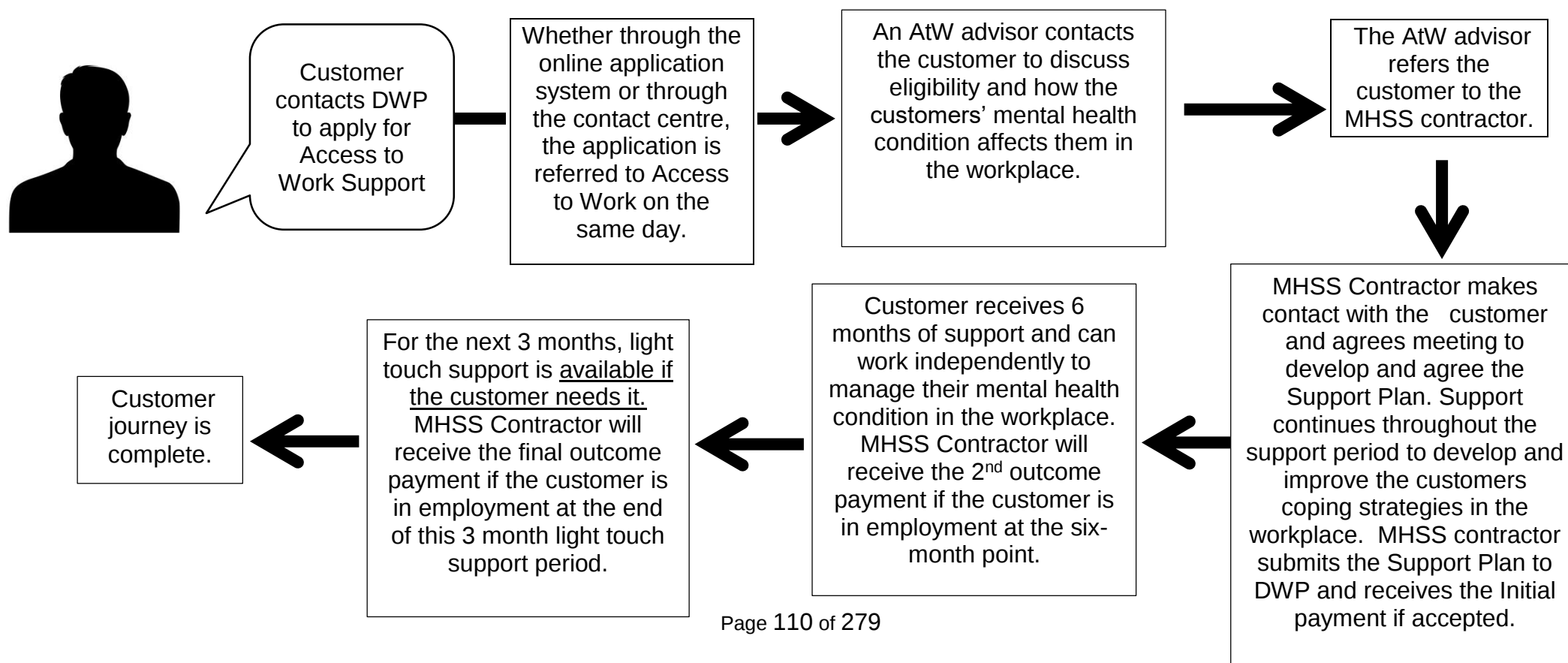
- Be disabled or have a health or mental health condition (either self-diagnosed or medical diagnosis) that impacts their ability to work;
- Be 16 or over (there is no upper age limit for support as long as the employment is likely to continue);
- Be in employment, whether as an employed or self-employed person, but not in voluntary work;
- If employed (rather than self-employed), be earning at least the relevant National Living Wage or National Minimum Wage (NMW) rate for each hour that they work (note there are additional (lower) NMW rates for some apprentices). There is no

minimum number of hours to be worked and the total amount of any wage is immaterial to eligibility;

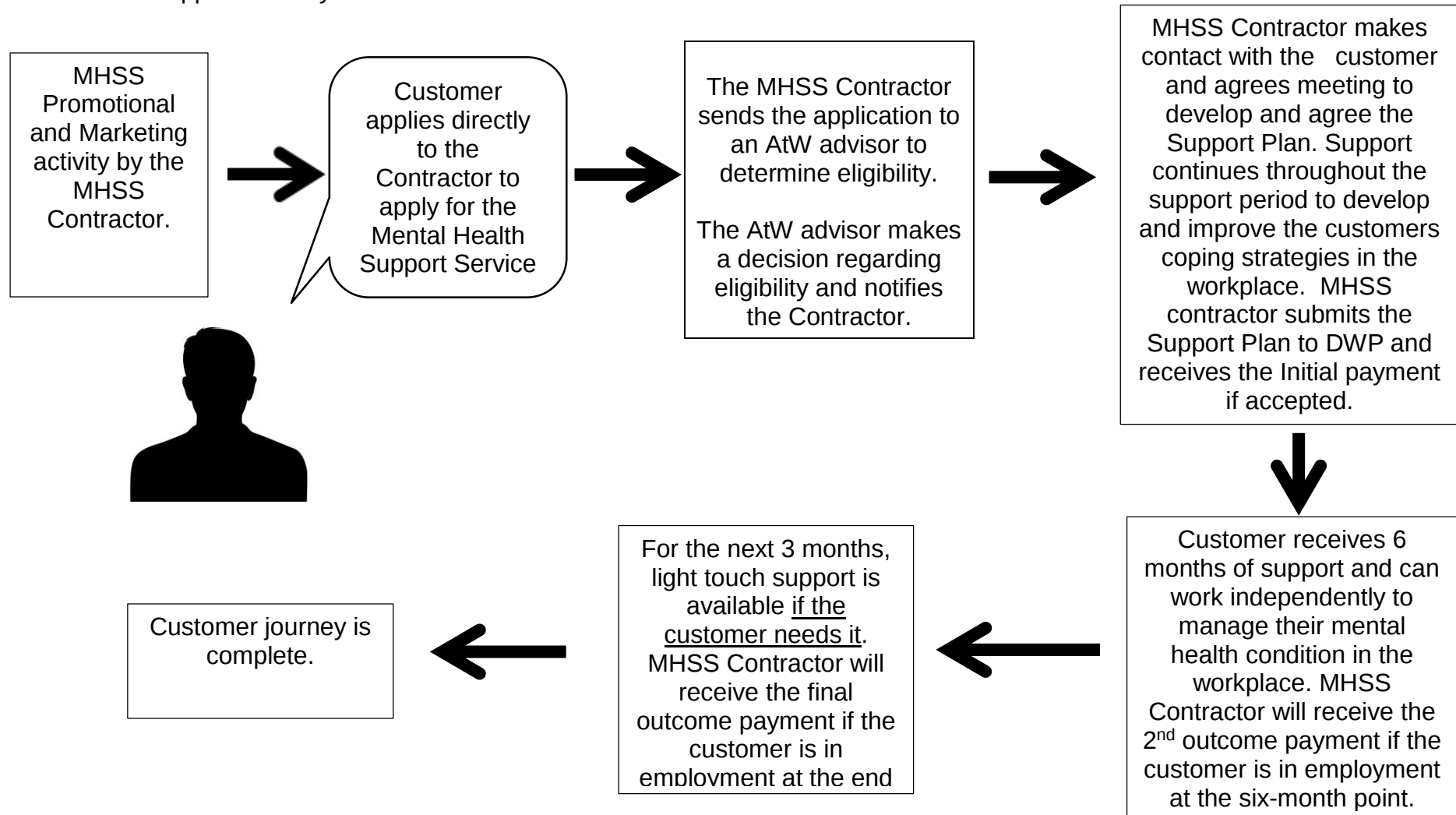
- National Living Wage is applicable to those aged 25 or over (but not in the first year of an apprenticeship);
 - National Minimum Wage is applicable to those aged under 25;
 - People serving apprenticeships are eligible for AtW support as they receive a wage and have a contract of employment. Different NMW rates may apply to people on apprenticeships.
- Be in need of help at a job interview with an employer; or
 - Be about to start employment; or
 - Be about to start a Job/Work Trial (Jobcentre Plus organised or individually established where there is a reasonable prospect of employment after the Trial);
 - Not be in receipt of Employment and Support Allowance (ESA) and/or NI credits only (or will cease to claim whilst in work) unless the Customer is about to start employment, a JCP agreed Work Trial; or is undertaking Permitted Work Higher Level; Permitted Work (PCA exempt) or Supported Permitted Work;
 - Be resident in Great Britain, excluding Northern Ireland, the Isle of Man and the Channel Islands, with a job based in Great Britain. Help can, however, be used to cover Customer's visits overseas for work purposes;
 - Support is also available for opportunities that will help disabled people get ready for employment such as DfE Traineeships, Sector-based Work Academies and DfE Supported Internships.

4. Access to Work MHSS

- 4.1 People with mental health issues and conditions have among the lowest employment rates of all disadvantaged groups. They are also at greater risk than most of falling out of work. Through AtW Customers can access the Mental Health Support Service (MHSS). This is a specific DWP support measure for Customers with a mental health issue or condition that aims to enable more people with mental health issues to stay in, advance and flourish in work.
- 4.2 **Customer Journey through AtW MHSS where a Customer** applies to AtW via the contact centre or online application system and is referred to the MHSS.



4.3 Customer applies directly to the Contractor for the MHSS.



5.Volumes

5.1 Governmental Mental Health Agenda

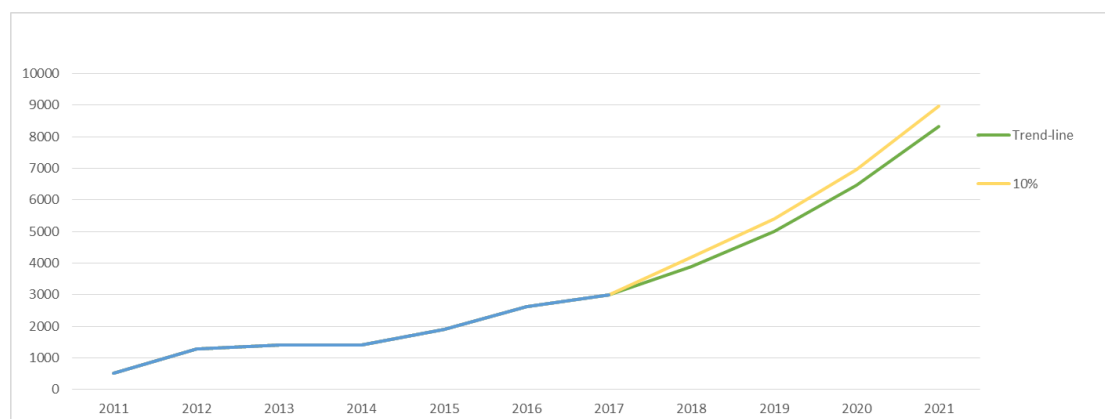
5.2 Mental Health support is a priority for the government. The Mental Health Support Service is the Authority's highest profile contribution to the delivery of cross governmental commitments to do more for people with mental health conditions. However, it has been recognised (by the Work and Pensions Select Committee in 2014) that to better meet the ambition of government a significant increase in capacity of the MHSS is necessary. As a result, there has been an increase in the resources available to the Authority up to the value of £28.4m over the contract period in order to meet this ambition.

5.3 The table below shows the number of MHSS referrals since 2015 including year on year growth – and projects trend to 2022 (highlighted in green). This has been calculated using volume data since 2015 (highlighted in blue).

5.4 An additional 10% volume uplift on trend has been included on the graph to show projected volumes beyond 2017. The total number of national MHSS referrals for this specification are highlighted in gold.

	2015	2016	2017	2018	2019	2020	2021
Trend-line	1898	2616	3000	3873	5000	6456	8334
%	34.8%	37.8%	14.7%	29.1%	29.1%	29.1%	29.1%
Variance	490	718	384	873	1127	1455	1879
% up lift from trendline (2018 onwards)							
10%				4,173	5,388	6,956	8,980

NB: The above data has been split by the contract years which run from December to November.



5.5 It should be noted that the demand led nature of the AtW Programme means volumes may fluctuate and the successful Contractor(s) will need to be capable of managing such fluctuations and volatile demand.

The Authority does not guarantee any volumes of work within this Contract.

- 5.6 A breakdown of volumes by geographic location, under the existing contractual arrangements are included at Annex A.

6. Design and content

- 6.1 The Authority is inviting tenders, in line with this Specification, to deliver an effective and quality focussed MHSS for AtW Customers. It is expected that the contracts for this requirement will commence in July 2018

. There will be an initial period of 48 months of referrals of customers under the contract with an option to extend referrals for up to an additional 24 months. Contractors will be required to continue providing services under the Contract for 10 months and 28 Working Days after the end of the referral period.

- 6.2 MHSS provides flexible and personalised support for Customers experiencing mental health conditions and issues within the workplace.

- 6.3 The Authority shall enter into two contracts, one with each contractor (also referred to as “Competing Contractor”) that together, will deliver the specified services in Great Britain across all of the Geographical Groups listed at Annex A, excluding Northern Ireland, the Isle of Man and the Channel Islands.

- 6.4 The Authority will endeavour to refer Customers who apply directly to AtW in equal numbers to each of the Competing Contractors. The Authority reserves the right to address referrals volumes against performance of each Contractor.

- 6.5 A summary of the scope of the services required follow:

- Provision of work related support by a suitably qualified professional to help the Customer to maintain sustainable employment;
- The service to Customers will be split into 2 parts:
 - The initial support period will be for a period of 6 months from the date of acceptance of the support plan, as specified by the Authority;
 - Following this there will be a 3 month sustainment period. This is viewed as a light touch support period, during which the Contractor can decide the extent of engagement, if any, with the Customer.

- Provision of a specified Support Plan (Annex D); a brief Monthly Update for every Customer in receipt of support (Annex E); 6 Month Report (Annex F); and Exit Report (Annex G), within the timescales specified by the Authority;
- Provision of employer education as defined in Paragraph 6.7;
- Provision of support that will test whether the MHSS has an impact on employment retention rates, specifically for the Apprentice referral group and whether the service has an impact on the disclosure rates of apprentices with mental health conditions;
- Signposting Customers to other appropriate elements of the Access to Work scheme;
- Signposting Customers to other appropriate external support provisions;
- Provision of relevant management information, as specified by the Authority.

6.6 Use of technology

6.6.1 Communication via technology has become more prevalent in recent years. The Contractor shall work with the Authority to innovate and include the use of technology within service delivery; the desire to innovate must be considered alongside potential safeguarding issues. Bidders will need to set out what innovative solutions they will offer in the delivery of this service.

6.6.2 By default the initial MHSS is a face-to-face service and technology should not be used to completely replace face-to-face communication, unless requested by the Customer.

6.7 Employer Education

6.7.1 The MHSS is a confidential service which is delivered with no cost to the Customer or their employer, and can be delivered with or without the support of a Customer's employer.

6.7.2 Should the Customer choose to include their employer and consent for the Contractor to engage with their employer, where appropriate, the Contractor must offer employer education.

6.7.3 The employer education provided could include, but is not limited to, the following:

- Advice and guidance for employers on how to support employees who have a mental health condition or issue and help to resolve

practical and organisational factors related to the work environment that may be contributing to the Customer's mental health issues;

- Awareness sessions for the employer and/or colleagues on mental health conditions or issues in the workplace;
- Employer toolkit;
- Signposting to other useful tools, including self-help tools;
- Job analysis, including temporary adjustments that could support people with mental health conditions or issues;
- First aid training for mental health conditions or issues.

6.7.4 All products produced for Employer Education will require clearance at the monthly marketing meetings.

6.8 Referrals

6.8.1 The Authority's AtW Advisers will refer Customers to the MHSS, alongside training and education providers for apprentices (further details provided below).

6.9 Marketing / Promotion

6.9.1 Contractors will be expected to market the service and recruit participants externally (including apprentices).

6.9.2 To enable promotion of the service and allow for Customers to apply directly, Contractors will be expected to accept applications online and / or via telephony. AtW Advisers will retain control over Customer eligibility for all applications to the MHSS.

6.9.3 The Authority retains final approval on all marketing activities and initiatives. Contractors will prepare yearly marketing plans and work alongside the Authority at monthly marketing meetings. These meetings will ensure marketing efforts are not being duplicated and provide a forum to work collaboratively and share best practice.

6.10 Payment

6.10.1 The Contractor will use the Provider Referrals and Payment (PRaP) system to receive their referrals and to record Customer activity. The Contractor will therefore need to have met relevant security requirements before contracts go live.

6.10.2 Payment for the provision will be via the PRaP system. Information on referrals and payments is included in the Access to Work Mental health Support Provider Guidance.

6.10.3 Direct access to PRaP will be limited to Contractors. More information on PRaP can be found at:

<https://www.gov.uk/government/publications/provider-referrals-and-payments-prap-system-for-dwp>

6.10.4 The Authority will negotiate a fee for the specified support, which will be paid in 3 instalments:

- The initial payment will consist of 30% of the fee. This will be paid on receipt of the specified MHSS Support Plan which has been approved as being to the required quality standard by the Authority.
- The second payment will consist of 50% of the fee. This will be paid on receipt of the specified MHSS 6 Month Report which has been approved as being to the required quality standard by the Authority, providing the Customer is in employment at the end of the 6 month support period.
- The final payment will consist of 20% of the fee. This will be paid on receipt of the specified MHSS Exit Report which has been approved as being to the required quality standard by the Authority, providing the Customer is in employment at the end of the 3 month sustainment period.

6.10.5 The Contractor is entitled to claim either or both of the second and third payments if the Customer is employed at the given stage.

6.10.6 The Contractor must rework any MHSS Support Plans, 6 Month Reports and Exit Reports which are not to the required quality standard (Annex H), as determined by the Authority, at the Contractor's own cost.

6.10.7 The Contractor must ensure that payment requests for approved MHSS Support Plans, 6 Month Report and Exit Report are input to the PRaP system within 5 working days of approval being given.

6.11 Supporting Apprentices

6.11.1 "Supporting Apprentices" is a way to deliver the same core MHSS service to a distinct customer group – Apprentices. It is not a separate service but there are some considerations that apply. These are:

- Asking all Customers whether they are apprentices and flagging those that are;

- Potentially, in agreement with the Customer, adjusting communications channels in line with the demands of an audience that tends to be from a younger demographic;
- Developing tailored literature and gateway website for direct referrals in order to market the offer more distinctly to apprenticeship providers in order for them to promote to apprentices.

6.11.2 The Authority reserves the right to change the scope of this specific requirement and develop it further to assess the impact of MHSS on the wider customer base.

6.11.3 The Authority wishes to test whether the MHSS has a direct impact on employment retention rates specifically for the apprentice market. The Authority also wishes to determine whether a directly promoted and raised awareness of mental health has an impact on the disclosure rates of apprentices with mental health conditions.

6.11.4 The Authority will work with DfE/SFA in delivering the mainstream MHSS service to apprentices, e.g. by assisting apprenticeship providers with information.

6.11.5 There will be an additional referral source within 'Supporting Apprentices'. Education and training providers will be able to refer an apprentice to the service, with their consent. A declaration of consent will be factored into the referral gateway.

6.11.6 The Contractor will be required to keep separate Management Information (MI) on the Apprentice referral group. This will include:

- Rate of disclosure of mental health conditions (MHCs) amongst apprentices to their employers;
- Apprenticeship employment retention rates.

6.11.7 Apprentices will be required to give their consent to be referred to the service by an employer or education/training provider.

7.The Service Requirement

7.1Mental Health Support

7.1.1 The Authority will require suitably qualified professionals (as outlined in Paragraph 7.2) to:

- Contact the Access to Work Customer within 2 working days of receiving a Mental Health Support Service Referral or confirmation of eligibility from the Authority, to initiate the workplace related mental health support;
- Undertake a visit, within a timeframe and at a venue agreed with the Customer to ascertain and agree delivery of their work related support needs;
- Provide solution focussed interventions;
- Have an awareness of other Access to Work service provision and other external support provision which may be suitable for the Customer and highlight these if appropriate;
- Have a thorough understanding of the MHSS and all relevant factors that impact on the Customer's work place barriers;
- Demonstrate a sound understanding of the breadth of mental health issues which may be experienced by Access to Work Customers and appropriate support options to address the Customer's work place barriers;
- Educate the Customer and their employer, as appropriate, to enable them to provide support to the individual in their work place;
- Deliver tailored employer education to the Customer's employer if appropriate and agreed with the Customer within the support period, at a time and venue acceptable to all parties;
- Undertake the specified support on premises that meet the requirements of the Equality Act 2010;
- Produce a written specified Mental Health Support Service Support Plan (Annex D) which shall be returned to the Authority within 1 calendar month of referral;
- Deliver the agreed, and any subsequently identified, work related support to the Customer to the agreed timescales;
- Produce a brief Monthly Update (Annex E), which shall be returned to the Authority within 10 working days of the monthly anniversary of acceptance of the Support Plan;
- Produce a specified Mental Health Support Service 6 Month Report (Annex F) within 10 working days of the end of the 6 month support period;

- Produce a specified Mental Health Support Service Exit Report, (Annex G) within 10 working days of the end of the 3 month sustainment period;
- If the Customer leaves their job, becomes long term sick, or no longer wants or needs the support within the 6 month support period or 3 month sustainment period, the Contractor should notify the Access to Work Adviser immediately. If a Customer returns to work or starts a new job during the 6 month period they will be referred back to the contractor so that they can continue to receive support. The Customer will restart their support at the point the original support ended and the contractor will not be entitled to claim the initial payment.
- With Customer's consent offer, and if accepted, carry out, employer education;
- Signpost Customers to other appropriate elements of the Access to Work Programme that may be suitable;
- Signpost Customers to other appropriate external support provision that may be suitable.

7.2 Contractor's Staff

7.2.1 The Contractor shall:

- Be responsible for ensuring that professionals engaged on the contract have a suitable and relevant qualification or a minimum of 1 year's relevant background and experience of working with people with mental health issues and conditions in an employment or workplace setting; alongside the ability to demonstrate the key competencies including, but not limited to:
 - Excellent interpersonal communication and negotiation skills, both written and verbal;
 - Proven skills, knowledge and experience to support people with mental health issues to remain in work in an employment or workplace setting;
 - Understanding and able to analyse factors relating to the work environment, such as how the nature of the job, organisational practices and culture may contribute to a Customer's mental health condition or issue;
 - Demonstrate empathy and capacity to build trust;

- The ability to work under instruction and within a team;
 - Be organised and with an ability to be flexible and respond to needs as they arise;
 - Ability to establish effective working relationships with Customers and employers;
 - Understand and follow policies and procedures relating to confidentiality;
 - Demonstrate an awareness of the responsibility for safeguarding vulnerable Customers;
 - Have an understanding of Health and Safety issues.
- Staff must be screened and vetted in accordance with the requirements described in paragraph 8.8 of this document;
- Ensure that staff who have direct dealings with AtW Customers comply with legislation relating to safeguarding and protecting vulnerable groups. The Contractor must ensure and provide evidence that such staff are fully vetted and have passed a Disclosure Barring Service (DBS) prior to commencing working with AtW Customers;
- Notify the Authority before changes are made in relation to staff providing support;
- Provide, fund and support Continuing Professional Development (CPD) of staff in their area of expertise at no extra cost to the Authority. Such activity must not interfere with or interrupt the Contractor's obligations and delivery. The Contractor must have systems in place to share and improve best practice and shall make available on request by the Authority evidence of development activity undertaken by their staff;
- Provide the agreed support at a place which is convenient to the Customer;
- Encourage the Customer to take responsibility for managing their mental health condition;
- Have in place infrastructure and communication technology which meets the business requirement of the Authority;
- Have all other staff engaged on the contract fully trained with all the skills required for the work for which they are employed. Where training is required, the Contractor shall provide and fund this at their own cost and it shall not interfere with or interrupt the

Contractor's obligations and delivery. In particular they shall be conversant with both the organisation and operating procedures of the Authority and how to deal with Customers of the service;

- Communicate in a timely, professional, effective and courteous manner at all times when liaising with Customers of the service;
- Complete the relevant specified reports (Annex D – G) to the specified standard and to the specified timescale;
- Return an encrypted electronic copy of the completed reports to the standard specified Annex H and return it electronically encrypted to the Authority's specified e-mail address;
- Meet any reasonable requests made by Customers to accommodate additional needs at no extra cost to the Authority. Additional needs include, but are not limited to: staff of the same gender as the Customer; an interpreter or a signer capable of British Sign Language. When an additional need is identified at the initial contact meeting and it is not practical to accommodate it immediately, the Contractor shall ensure that an alternative appointment is arranged and held within two (2) Working Days and shall ensure that the Customer's additional need is accommodated at all relevant future scheduled appointments/interventions;
- Not use any prohibited or controlled substances on duty. Staff that are, or appear to be, under the influence of alcohol, prohibited substances or abusing controlled substances shall not be permitted to provide the Service. In the event of any dispute the decision of the Authority's Representative shall be final;

7.3 Process

7.3.1 The Contractor Shall;

- Provide a telephone Help Desk that will be the contact point for both Customers and the Authority. The Help Desk must;
 - Provide an adequately staffed telephone service between the hours of 08:30 and 18:00, Monday to Friday;
 - Answer all telephone calls within ten rings;
 - Call Customers of the Authority back within three hours if enquiries cannot be concluded immediately;
 - For routine telephone enquiries, if a response cannot be provided at the time of the call, or if intended recipient is unavailable, call back to be received within 24 hours;

- For urgent telephone enquiries an immediate response is required;
 - Monitor their own response rates and be able to demonstrate that the specified levels of service are being met;
 - Provide an electronic means of contact (i.e. email address/es) for accessibility purposes and acknowledge receipt of enquiries.
- Process requests made by Customers or Authority Representatives and be able to demonstrate that they are prioritised and processed in an efficient, quick and customer-focused and cost effective manner;
 - Be responsible for implementing a Quality Control process designed to ensure that Support Plans, 6 Month Reports and Exit Reports are completed to the standard specified;
 - Attend ad hoc meetings as and when required on the Authority's premises. At least three (3) Working Days' notice will be given by the Authority;
 - Attend regular monthly meetings with the Authority's Representative to discuss performance;
 - Attend regular monthly meetings with the Authority's Representative to discuss marketing;
 - Have a Risk Management process in place which is subject to review and approval by the Authority's Representative on a monthly basis;
 - Work with the Authority in the development of the AtW digital platform.

7.3.2 The Contractor shall securely maintain accurate and confidential records of the support provided until advised by the Authority they can be destroyed, this will be via email from the Authority once the exit report has been deemed fit for purpose except those details that need to be recorded as per the draft Terms and Conditions E9 Audit and the National Audit Office.

7.3.3 Where subcontractors are involved in delivering the provision, the Contract holder shall be required to provide names of all supply chain members and/or consortium members and their roles.

7.4Quality

7.4.1 The Contractor shall provide the Authority with the Services specified below:

- All Mental Health Support Service Support Plans, Monthly Updates, 6 Month Reports and Exit Reports shall be completed to the specified standard in Annex H of this Specification;
- All Mental Health Support Service Support Plans, Monthly Updates, 6 Month Reports and Exit Reports shall be completed to the specified timescale and sent by encrypted email to the Authority;
- The Contractor shall ensure that a minimum of ninety nine per cent (99%) of the specified Mental Health Support Service Support Plans, 6 Month Reports and Exit Reports are to the specified standard;
- The Authority shall have sole discretion on determining whether the specified Mental Health Support Service Support Plan, 6 Month Report and Exit Report are to the specified standard;
- Any reports supplied to the Authority that are deemed as being not to the standard specified in Annex H must be resubmitted at the Contractor's expense within one (1) Working Day of return by the Authority;
- The Authority shall specify the reason for specified Mental Health Support Service Support Plan, 6 Month Report and Exit Report being returned for rework as not to the standard specified in Annex H;
- Mental Health Support Service Support Plans, 6 Month Reports and Exit Reports returned for re-work shall be provided to the standard specified in Annex H and the specified timescales and returned by encrypted email to the AtW Advisor;
- The Contractor shall ensure that it has robust arrangements in place for managing and monitoring service delivery to ensure that the provision is of a sufficiently high quality.

7.5 Out of Scope

7.5.1 The Contractor must **NOT**:

- Deliver the specified provision in Northern Ireland, the Isle of Man or the Channel Islands;
- Provide any assessment or diagnosis of mental health;

- Provide advice with regard to what may or may not be provided (e.g. grants) to the Customer by the AtW provision;
- Provide work related support in excess of the 6 month support and 3 month sustainment periods specified by the Authority for any individual referral. Nor shall they engage in direct marketing of individuals they have supported under the contract once the MHSS engagement period has ceased.

7.5.2 The provision does **NOT**:

- Replace any existing health care or support available to or being provided to the Customer;
- Replace existing employer schemes;
- Provide support such as treatment, therapeutic counselling, CBT or medical interventions. Individuals who may have a need for psychotherapeutic support that is not currently being addressed should be signposted appropriately (e.g. to their GP) and encouraged to make contact.

8. Working with the Authority

8.1 Management Information

8.1.1 Cohort Management Principles;

- A cohort is a method of grouping people together who join the provision in a given month. It allows the Authority to report performance as a rate, rather than purely volumes;
- The cohort is named after the month in which it ends;
- Performance Managers will monitor Minimum Performance Levels on a cohort basis where cohorts are grouped into months and this will be determined by the month the Contractor inputs the start into PRaP;
- Each month the performance manager will check the cohort management information rolling 12 month year to date against the Minimum Performance Levels and detail their findings as to the performance of the contract.

8.1.2 The Contractor shall supply the Authority with Management Information stated below by encrypted email on a monthly and yearly basis (by the 3rd Working Day of each month) to the AtW Team and Performance Manager. The Contractor can discuss and agree with the Authority ways to improve this format after the Contracts have been awarded.

8.1.3 The monthly MI must comprise:

- Key Performance Indicator reports;
- Number of referrals received in month and year to date;
- The number of Apprentice referrals received in month and year to date;
- Number of Support Plans completed in month and year to date;
- Number of 6 Month Reports completed in month and year to date;
- Number of Exit Reports completed in month and year to date;
- The number of Support Plans reports returned outside 1 calendar month in month, year to date and as a percentage of the total reports;
- The number of 6 Month Reports returned outside ten (10) Working Days in month, year to date and as a percentage of the total reports;
- The number of Exit Reports returned outside ten (10) Working Days in month, year to date and as a percentage of the total reports;
- The volume of withdrawals made by Customers in month and by year to date prior to completion of the minimum 6 month support period;
- Employment retention rate for Apprentices at the 6 Month Report stage and at the Exit Report stage;
- The number of complaints handled by the Contractor and time taken to resolve to Customer's satisfaction (Working Days) in month and year to date;
- The number of complaints referred to the Authority in month and year to date;
- A list of all staff engaged with Customers on the contract detailing their skills, experience, clearances and qualifications.

8.1.4 The yearly MI must comprise:

- List of Customer's primary mental health conditions;
- Key Customer demographics (e.g. age, geographical location)

- Summary report for all delivery staff detailing all continuous professional development activities undertaken in the last 12 months and a forward look plan for the next 12 months:
 - This should include how and why the activities were selected;
 - The benefits of these activities to the service delivered.
- Report provided using data from the Support Plan, 6 Month Report and Exit Report on the Customer's evaluation of their mental health and MHSS journey. Alongside this the raw data must be submitted in an anonymised format for the Support Plan, 6 Month Report and Exit Report. This should include:
 - All questions from the second table (completed by the Customer) of the Support Plan, 6 Month Report and Exit Report;
 - Mental health disclosure rates from the Support Plan, 6 Month Report and Exit Report.

8.1.5 As and when directed by the Authority's Representative, the Contractor shall collect statistical data which, in the opinion of the Authority's Representative, is relevant to the Services being provided under the Contract. The Staff shall make available for inspection all such records and work counts upon the request of the Authority's Representative within ten (10) Working Days.

8.2 Sharing of Management Information

8.2.1 There are defined controls in place concerning the sharing of Management Information that the Contractor must ensure are followed.

8.2.2 The Contractor shall not (and shall ensure that any of its Staff does not) at any time publish, disclose or divulge any of the Management Information to any third party until the date of publication of the official and/or national statistics.

8.2.3 The Contractor must implement appropriate arrangements which ensure that the Authority's information and any other Authority assets are protected in accordance with prevailing statutory and central government requirements.

8.2.4 It is the Contractor's responsibility to monitor compliance of any sub-contractors and provide assurance to the Authority.

8.2.5 Any Sensitive Personal Data (as defined in the Data Protection Act 1998) transferred to the Authority must adhere to data security standards.

8.3 Enquiries and Complaints

- 8.3.1 The Contractor must have an appropriate and effective complaints process across its whole supply chain to resolve Customers' complaints. The Contractor must explain its complaints process to the participant in its first contact with them and make a clear reference to the Independent Case Examiner (ICE) and their role including contact details. More information regarding the Independent Case Examiner can be found in the Generic Guidance for DWP Providers document. The Contractor must seek to resolve problems internally.
- 8.3.2 The Contractor should refer to the Complaint Resolution Core Briefing Pack for Providers (a link to this pack is given in the Generic Guidance for DWP Providers) and the DWP Customer Charter when reviewing its processes.
- 8.3.3 The Contractor must document any discussions and their outcomes, allowing the Customer to see and sign the record. The Customer will be told the outcome of issues raised by them through the complaints procedures.
- 8.3.4 Where a Customer is unhappy about the service they receive from the Contractor and raises a complaint, the Contractor should ensure that it follows each step of its detailed process robustly in order to bring the complaint to a satisfactory conclusion.
- 8.3.5 After following all steps in the Contractor's process it must include in its final response to the Customer a standard text which signposts the Customer to contact ICE should they wish to pursue their complaint.
- 8.3.6 ICE will mediate between the Contractor and the participant to broker a resolution. If a resolution cannot be agreed between either party, ICE will undertake a full investigation of the complaint. To ensure that a thorough investigation can take place, the Contractor must provide all the paperwork which relates to the complaint. The ICE office will ask for these when required.
- 8.3.7 The Contractor shall forward any information required for the Authority in order to respond to, including but not limited to;
- Treat Official correspondence;
 - Ministerial correspondence;
 - Freedom of Information requests
 - Parliamentary questions;
 - Ministerial briefings;

- Parliamentary Commissioner for Administration cases;
- Press enquiries;
- Other ad hoc queries from third parties.

Any approaches made directly to the Contractor by any organisation will be forwarded to the Authority and not replied to by the Contractor.

8.4 Advice

8.4.1 The Contractor shall keep the Authority informed of any developments in availability of new techniques and changes in relevant legislation that affect the Services. This information shall be provided in advance of any change being notified in writing to the Authority's Representative.

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- 8.4.2 The Contractor shall cooperate with the Authority in relation to making improvement to Services provided to Customers. The Contractor acknowledges that any such suggestions for improvement shall be shared with the Competing Contractor providing Access to Work MHSS Services, subject to confidentiality and commercial sensitivity of such information.

8.5 Contract Management

8.5.1 Monthly Contract performance reviews shall be held between the Authority's Representative and the Contractor's Representative. The Authority reserves the right to change this frequency. Such activity shall be at no cost to the Authority.

8.5.2 The Authority's Representative and the Contractor's Representative shall agree an appropriate method of updating the Contractor on information, data, progress, changes to processes and procedures and issues relating to the Service. Any change required to the Contract required as a result of such update shall be made in accordance with clause F3 of the terms and conditions of Contract.

8.5.3 Where the Contractor identifies problems relating to any aspects of the Services, they shall be responsible for ensuring that such problems are resolved in a manner approved by the Authority's Representative.

8.5.4 The Contractor shall report in writing to the Authority's Representative any proposed changes to the way in which the Services are accessed or suggestions for improving the efficiency of the Services provided. Any change agreed in connection with this paragraph shall be made in accordance with clause F3 of the terms and conditions of Contract.

8.6 Data Security

- 8.6.1 The Contractor shall have policies and guidelines in place to manage the use of encryption. The Contractor shall ensure that the level of encryption is appropriate to the information held. This should be of a minimum standard (FIPS140-2) and be compatible with PGP Desktop Professional Version 9.6 or any subsequent upgrades the Authority may introduce. Any upgrades or changes to the Contractor's encryption software required as a result shall be at no additional cost to the Authority.
- 8.6.2 All Customer data transmitted in connection with the Contract, including internal exchanges shall be encrypted.
- 8.6.3 Support Plans, Monthly Updates and Exit Reports (part I and II) shall be transmitted to the Authority in a secure electronic manner, as specified by the Authority. The Contractor is required to upgrade to new versions of the software if required by the Authority at no additional cost to the Authority.
- 8.6.4 Both the MHSS Referral, and the completed Support Plan, Monthly Update and Exit Reports (part I and II) will contain Sensitive Personal Data (as defined by the Data Protection Act 1998), which represents a potential security risk. Assurances shall be provided by the Contractor in relation to the mitigation of this risk in accordance with Schedule 6 of the terms and conditions of Contract.

8.7 Data Security Requirements

- 8.7.1 Cabinet Office has introduced mandatory requirements relating to data handling, security and information assurance in government contracts. Information must be protected, together with systems, equipment and processes which support its use. The Authority's Contractors must provide an appropriate level of security. Bidders will be required to submit a Security Plan with their Tender, which details all activities required to safeguard DWP information in compliance with the Authorities Security Policy and standards.

8.8 Her Majesty's Government (HMG) Personnel Security Requirements

- 8.8.1 The HMG Baseline Personnel Security Standard is a staff vetting procedure. It requires that a number of checks are made on persons who are to be given access to Government assets (premises, systems, information or data). Full details of the contractual obligations required to comply with the above procedures can be found in the Guidance document "HMG Baseline Personnel Security Standard - A Guide for DWP Contractors". A PDF version can be viewed at:

<https://www.gov.uk/government/publications/data-protection-and-security-of-information-supplying-to-dwp>

8.9 The Authority's Customer Charter

8.9.1 The Authority is committed to providing high quality and efficient services to our claimants. The Authority's Charter sets out the standards that claimants can expect and what their responsibilities are in return. The Authority is dedicated to raising the standards of all our contracted provision and requires all Contractors and sub-contractors to embed the principles of the Customer Charter into the services they deliver on the Authority's behalf.

8.9.2 The Customer Charter can be found at:

<https://www.gov.uk/government/publications/our-customer-charter>

8.10 The Authority's Code of Conduct and Merlin Standard

8.10.1 The Authority's Code of Conduct spells out the key values and principles of behaviour which the Authority expects of the Contractor which are essential for creating healthy, high performing supply chains. The Contractor will be expected to operate in accordance with the Code of Conduct.

8.10.2 The Code is Annex D to the Authority's Commissioning Strategy and can be found at:

<https://www.gov.uk/government/publications/dwp-commissioning-strategy-2014>

8.10.3 Contractors need to be aware that they must attain the Merlin Standard (including any future iterations or successor standards that may be introduced during the course of the contract), if not already held, where they have a supply chain within their delivery model for this contract. Contractors will be assessed against the Merlin Standard by a third party organisation within a year of the contract go live and they must achieve accreditation within one year and every two years thereafter. For further information on the Merlin Standard, please see:

<http://www.merlinstandard.co.uk/>
<https://www.gov.uk/government/publications/the-merlin-standard-guide-for-dwp-providers>

8.11 Disability Confident

8.11.1 Contractors must attain Level 3 accreditation within 12 months of being awarded a contract. More information can be found at the link below:

<https://www.gov.uk/guidance/disability-confident-how-to-sign-up-to-the-employer-scheme#level-3-disability-confident-leader>

9. Key Performance Indicators (KPIs)

9.1 The Key Performance Indicators are detailed below. These are minimum performance levels and the Authority expects them to be maintained for the duration of the contract. Where there is room for improvement, the Authority expects performance to improve over the course of the contract.

<i>Ref</i>	<i>Service or Procedure</i>	<i>Description of Standard Required</i>	<i>Monitored By</i>	<i>Compliance Risk Rating</i>
<i>KPI 1</i>	<i>Initial contact made</i>	<i>Initial contact and appointment made within 2 working days following receipt of the PRaP referral by the Authority</i>	<i>The Authority</i>	<i>96% & above Green 95.9% - 91% Amber 90.9% & below Red</i>
<i>KPI 2</i>	<i>Submission of Mental Health Support Service Support Plan to designated AtW Adviser to the required quality standard</i>	<i>90% of reports to be returned within 1 calendar month of referral by the Authority to the designated AtW Adviser to the required quality standard the required standard.</i>	<i>The Authority</i>	<i>90% & above Green 89.9% - 85% Amber 84.9% & below Red</i>
<i>KPI 3</i>	<i>For any Mental Health Support Service Support Plans not deemed to be to the required quality standard, rework to be submitted to designated AtW Adviser within 1 Working Day</i>	<i>Reworks to be submitted within 1 working day of return by the Authority to the designated AtW Adviser.</i>	<i>The Authority</i>	<i>99% & above Green 98.9% - 97% Amber 96.9% & below Red</i>
<i>KPI 4</i>	<i>Submission of Mental Health Support Service 6 Month Report to designated AtW Adviser to the required quality standard</i>	<i>90% of reports to be returned to the designated AtW Adviser within 10 working days of the end of the 6 month support period to the required quality standard with confirmation that the Customer is still in employment.</i>	<i>The Authority</i>	<i>90% & above Green 89.9% - 85% Amber 84.9% & below Red</i>
<i>KPI 5</i>	<i>For any Mental Health Support 6 Month Report not found to be</i>	<i>Reworks to be submitted within 1 working day of return by the Authority to the designated AtW</i>	<i>The Authority</i>	<i>99% & above Green 98.97% - 97% Amber</i>

	<i>to the required quality standard, rework to be submitted to designated AtW Adviser within 1 Working Day</i>	<i>Adviser.</i>		<i>96.9% & below Red</i>
<i>KPI 6</i>	<i>Submission of Mental Health Support Service Exit Report to designated AtW Advisor to the required quality standard</i>	<i>90% of reports to be returned to the designated AtW Adviser within 10 working days of the end of the 3 month sustainment period with confirmation that the Customer is still in employment.</i>	<i>The Authority</i>	<i>90% & above Green 89.9% - 85% Amber 84.9% & below Red</i>
<i>KPI 7</i>	<i>For any Mental Health Support Service Exit Report not deemed to be to the required quality standard, rework to be submitted to designated AtW Adviser within 1 Working Day</i>	<i>Reworks to be submitted within 1 working day of return by the Authority to the designated AtW Adviser.</i>	<i>The Authority</i>	<i>99% & above Green 98.9% - 97% Amber 96.9% & below Red</i>
<i>KPI 8</i>	<i>Accuracy (quality)</i>	<i>Minimum of 99% of reports to meet the standard of acceptability defined in Annex H.</i>	<i>The Authority</i>	<i>99% & above Green 98.9% - 96% Amber 95.9% & below Red</i>
<i>KPI 9</i>	<i>PRaP input within 5 working days</i>	<i>Date of initial contact recorded in PRaP within 5 working days of initial referral (minimum 96%)</i> <i>Within 5 working days of confirmation by AtW Adviser that required standard is met, record the following in PRaP (minimum 96% for each element listed):</i> <i>• Support Plan</i> <i>• Support Plan (following re-work)</i> <i>• 6 Month Report</i> <i>• 6 Month Report (following re-work)</i>	<i>The Authority</i>	<i>96% & above Green 95.9% - 91% Amber 90.9% & below Red</i>

		• <i>Exit Report</i> • <i>Exit Report (following re-work)</i>		
<i>KPI 10</i>	<i>Provide detailed Management Information</i>	<i>Monthly returns by the third (3rd) Working Day of each month. Yearly returns by third (3rd) Working Day following anniversary of the contract.</i>	<i>The Authority</i>	<i>100% Green 99.9% & below Red</i>
<i>KPI 11</i>	<i>To forward all Contractors complaints and proposed draft responses to the Authority</i>	<i>Within five (5) Working Days of receipt for approval ahead of issue to the Customer. Rework to be done within one (1) Working Day of notification by the Authority.</i>	<i>The Contractor</i>	<i>99% & above Green 98.9% - 96% Amber 95.9% & below Red</i>
<i>KPI 12</i>	<i>To forward any complaints relating to the Authority to the Authority</i>	<i>Within two (2) Working Days of receipt</i>	<i>The Contractor</i>	<i>99% & above Green 98.9% - 96% Amber 95.9% & below Red</i>

- 9.3 The Authority operates a robust performance management regime to hold providers to account for their performance under the contract. The aim is to ensure that Performance Levels are met.
- 9.4 Contractors will have monthly discussions with Performance Managers to review performance in month and trends achieved against contractual requirements.
- 9.5 Contractors will have monthly Contract Performance Reviews with their Performance Manager and AtW single point of contact.
- 9.6 Contractors update their Performance Manager immediately on any changes to information, data, progress, processes, procedures and issues relating to this service.
- 9.7 Performance Monitoring will be used to monitor and support continuous improvement and monitor agreed performance improvement actions.
- 9.8 At its discretion, the Authority will invoke the right to move through the four stages of intervention, as deemed appropriate by level of performance and responsiveness to meeting requirements.

The four levels are;

Level 1: Performance Management Regime (PMR) - Performance will be managed on both quantitative and qualitative aspects of the contract as detailed above.

Level 2: Informal action – Performance Manager led - An Action Plan will be used to capture all agreed actions for performance improvement including incremental performance and pipeline data that may lead to outcomes, review dates and the Management Information to inform the KPIs.

Level 3: Informal action – Nationally led – The Contractor will be invited to a meeting to discuss performance and will receive a Management letter to request that performance improves. At this stage the Provider will be informed that formal action could be taken in the event that performance doesn't improve.

Level 4: Formal action – The Authority will take formal action by issuing a notice to address failure to respond to previous intervention activities undertaken. In the event that performance does not improve to the levels stipulated in the KPIs/TPLs the Authority reserves the right to terminate the contract.

Annex A**Historical Service Volumes by Geographical Location**

Please note historical service volumes are based upon financial years (April – March).

Contract Year	2014/15	2015/16	2016/17 (Up to Oct 2017)
Central England	232	303	441
London & Home Counties	353	410	541
North East England	219	360	462
North West England	192	241	325
Scotland	61	112	164
Southern England	224	283	431
Wales	127	189	245

Annex B

Annex Not Used

Annex C

This report framework should be flexible and open to change to allow us to respond to change throughout the life of the contract.

MHSS Referral Form

Customer Name**Customer URN**

Occupation

Referral Source (GP, Self, Employer, JCP etc)

Location

Contact Method and availability:

Other Contacts

(Employer, Occupational Health, Advocate etc)

Mental Health condition

Attending work at the moment Y/N delete

Access to Work Adviser Name

Access to Work Adviser Email

Access to Work Adviser Telephone Number

Date of referral

Annex D

This report framework should be flexible and open to change to allow us to respond to change throughout the life of the contract.

MHSS Support Plan

For security purposes only include the Customer name and URN number as the method of identification.

Customer Name	
Customer URN	
Is the customer attending work at the moment?	Yes or No
What is the mental health condition or issue affecting the customer? Does not need to be a formal diagnosis.	
How does the mental health condition or issue affect the customer in the workplace? How is their condition impacting on their ability to carry out the full range of duties/work tasks? What the key issues /difficulties which need to be addressed to assist their ability to carry out their work	
Does the customer have any other health issues or disabilities? How do these, if at all, impact on their ability to carry out their full range of work tasks/activities?	
Has the customer accessed their employee assistance programme?	Yes, and is attending counselling sessions No, due to not requiring therapeutic input No, as workplace does not have one

Has the customer disclosed their mental health condition or issue to their employer?	Yes or No
Is the customer receiving any other support from their employer, another provider or health services?	
If so, please detail.	
Provide an outline of the agreed support, it's aim, provisional timescales and key milestones	
What will the frequency of contact be, and what format shall this take? (e.g. monthly face to face meetings, fortnightly calls etc.)	

The following section of the plan is to be completed by the customer:

How often do you feel that your mental health is affecting your ability to do your job?	1 – Never affects me 2 – Rarely affects me 3 – Often affects me 4 – Affects me daily
To what extent do you feel you are at risk of losing your job due to your mental health condition?	1 – Not at all likely 2 – Not very likely 3 – Fairly likely 4 – Completely likely

Customer Signature		Date	
Support Providers Signature		Date	

Annex E

This report framework should be flexible and open to change to allow us to respond to change throughout the life of the contract.

MHSS Monthly Update

This is a living document and is designed to record activities agreed and progress made whilst you are being supported.

For security purposes only include the customer name and URN number as the method of identification.

Customer Name	
Customer URN	

Month 1 – Please provide an update on progress against the agreed support, provisional timetable and key milestones outlined in the Support Plan.

Max. 250 words

Support Provider SignatureDate

Month 2 – Please provide an update on progress against the agreed support, provisional timetable and key milestones outlined in the Support Plan.

Max. 250 words

Support Provider SignatureDate

Month 3 – Please provide an update on progress against the agreed support, provisional timetable and key milestones outlined in the Support Plan.

Max. 250 words

Support Provider SignatureDate

Month 4 – Please provide an update on progress against the agreed support, provisional timetable and key milestones outlined in the Support Plan.

Max. 250 words

Support Provider SignatureDate

Month 5 – Please provide an update on progress against the agreed support, provisional timetable and key milestones outlined in the Support Plan.

Max. 250 words

Support Provider SignatureDate

Annex F

This report framework should be flexible and open to change to allow us to respond to change throughout the life of the contract.

MHSS 6 Month Report

For security purposes only include the customer name and URN number as the method of identification.

This form is to be completed at the end of the 6 month support period, all questions relate to support given during this period.

Customer Name	
Customer URN	
Date initial support period started	
Date initial support period ended	
Date last worked with customer (if different to end date above)	
Has the customer disclosed their mental health condition or issue to their employer?	Yes or No
Outline the support accessed/provided during the support period The data should include: Mental Health awareness hand offs to employer/line managers Measure of well-being in work Self Esteem Performance and sustainability	
Was the customer signposted to any other provision/support?	Yes or No
Is the customer in employment?	Customer remains in employment with the same job and employer

	Customer remains in employment but has changed jobs with the same Customer remains in employment with a different employer Customer is no longer employed
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The following section of the report is to be completed by the customer:

How often do you feel that your mental health is affecting your ability to do your job?	1 – Never affects me 2 – Rarely affects me 3 – Often affects me 4 – Affects me daily
To what extent do you feel you are at risk of losing your job due to your mental health condition?	1 – Not at all likely 2 – Not very likely 3 – Fairly likely 4 – Completely likely
Do you feel that the MHSS has helped you to remain in employment?	Yes No
Please explain how the MHSS has helped.	
How would you rate your overall experience of the MHSS?	1 – Very good 2 – Good 3 – Poor 4 – Very poor
Please explain why you have given the rating above.	

Customer Signature		Date	
Support Providers Signature		Date	

Annex G

This report framework should be flexible and open to change to allow us to respond to change throughout the life of the contract.

MHSS Exit Report

This form is to be completed at the end of the 3 month sustainment period. All questions relate to the support given during the 3 month sustainment period.

Date light touch support period started	
Date light touch support period ended	
Date last worked with customer (if different to end date above)	
Has the customer disclosed their mental health condition or issue to their employer?	Yes or No
Outline the support accessed/provided during the 3 month light touch support period The data should include: Mental Health awareness hand offs to employer/line managers Measure of well-being in work Self Esteem Performance and sustainability	
Was the customer signposted to any other provision/support?	Yes or No
Is the customer in employment?	Customer remains in employment with the same job and employer Customer remains in employment but has changed jobs with the same Customer remains in employment with a different employer Customer is no longer employed

The following section of the report is to be completed by the customer:

How often do you feel that your mental health is affecting your ability to do your job?	1 – Never affects me 2 – Rarely affects me 3 – Often affects me 4 – Affects me daily
To what extent do you feel you are at risk of losing your job due to your mental health condition?	1 – Not at all likely 2 – Not very likely 3 – Fairly likely 4 – Completely likely
Do you feel that the MHSS has helped you to remain in employment?	Yes No
Please explain how the MHSS has helped.	
How would you rate your overall experience of the MHSS?	1 – Very good 2 – Good 3 – Poor 4 – Very poor
Please explain why you have given the rating above.	

Customer Signature		Date	
Support Providers Signature		Date	

Annex H**Specified Standard**

1. The Authority is keen to ensure that the quality of Access to Work provision provided by the Contractor is exemplary.
2. The Contractor is responsible for ensuring that Customers and their Employers have access to suitable and high quality support in a way that provides a good service and an excellent customer experience. For Access to Work to offer the most effective support possible to Customers, a number of key features are integral to delivery. In providing the Services the Contractor is required to:
 - Focus strongly on speed and accuracy;
 - Demonstrate a sound understanding of the breadth of disability issues which may be experienced by the Customer and the appropriate support options available to address the Customer's workplace barriers to meet each Customer's minimum needs;
 - Build strong links with key partner organisations.
3. In particular, the Support Plans, Monthly Updates and Exit Reports shall be in the format specified below and be fit for purpose:
 - Legible and in plain language;
 - Checked for grammar, spelling and punctuation;
 - Well-presented and of good quality;
 - In point 12 Arial font (unless alternative requirements are needed due to the Customer's disability);
 - Logically sequenced, clear, informative and complete;
 - Fully detailed and consistent (please note it will be seen by the Customer);
 - Provides recommendations based on evidence (terminology used should demonstrate an emphasis on independence and choice);
 - Each recommendation provided is detailed providing a demonstration of the improved / benefit this will provide to the Customer enabling them to sustain employment.
4. The Support Plans, Monthly Updates and Exit Reports (part I and II), Annex D – F, shall be completed and used to enable Access to Work Advisers to determine the best possible support available for the Customer.

5. It is important that the Support Plans, Monthly Updates and Exit Reports is of good quality in accordance with the standards specified in this Annex G and the Access to Work Team will define whether they are to the 'specified standard', based on the criteria below.
6. A Support Plan, Monthly Update or Exit Report may be deemed not to the standard specified in this Annex G and therefore rejected and returned for re-work if one or more of the following reasons applies:
 - Incorrect information is reported;
 - There are spelling and grammatical errors;
 - There is no full justification for the support recommended;
 - There is no explanation of how recommendations will overcome the Customer's difficulties;
 - It contains personal/confidential information reported to the Contractor's staff that is identified that the Customer requested be confidential and did not want disclosing on the report;
 - Contractor's staff should ensure that they advise the Customer that they will report anything they tell them unless otherwise stated;
 - If the Contractor's staff wants to make the AtW Adviser aware of any issues, a separate document can be added for the AtW Adviser.
7. The Contractor will be notified by email as to whether the Support Plan or Exit Report has been accepted or rejected. Wherever possible, this will be within five (5) Working Days of the receipt of the document. The standard notification stencil will be used to notify the Contractor.
8. If the AtW Team decide that the Support Plan or Exit Report is not to the standard specified in this Annex G the Contractor will be notified of the reason and will be required to review and resubmit the report within one (1) Working Day of its return.
9. If the Contractor is concerned about a Support Plan or Exit Report that has been returned for rework, The Contractor should refer to their Single Point Of Contact (SPOC) the AtW Team. In the absence of the SPOC the Contractor can contact The Authority's Representative to determine the appropriate action to take.
10. The AtW Team will monitor the quality of the Support Plan and Exit Reports and the number returned to the Contractor as unacceptable on a monthly basis.
11. This information will be discussed formally as part of regular performance reviews led by the Authority Performance Manager. Where appropriate, remedial measures in accordance with the terms and conditions of the contract will apply.

Annex I

Issue Resolution Template**Issue Resolution Stencil**

Complaint	☐	Suggestion	☐	Compliment	☐
Once and Done (resolved on site)	Yes ☐	No ☐	Signposted	☐	

Customer Information

Name*			
Date of Birth*			
NINO*		Postcode	
Telephone	Home	Mobile	

Does the customer wish all communication to be in Welsh?	Yes ☐	No ☐
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Benefit*	
Claim Event*	
National Type*	
Sub Category*	

Brief Summary of Complaint, Suggestion or Compliment

--

Name of Site Where Feedback Received*		Completed By*	
Date received on Site*			
Feedback Received By*			

Email Completed Form To*	
--------------------------	--

Note: Contact Centre templates may need to be e-mailed to a Team Leader or SPOC for further action.

In the subject line of the e-mail state: **Official: Resolved: Customer's last name** for 'Once & Done' and, for complaints needing further action: **Official: Unresolved: Customer's last name**

[Update Email List...](#)
[Send Stencil](#)

Appendix 2

[REDACTED]

Appendix 3**Question and Answer Log – Supplier Selection Questionnaire (SQ) Stage 1**

	Question	Answer
AtW 1	We note that you are requesting information on subcontractors within the PQQ. As a Merlin-approved provider, we are required to undertake a fair and robust process to select supply chains for opportunities such as this. As such: 1. Is it DWP's expectation that we run a supply chain exercise, select and complete due diligence on subcontractors in within a 3-week bidding window? 2. Is it acceptable to indicate our use of supply chains, but not provide details of subcontractors pending completion of our selection process? 3. If not, can we provide an indicative supply chain which may be subject to revision between PQQ and, if we are successful, final bid?	See Paragraph 7 of the AtW MHSS SQ Instructions to Potential Suppliers Stage 1.
AtW 2	Could you provide the correct template for Q9.5 please. It currently repeats the question text for 9.4.	Thank you for your clarification. The template for Q9.5 has now been replaced with the correct version.

AtW 3	The word limit for SQ-6.2 supply chains response states 'up to 100'. <i>Could you confirm this is correct please.</i>	Word limit has been amended - See 'Amendment to Supplier Selection Questionnaire Instructions to Potential Suppliers' broadcast on 29/11/2017 at 13:18.
AtW 4	As part of the submission, can you please confirm if the prime provider is required to complete Part 1 and 2 of Annex A (and upload as an attachment) as these questions will have already been responded to on the portal.	Please see the relevant paragraph of Annex A (page 18) of the Supplier Selection Questions Instructions to Potential Suppliers Stage 1 document.
AtW 5	The specification states that "the Authority will endeavour to refer Customers who apply directly to AtW in equal numbers to each of the Competing Contractors" and that "contractors will be expected to market the service and recruit participants externally (including apprentices)". Can the commissioner please confirm that every participant recruited directly by the provider will receive the service from that provider (subject to eligibility), and not be subject to a random allocation to each of the competing contractors?	Yes.
AtW 6	Where the provider is utilising specialist partners to deliver elements of the service e.g. initial assessment (i.e not end-to-end and therefore not be allocated a percentage	If a specialist partner is to deliver any element of the service then they will be deemed to be a sub-contractor. You are free to qualify/explain the percentage of contractual obligations they will perform.

	of contractual obligations), does the authority deem them to be a sub-contractor and therefore be listed at 1.2b. If so, how does the authority wish to see the percentage of contractual obligations displayed?	
AtW 7	Could you please clarify the word limit '800' for the question SQ-6.1. Is it for the 'Description of contract' in the table, or a separate narrative response for the question 'Relevant experience and contract examples'?	The latter.
AtW 8	Please could you clarify the following: Part 1: Potential Supplier Information - Section 1 Bidding Model If a supplier is proposing a Prime/Subcontractor model rather than a Consortia/SPV model please can you confirm how the supplier should respond to question 1.29 (a)? Whether the supplier should select Yes or No?	If you are not leading a group of economic operators in the form of a consortia/SPV the answer to this question should be "No".
AtW 9	Please could you clarify the following: At the bottom of the Qualification Response page there is a section 1.21 Appendices, providing space to attach any Appendices.	Attachments should only be uploaded in response to question 1.21.1 where it is specifically requested (Qualification Questionnaire: 1.8 Part 3 Selection Questions - Economic and Financial Standing SQ 4.1 for example). Any response limited by a word count must be contained to the template provided. Additional attachments or responses that exceed

	Please can you clarify if: - any attached Appendices will count towards word counts and - suppliers are able to attach additional appendices to support our responses?	stipulated word counts will be disregarded and not evaluated.
AtW 10	Could DWP please confirm whether the regions outlined on page 31 (Annex A) of the Specification are geographically the same as the Work and Health Programme CPAs.	No. Please refer to paragraph 6.3 of the Specification
AtW 11	Annex 3 - Can you please provide a worked example for how Turnover Growth will be determined. Also, on page 41 of Instructions to Potential Suppliers, you refer to section 4.5. Can you please confirm where in the documents we can find this section.	Turnover Growth will be determined on the Indicative Total Contract Value of £14.2m as quoted within the specification. The threshold stipulated for company turnover growth is 100% of company's annual turnover. Thus, £14.2m divided by 4 years equals £3.55m which should be used as the contract turnover threshold. Apologies, on page 41 of the Supplier Selection Questionnaire (SQ) Instructions to Potential Suppliers Stage 1 this should read to refer to the section starting at paragraph 3.1, rather than 4.5.
AtW 12	SQ-9.4 refers to 'a specialist service(s)' and 'high volume', and SQ-9.5 refers to 'large scale recruitments' and 'specialised resource'. Please could you define these terms.	The Authority is of the view that further definition of these terms is not necessary for potential suppliers to answer Questions 9.4 and 9.5, but respondents should take into account the requirements defined in the specification.
AtW 13	What level of MH training / awareness will the AtW advisor team have? What is their decision-making criteria?	Access to Work advisers work on guidance that is available via gov.uk and can be found here: https://www.gov.uk/government/publications/access-to-work-staff-guide. Potential Suppliers should consider the current Mental Health Support Service Provider guidance regarding adviser activity in conjunction with the staff guide above. Current MHSS guidance can be found here: https://www.gov.uk/government/publications/access-to-work-dwp-provider-guidance

AtW 14	Will the contractor have any influence over the format of Support Plans, Monthly Updates and Exit Reports? Have these been designed in consultation with practitioners and people with LE of MH problems in work?	Please refer to the top of Annexes C, D, E, F and G of the AtW MHSS Specification. Report formats were discussed at the AtW MHSS market engagement event held in July 2017.
AtW 15	Where contractors are to measure if MHSS has an impact on disclosure rates of apprentices with MH conditions – is there a baseline figure to work from? Is this measuring the affect of MHSS promotion to apprentices?	No baseline figure is currently available. All statistics relating to the Access to Work programme are published here https://www.gov.uk/government/statistics/access-to-work-statistics
AtW 16	Expected outcomes – the contractors are expected to give support that will test MHSS impact on employment retention and disclosure rates. Does baseline data on this exist for both a generic ATW customer audience and for apprentices?	No baseline figure is currently available. All statistics relating to the Access to Work programme are published here https://www.gov.uk/government/statistics/access-to-work-statistics
AtW 17	Employer Education - what are your expectations in terms of the extent of this offer? As this may cover a range of interventions, some free but some will have considerable cost implications potentially for the employer and would extend beyond the boundary of the MHSS offer e.g. specific certified training.	We envisage that these are mostly light-touch, low cost information sharing sessions. High cost training sessions will, as stated, be outside the bound of the MHSS offer.
AtW 18	Are any bidding models excluded from this	No models will be excluded from this opportunity. The Prime Contractor will be accountable for the

	opportunity? For example if a Prime directly manages an umbrella charity as a subcontractor who will in turn be responsible for managing the performance of their affiliated independent charities delivering services under their umbrella.	management and delivery of performance throughout their supply chain.
AtW 19	What level of scrutiny will be applied to employer marketing materials as part of the monthly marketing meetings as bidders may have existing materials which are information standard certified?	The monthly marketing meetings will invite the contractors (separately) to discuss their marketing strategy and products with AtW Communications colleagues. This is to ensure products are mutually agreed and strategies align with the bidders proposal.
AtW 20	Does the table on pg. 8 show the number of approved referrals or the total number of referrals including those rejected?	The table on pg. 8 has been calculated using approved referrals.
AtW 21	Clarification on the contractual obligations are detailed in 6.1 page 9 - ...contractors will be required to continue providing services under the contract for 10 months and 28 working days after the end of the referral period?	The period of referrals of customers is for 48 months. Following this initial period, referral of customers will cease. The contractor will be expected to continue delivery of the service to all those participants who are on the programme.
AtW 22	Where a subcontractor has a federated model is it acceptable to include one version of 'Annex A – SQ for Groups, Consortia and Sub Contractors' completed by the lead entity on behalf of the federation?	Every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration - Please refer to Paragraph 7 and Annex 1 of the SQ Instructions to Potential Suppliers Stage 1.

	By 'federated model' we mean an organisation formed of one central and a number of local organisations that operate as one entity. A number of national charities have federated structures where a network of local, independent charities (that are each individual registered companies) is overseen by national headquarters or a governing body.	
AtW 23	If a customer changes jobs but is still in employment is the MHSS Contractor still eligible for the six-month and final outcome payments? 7.1.1, references that the customer will be referred back to the contractor and not entitled to claim the initial payment (the 30% for the initial support plan) but there is no confirmation of the second or final payment.	Please refer to paragraph 7.1.1 of the specification. The provider will not be eligible to claim for the initial payment but will be eligible to claim for either the second payment and/or final payment as long as the total support package fulfils the criteria. I.e. if a customer changes job 3 months into their initial support plan the customer is entitled to a further 3 months support in their new role before the provider may claim for the second payment (50%).
AtW 24	Mental health can fluctuate, if a previous AtW customer relapses and would like further support from the AtW service can they re-access support at a later date?	Immediate re-referrals are not accepted. However, eligibility for the service is not dependent on if they have accessed the support in the past.
AtW 25	Is there a KPI for the amount of time between the AtW Advisor receiving a Support Plan and them making a decision and notifying the contractor? I.E. what	This is an internal measure so it is not represented in the KPI's in the MHSS contracts. There is however an AtW overall customer journey time of having 85% of awards approved within 20 working days which will apply.

	is the shortest/longest lengths of time between a Support Plan being produced and submitted, and the customer receiving support.	
AtW 26	Please could you share data on current Mental Health Support Service AtW performance regarding volumes of participants by referral source e.g. DWP/JCP, self-directed, ITPs?	Data on referral source is currently available. All statistics relating to the Access to Work programme are published here https://www.gov.uk/government/statistics/access-to-work-statistics
AtW 27	Please could you share current Mental Health Support Service AtW data regarding volumes/% of participants completing 6 months support plan and participants sustaining after the 3 month sustainment period?	This information is not available. Please refer to paragraph 113 of the AtW MHSS CCR Supporting Guidance. The 3 month sustainment period is not a component of the current.
AtW 28	Can the commissioner please confirm what measurements and reporting requirements are expected around the disclosure rates for apprentices, as per 6.11.3 and 6.11.6.	We are expecting the provider to ask about disclosure rates and rely on self-reporting as a measurement. It is the customer's prerogative to disclose or not and they are entitled to their privacy around their condition and support.

Access to Work Mental Health Support Service – Question and Answer Log – Issue 3 FINAL

Invitation to Tender – Stage Two

	Question	Answer
AtW 1	Should the Implementation Plan Gantt chart be embedded into the response template for Question 5.1, or	A separate Gantt Document can be attached but needs to be completed using standard software e.g. Microsoft Word, Excel or PDF. Files submitted in Microsoft Project format will not be accepted.

	attached as a separate document?	The Gantt Chart will not count towards the 800 word count limit.
AtW 2	The CCR guidance indicates that Year 5 of the contract is April 2022 - July 2022. However, the payment tab of the CCR spreadsheet gives Year 5 dates as April 2022 - April 2023. Please could you confirm that July 2022 is the final month of referrals and April 2023 is the final month of service delivery.	Eligible Customers will be referred up to July 2022. On commencement of support the Successful Supplier(s) will deliver support to customers for up to 9 months.
AtW 3	Please could you confirm the dates of our dialogue session and deadline for final tender submission. If this is not yet possible, please could you give an indication of when we can expect to receive this information.	Please refer to paragraph 3.15 (Tender Timeline) of the Instructions to Qualifying Bidders: Stage Two.
AtW 4	Please could you clarify which reports are meant by the reference to "relevant reports" in Question 1.1	These are the reports detailed in the AtW MHSS Specification and provided in Annex D,E,F and G.
AtW 5	For question 2.1, could the authority please confirm if an org chart can be included in the response? If yes, do the words in the org chart (e.g. role names) count towards the word count?	Please refer to amended paragraph 3.4 of the Instructions to Qualifying Bidders: Stage Two (Amendment 2).
AtW 6	For question 5.1, do the words in the Gantt chart count towards the 800 word limit for this question?	Please refer to response to Question AtW 1.

AtW 7	Could the authority please confirm if referrals from Access to Work into MHSS will be routed centrally through DWP/JCP or will they come from Access to Work prime providers?	Referrals for the Mental Health Support Service will be made by customers to the Authority's Access to Work Team or directly through the prime provider. The prime provider will need to confirm information and customer eligibility with the Access to Work adviser before commencement on the service.
AtW 8	The MHSS Specification outlines eligibility criteria for Access to Work, but not specific eligibility criteria for MHSS. Given that we are responsible for direct marketing to drive referrals for MHSS, could the authority please confirm how should we describe programme eligibility?	Eligibility criteria for AtW MHSS are as detailed in the AtW MHSS Specification paragraph 3.2.
AtW 9	Could the authority please confirm if there any restrictions on support elements for Work and Health Programme participants? If so, what are they?	If an applicant is participating on other contracted provision e.g. Work and Health Programme or Fair Start Scotland, they should be referred back to the Access to Work Team.
AtW 10	Could the authority please confirm if the Support Plan will require a wet signature from the customer? We are assuming not, due to the fact that an initial appointment can be requested by the customer to not be face to face (Specification 6.6.2), although we recognise that this will be an exception as face to face is the default.	The Access to Work adviser will require a wet signature on the Support Plan as well as the exit plan. If a wet signature is not possible, the Prime Provider will need to contact the Access to Work adviser explaining the reasons. This will be in extremely rare and exceptional circumstances.
AtW 11	In terms of section 7.3.1 of the Specification, could the	The Authority is developing an electronic platform. As this work progresses we may wish to include the Contractors in the development work.

	Authority please confirm if it is looking to customise an electronic platform already in existence or development, or is the Authority looking to develop a bespoke one in partnership with the contractor?	
AtW 12	In terms of section 7.5.1 of the specification, where it is stated that the provider should not conduct assessments, could the Authority please confirm if this would include, for example, Job Demand Assessments, or a psychological rehabilitation assessment, such as those conducted by the current provider?	The Contractor should not conduct “holistic workplace assessments”.
AtW 13	Could the authority please confirm if there is any published performance data in relation to the KPI metrics in the contract (e.g. time in work 3/6months)?	The Authority does not hold this specific information, however general statistical information regarding the Access to Work Programme can be found at: https://www.gov.uk/government/collections/access-to-work-statistics
AtW 14	Could the authority please confirm what the TUPE liability is?	Please refer to paragraphs 6.23 and 6.24 of the Instructions to Qualifying Bidders: Stage Two.
AtW 15	When receiving referral calls from Access to Work, could the Authority please confirm if these are they made with customer present (and so enabling agreement of scheduling of initial	The Authority will send referrals via the Provider referrals and Payment system as detailed in the AtW MHSS Specification.

	appointment?) or will the customer require a call back?	
AtW 16	Could the authority please confirm how many calls per annum are currently received from enquiries that are additional to booking a referral?	This information is not held by the Authority.
AtW 17	Could the authority please confirm if section 9.5 of the Specification indicates that another prime contractor holds responsibility for performance managing the contractor for MHSS?	Section 9.5 of the AtW MHSS Specification refers to the Authority's Performance Managers.
AtW 18	Could the authority please confirm if any market share shift methodology will be operated when allocating referrals between the two providers?	The AtW MHSS contract will not be subject to Market Share Shift.
AtW 19	Could the authority please confirm what it means by "The provision does not provide support such [...] CBT" (specification para 7.5.2). Especially within the context of the Access to Work staff guide which states: that the type of support provided by the MHSS includes the "practice [of] cognitive behavioural techniques to reframe negative thoughts and plan positive actions	The MHSS is not intended <u>to be</u> CBT provision. However, that does not prevent the contractor practicing cognitive behavioural techniques to reframe negative thoughts and plan positive actions as part of the overall broader workplace mental health support service.

	https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/541858/access-to-work-staff-guide.pdf para 38)	
AtW 20	Could the authority please confirm if the provider is required to fund the freephone number itself? If yes, can the authority please give an indication of expected cost?	AtW MHSS Specification details the service requirements. All costs related to the delivery of the AtW MHSS contract should be included within the CCR (pricing proposal).
AtW 21	Could the authority please confirm the contract end date - in the CCR guidance, it says July 2022. In the pricing templates it says March 2023	Please refer to response to Question AtW 2.
AtW 22	Could the authority please confirm the invoicing terms for the contract?	Please refer to paragraph 6.10 of AtW MHSS Specification.
AtW 23	Could the authority please confirm if we are required to include indexation assumptions?	Please see Annex S CCR Supporting Guidance. Paragraph 4 includes the following: N.B. throughout the CCR workbook all costs MUST: •Exclude Provider Output VAT but include any non-reclaimable input VAT (Please see Para's 108 -112 on VAT) •Not include indexation as it does not apply throughout the contract; and •Include Provider's assumptions on inflation within the costs input on the CCR.
AtW 24	Could the authority please confirm the financial year in the cohort summary within the CCR? The cohort summary links to May-April, whereas the pricing summary links to April-March.	The table in the CCR tab '11a cohort summary' is incorrect. The current table within the CCR should be ignored and the table attached replaces this.  Revised CCR Table.pdf

AtW 25	Can the authority please confirm the verification process for confirming customer employment at the 6/9 month points? Will the Authority be using RTI to confirm participant status, and is there any verification process requirements required on the behalf of the Provider to assure this?	Contractors will need to ensure that the customer has signed the Exit Report document as evidence of employment retention. Contractors will be notified if the Authority intends to use RTI or other processes for verifying employment outcomes in the future.
AtW 26	Could the authority please confirm if tables, graphs and charts are permitted? Section 3.4 of the instructions to bidders says they are, whereas the bid response templates say they are not.	Please refer to amended paragraph 3.4 of the Instructions to Qualifying Bidders: Stage Two (Amendment 2).
AtW 27	Could the authority please confirm when the date of our commercial dialogue session will take place? Advance notice of this would be extremely useful to enable us to ensure the most appropriate business leads are able to participate.	Please refer to paragraph 3.15 (Tender Timeline) of the Instructions to Qualifying Bidders: Stage Two.
AtW 28	KPIs 3, 5 and 7 require the Provider to submit a reworked plan/report within 1 working day. If the Provider needs to speak with the customer in order to complete a rework but the customer is unavailable, is the KPI failed?	The KPI's require providers to submit re-worked reports within 1 working day. Therefore, under the scenario described in the question, the KPI would be failed.

AtW 29	Could the authority please confirm if report/plan reworks must be done by the author of the original plan/report?	The report / plan reworks do not need to be completed by the author of the original report, however they must reflect the discussions and actions undertaken to ensure a true and accurate account of what has taken place.
AtW 30	We note that we are not permitted to include charts diagrams or embedded images within our responses. Could you confirm if we are permitted to include tables?	Please refer to amended paragraph 3.4 of the Instructions to Qualifying Bidders: Stage Two (Amendment 2).
AtW 31	Can the commissioner please confirm if the ranking of providers and commercial position of providers from Stage 1 will be shared with the shortlisted 5 providers prior to Stage 2 submission?	No, this information will not be shared.
AtW 32	Can the commissioner please confirm if it intends to impose a market share shift clause?	Please refer to the response to Question AtW 18.
AtW 33	Tab 11a of the CCR indicates that conversion rate of starters into customers still in employment at 9 months is 85%. However, KPI6 in the specification suggests that the rate should be 90%. Please could you confirm which rate is correct.	KPI 6 states 90% of MHSS Exit Reports to be returned within 10 working days. This does not relate to the conversion rate in Tab11a of the CCR.
AtW 34	We note that it is the Authority's view that TUPE is unlikely to apply in the letting of this contract. It is our understanding that	Please refer to paragraphs 6.23 and 6.24 of the Instructions to Qualifying Bidders: Stage Two.

	TUPE applies when all of the three following circumstances exist: a) there is a change in service provider, (b) the services are materially the same to the same customer as the contract was with for the old supplier) , and (c) there is a group of employees who are "assigned" to the services. Please could you clarify your view by letting us know which of a), b) and c) do not apply to this contract and why this is the case.	
AtW 35	Please could DWP clarify if we are obliged to use the DWP Support Plan template. Can we add additional information?	The Support Plan in the specification must be used to ensure the required elements are covered as a minimum. The Contractor may include additional information but it would need to be determined what this information is and if it is in line with the provider guidance for this particular service.
AtW 36	Please could DWP clarify if electronic signatures are acceptable for returnable documents e.g. Support Plan, Monthly Updates?	The Access to Work adviser will require a wet signature on the Support Plan as well as the exit plan. If a wet signature is not possible, the Prime Provider will need to contact the Access to Work adviser explaining the reasons. This will be in extremely rare and exceptional circumstances.
AtW 37	The specification states that we should provide Mental Health First Aid training for employers - must this be provided free of charge? How frequently must it be delivered?	AtW MHSS Specification details the service requirements. All costs related to the delivery of the AtW MHSS contract should be included within the CCR (pricing proposal).
AtW 38	Please could you clarify the following: 'Any reports supplied to the Authority that are deemed as being not to the standard specified in Annex H must be	It is dependent on the reason why the report has been deemed as being not to the specified standard whether the customer would need to re-sign it, but the Authority expects this to be infrequent.

	resubmitted at the Contractor's expense within one (1) Working Day of return by the Authority'. Do amended reports need re-signing by the Customer? If so, a 1 working day turnaround would seem unrealistic.	
AtW 39	Could you please advise if TUPE information is available from existing provider. E.g. likely numbers of eligible staff, salaries etc.	Please refer to paragraphs 6.23 and 6.24 of the Instruction to Qualifying Bidders: Stage Two.
AtW 40	Please could you confirm that Customers aged 25+ must be in receipt of National Living Wage?	Yes – Customers over the age of 25 must be in receipt of the National Living Wage.
AtW 41	Could you please advise the timeframe for an AtW Advisor to determine eligibility and notify the contractor	Can the Qualifying Bidder please clarify if this question relates to eligibility checks by an AtW Adviser for direct referrals generated by the Contractor?
AtW 42	Could you please advise if we are required to submit additional Appendix A documents for any new subcontractors.	As per Section 7 Supplier Selection Questionnaire (SQ) Instructions to Potential Suppliers Stage 1, please submit (via ITT message) an updated table (which was provided in response to Question SQ-1.2(b) - (ii)) and an 'Annex A – SQ for Groups, Consortia and Sub-contractors' completed at Parts 1 and 2 for each additional Sub-Contractor.
AtW 43	Could the authority please clarify the contract affordability as being one of the following: a) The overall contract budget is £14.2m b) The annual contract price cap is £3.55m (£14.2m / 4 years) which, given the volume profile is increasing significantly year on year, this actually works out at an	The estimated total contract value is £14.2m.

	overall budget cap of £11.7m over the contract	
AtW 44	Could the authority please confirm the following: B10: This clause states that TUPE is not expected to apply and provides for the incumbent contractor and the Authority to indemnify the contractor against TUPE liability if it is subsequently discovered that there are transferring employees that the contractor declines to employ – provided that the contractor follows the process in B10. On the other hand, B13 requires the contractor to arrange for and guarantee the pension schemes of fair deal employees, who are defined as any employees with government pension schemes to whom TUPE applies. Please could the authority confirm whether the indemnity in B10 overrides the contractor's obligations in B13 – as these two clauses may be inconsistent if transferring fair deal employees are discovered before the commencement date.	The Qualifying Bidder would need to seek their own advice regarding this question.

AtW 45	Could the authority please confirm if the contractor's indemnity in G1.2(c) of the draft contract is limited by the cap in G1.4 and the limitations in G1.5.	The Qualifying Bidder would need to seek their own advice regarding this question.
AtW 46	Under clauses 3.6 to 3.9, the Authority can ask the provider to change the nature of the MI required and the format of MI reports. The contract is silent about who bears the cost of making these changes. Could the authority please confirm if the contractor can invoke the change control process if this will result in an increase in the contractor's costs of providing the services.	Requests by the Authority for changes to the nature of the MI required and the format of the MI would be exercises of its rights under the contract rather than a change to the contract. Therefore there would be no change to the contract relating to which the change control process could be invoked.
AtW 47	We note that a customer signature is required on the six month report and the exit report. Please could you confirm if this needs to be a wet signature or if a scanned signature, or an email from the customer confirming agreement with the details of the report, is acceptable	The Access to Work adviser will require a wet signature on the Support Plan as well as the exit plan. If a wet signature is not possible, the Prime Provider will need to contact the Access to Work adviser explaining the reasons. This will be in extremely rare and exceptional circumstances
AtW 48	Paragraph 3.4 says charts are permitted "where allowed" but does not clarify whether an org chart is allowed for this specific question and whether the words contribute to	Names and Roles provided within an Organisation Chart will be deemed to be labels and not deemed part of the substantive response and included in the word count. However, please refer to amended paragraph 3.4 of the Instructions to Qualifying Bidders: Stage Two (Amendment 3).

	the word count. Are you able to clarify please?	
AtW 49	Many thanks for confirming the below. Is it acceptable to create the Gantt chart using Microsoft Project and then convert it into a PDF file, so a PDF is submitted? --- Message Received A separate Gantt Document can be attached but needs to be completed using standard software e.g. Microsoft Word, Excel or PDF. Files submitted in Microsoft Project format will not be accepted. The Gantt Chart will not count towards the 800 word count limit.	If the Gantt chart is submitted as a PDF file this is acceptable
AtW 50	The authority has stated that it does not think TUPE will apply. Please could the authority provide the relevant TUPE staff data for the current MHSS provider and the rationale why it is perceived that TUPE would not apply. Many thanks	Please refer to paragraphs 6.23 and 6.24 of the Instruction to Qualifying Bidders: Stage Two.
AtW 51	We note from your answer that a wet signature is required on the Support Plan and the exit report. Please could you confirm that	Wet signatures will be required on the MHSS 6 Month Report

	this also applies to the six month report.	
AtW 52	Please could you confirm the process for submitting and storing the reports that have been signed by the customer and the support provider. Would these be scanned and then emailed to the DWP AtW Adviser and also stored on our IT system? If this is the case, is it your expectation that the original paper versions be destroyed after they have been scanned?	Please refer to the AtW MHSS Specification para 7.2.1 & Section 8, current AtW Provider Guidance and the Authority's Terms and Conditions. All reports must be completed to the specified standard and be transmitted to the Authority in a secure electronic manner, as specified by the Authority. In respect of all individual completed documents and personal notes these can be retained for up to six months after the exit report payment. At this point they should be securely destroyed and disposed of.
AtW 53	Please could you provide more detail about the application that we need to send DWP Access 2 Work Advisers to confirm eligibility when customers apply directly to the contractor. If this is an existing form, please could you make it available to us.	The form contains basic information about the customer, their health condition, personal circumstances, employment and contact details. This would need to be encrypted by the Contractor and sent to a specified AtW email address to ensure the information is sent securely and in line with agreed and approved security protocols. It is not possible to provide a copy of this form as it is currently under review.
AtW 54	Please could you confirm that starts do not need to follow the profile set out in tab 11b. of the CCR and that we can achieve higher numbers of referrals in all months of the contract.	The Qualifying Bidder should provide a bid that is costed and performance driven towards the numbers set out in the CCR and the AtW MHSS Specification. However it is the Authority's expectation that if a Contractor over performs within the contract these will be funded and paid for, subject to the Contractor meeting the requirements of the contract. It is the Authority's aim to increase the usage of this service.
AtW 55	Please could you indicate the historic percentage split of volumes between referral via AtW Advisors and referrals	The Authority does not hold this specific information, however general statistical information regarding the Access to Work Programme can be found at: https://www.gov.uk/government/collections/access-to-work-statistics

	direct to the Contractor for MHSS.	
AtW 56	Please could you confirm that the MHSS Contractor's own staff will be eligible to apply for MHSS support.	Yes, but the MHSS must be delivered by the other Prime Contractor.
AtW 57	1.1 Customer Journey – please can we confirm that where we are proving a description of the customer journey it commences at the point of referral from JCP AtW Advisor and we do not have to provide 2 separate journeys for those marketed by the provider and those identified by JCP?	One customer journey is required for all referrals when eligibility is confirmed by the AtW Adviser
AtW 58	Please can you confirm that AtW MHSS covers the following entire regions: a. Scotland b. Wales c. England	Yes - Please refer to paragraph 6.3 of the AtW MHSS specification.
AtW 59	We require further clarification with regards to your response to AtW 9 - Will Work and Health Programme customers who have moved into employment be eligible for the AtW MHSS?	Can the Qualifying Bidder please explain what clarification they require?
AtW 60	The further clarification we require is we understand that if a customer is participating on Work and Health Programme before finding	A customer participating on Work and Health Programme will become eligible for AtW MHSS once the WHP support has ended. (this includes WHP support in-work)

	employment that they will not be eligible for AtW MHSS but once a WHP customer has moved into employment are they then eligible for the AtW MHSS?	
AtW 61	Please could you provide a sub-regional breakdown of the historical AtW MHSS referral flows for Scotland and Wales, in the same way it has been provided sub-regionally for England in Annex A?	The Authority does not hold sub-regional breakdown for Scotland and Wales.
AtW 62	Following your question to our original clarification question; 'Could you please advise the timeframe for an AtW Advisor to determine eligibility and notify the contractor.' DWP's Response: Can the Qualifying Bidder please clarify if this question relates to eligibility checks by an AtW Adviser for direct referrals generated by the Contractor? Our response: Yes, upon receiving the application from the Contractor, please confirm how long it will take the AtW Advisor to confirm eligibility.	AtW Advisers aim to turn these around within 5 working days as a maximum however in a majority of cases this is significantly shorter and occurs in the main within 1 working day of receiving a fully completed referral.
AtW 63	Could the authority please confirm where we can access Annex J? Many thanks	An Annex J has not been requested to be completed as part of the ITT.

AtW 64	Thanks for confirming. There is a reference to Annex J in the draft terms	An Annex J – Key Personnel has now been uploaded as part of the ITT supporting documentation and is attached to this Broadcast message. Can Qualifying Bidders please complete this and submit it as part of their Tender submission
AtW 65	Could the authority please define the term "delivery fee periodic payment" as referenced in Schedule 10, Section 3.4. Many thanks.	"Delivery Fee Periodic Payment" means the total sums claimed by the Contractor as elements of the Contract Price during any period of delay under paragraph 3.4 or 4.8 of this Schedule 10, as the context requires. This will be inserted as the first Definition as part of Schedule 10 of the AtW MHSS Terms and Conditions.
AtW 66	Please could you advise on whether we need to complete and upload Annex J as part of our initial response. If yes, please indicate the question within the response to which it relates.	Can the Qualifying Bidder upload the Annex J – Key Personnel within Q2.1. Please note: Annex J will not be evaluated and not included within the word count for Q2.1.
AtW 67	Can you please confirm where we need to upload Annex J	Can the Qualifying Bidder upload the Annex J – Key Personnel within Q2.1. Please note: Annex J will not be evaluated and not included within the word count for Q2.1.
AtW 68	Schedule 10A of the draft contract refers to Annex 1, which is missing. Could the authority kindly supply a copy? Many thanks	In Schedule 10A of the AtW MHSS Terms and Conditions, within Paragraphs: 3.2 (a) Breakage Costs Payment; 4 (a) Unrecovered Payment; and, 6.3 (a) Compensation Payment The sentence, 'the relevant limit set out in Annex 1' shall be replaced with the following: £[XXX] [DN: Insert this amount at contract award - this will be based upon the average annual contract value, calculated by dividing Anticipated Contract Value by the initial referral period (in years)]
AtW 69	We require further clarification regarding the responses provided in the last Q&A log for AtW 63 and 64. Please could you confirm whether or not bidders are to provide a	Can the Qualifying Bidder upload the Annex J – Key Personnel within Q2.1. Please note: Annex J will not be evaluated and not included within the word count for Q2.1.

	completed Annex J with the initial submission of the Stage 2 responses on 2nd March?	
AtW 70	Please could you confirm whether you will be re-issuing the CCR spreadsheet with an updated tab 11a showing the figures issued as apart of the response AtW 24? Or are bidders to use the current version (V.3) with the incorrect figures listed?	A revised CCR will not be required as the information provided within tab '11a Cohort summary', columns C, D and E are used within other calculations in the CCR – these figures are correct. The figures provided within the columns titled 'Volumes of Outcomes year 1' through to 'Year 5' were incorrectly calculated, but no formulas within the CCR link directly to these cells. The revised table provided in AtW24 within the Question and Answer Log provide the corrected volumes for Year 1 through to Year 5.
AtW 71	With reference to the response provided in Stage 1 Final Clarification Log AtW 11 would you be referring to the bidding organisation or their parent company?	With reference to question Stage 1 Final Clarification Log ATW11 this was referring to the bidding organisation'
AtW 72	Please can you confirm where bidders are to upload the Gantt chart which is requested as part of response 5.1? Are we to zip the Gantt chart and word response document together and upload into the 5.1 section of the portal?	To submit any additional information to complete your response to the above questions, please submit as a single, zipped attachment response. Upload the Gantt Chart with your response to Question 5.1 within a single zip file before uploading. The same process will apply to 'Annex J – Key Personnel' and any 'Organisational Chart' within Question 2.1
AtW 73	On page 10 in the Instructions to Qualifying Bidders Stage 2 it suggests a file naming convention of contract - file - company. Rather than naming every file with Access to Work Mental Health Support Service - Annex E - Draft Security Plan - Company name are	Yes, that will be acceptable.

	bidders able to use the acronym of AtW MHSS at the start?	
AtW 74	Sched 10, Clauses 3.3, 3.4, 4.7 & 4.8 allow the Authority to claim payments from the contractor if it does not provide exit information on time or finalise the exit plan on time. Can the Authority confirm the purpose of these payments, as they could be read as a set of service penalties or as a source of information.	The Authority has included obligations for the Contractor to supply exit information relating to Transferring Contractor Employees and a finalised exit plan within certain periods or by certain dates in Schedule 10 in order to facilitate an orderly exit from the contract for the Contractor, the Authority and the vulnerable customer groups served by the contract. Without the exit information relating to Transferring Contractor Employees or finalised exit plan the Authority and the customers may be exposed to risks and costs that would be avoided had the Contractor supplied the exit information relating to Transferring Contractor Employees and finalised exit plan in accordance with Schedule 10. The Authority believes that the Exit Information Delay Payment and the Exit Plan Delay Payment provide a necessary and proportionate means of ensuring that the Contractor complies with key obligations under Schedule 10. Depending on the timing of the Contractor's failure to comply with its obligations to supply the required exit information relating to Transferring Contractor Employees or finalised exit plan, the Authority believes that termination of the contract would either be disproportionate to the breach or not be effective to ensure compliance because the contract was ending shortly in any event so the Exit Information Delay Payment and the Exit Plan Delay Payment give the Authority alternative remedies.
	Broadcast to all Qualifying Bidders	As stated in paragraphs 6.23 and 6.24 of the Instruction to Qualifying Bidders: Stage Two, it is the Authority's view that the Transfer of Undertakings (Protection of Employment) Regulations 2006 are unlikely to apply to this re-tender. You may find the following facts useful in making your own determination: - Whilst the services being procured are fundamentally the same as the services currently being provided, the service delivery model is significantly different. Whereas the MHSS services are currently delivered across seven separate contracts, each covering a different geographical area with referrals on a geographical basis relevant to the customer's home address, the Authority is currently re-procuring two new national contracts where

		referrals will be on a 50/50 basis unconnected to geographical location.
AtW 75	Please could you clarify where on the CCR are bidders to input the unit price?	Please refer to paragraphs 11 & 12 of the CCR supporting guidance
AtW 76	Please can you confirm if the figures in tab 11a of the CCR document are the expected performance requirements?	Performance requirements (Key performance indicators) are provided in Section 9 of the AtW Mental Health Support Service (MHSS) Specification.

Appendix 4

[REDACTED]

Appendix 5 – Key Staff

Potential Suppliers and Sub-contractors Key Staff

Please complete this annex listing the key staff that will be used to deliver this requirement for both yourself and your sub-contractors.

[REDACTED]

SCHEDULE 2 – ADMINISTRATION REQUIREMENTS

1 Authority's Authorisation

- 1.1 The following person is the Authority's Representative and is authorised to act on behalf of the Secretary of State for Work and Pensions on all matters relating to the Contract. Contact details are shown in clause A5.3.

Name: [REDACTED]

Title: Authority's Representative

- 1.2 The Authority's Representative may approve deputy Authority's Representatives to exercise on his/her behalf such powers as are contained in this Contract.

2 Contractor's Authorisation

- 2.1 The following person is the Contractor's Representative and is authorised to act on behalf of the Contractor on all matters relating to the Contract. Contact details are shown in clause A5.3.

Name: [REDACTED]

Title: Director of Business Development

3 Payment Information

- 3.1 The Contractor shall submit requests for payments via electronic methods using Provider Referrals and Payment (PRaP) and the Authority shall make payments for undisputed sums of the Contract Price using the PRaP system.

4 Disputed Claims

- 4.1 Notwithstanding paragraph 4.5 of this Schedule 2, payment by the Authority of all or any part of any Contract Price rendered or other claim for payment by the Contractor shall not signify approval. The Authority reserves the right to verify Contract Price after the date of payment and subsequently to recover any sums which have been overpaid.
- 4.2 If any part of a claim rendered by the Contractor is disputed or subject to question by the Authority either before or after payment then the Authority may call for the Contractor to provide such further documentary and oral evidence as it may reasonably require to verify its liability to pay the amount which is disputed or subject to question and the Contractor shall promptly provide such evidence in a form satisfactory to the Authority.
- 4.3 If any part of a claim rendered by the Contractor is disputed or subject to question by the Authority, the Authority shall not withhold payment of undisputed sums of such claim.
- 4.4 If any fee rendered by the Contractor is paid but any part of it is disputed or subject to question by the Authority and such part is subsequently agreed or determined not to have been properly payable then the Contractor shall forthwith repay such part to the Authority.

- 4.5 The Authority shall be entitled to deduct from sums due to the Contractor by way of set-off any amounts owed to it or which are in dispute or subject to question either in respect of the fee for which payment is being made or any previous fee.

5 Final Claims

- 5.1 Provided all previous claims have been paid, the Authority shall have no further liability to make payment of any kind to the Contractor once the final claims have been paid.

SCHEDULE 3 – MONITORING REQUIREMENTS

This Schedule 3 sets out the Contract management requirements which are applicable to the delivery of the Services.

1 Reviewing Contract Performance

- 1.1 The Contractor shall work with the Authority to establish and maintain an effective and beneficial working relationship to ensure the Contract is delivered to at least the minimum required standard as specified in the Contract. The Contractor shall comply with the provisions of the Contract in relation to monitoring and reporting of its performance against the KPIs, Target Performance Levels and standards specified in the Contract to be met in respect of Customers.
- 1.2 The Contractor shall work with the Authority to -:
 - (i) establish suitable administrative arrangements for the effective management and performance monitoring of the Contract and shall provide information as requested to monitor and evaluate the success of the Contract and the Contractor's management and delivery of it; and
 - (ii) to establish and maintain an effective and beneficial working relationship to ensure the Contract is delivered to its contractual obligations, including the minimum required standard in this Schedule 3.
- 1.3 The Contractor shall supply information requested relevant to the delivery of the Services to the Authority, using formats and to timescales specified by the Authority in this Contract including this Schedule 3.
- 1.4 The Authority intends, wherever it can, to capture and collate information through its Authority ICT System(s). However, the Authority does reserve the right to make reasonable requests for information (at no additional charge) from the Contractor including ad-hoc requests for information from time to time.
- 1.5 Any additional requests for information shall be considered in consultation with the Contractor as shall the process of defining the methods of collection.
- 1.6 Where an on-going, short-term or one-off requirement is agreed, both Parties agree that it shall be included, or deemed to be included within this Schedule 3.
- 1.7 The Contractor shall appoint a named Performance Manager who will cooperate with the Performance Manager of the Authority to ensure that the Contract is delivered as specified in the Contract and that contractual standards and performance levels are met. The Performance Managers shall have regular meetings at the frequency specified in the Specification to monitor and review the performance of the Contract, the achievement of the KPIs, the achievements of the standards specified in the Contract to be met in relation to Customers and the supply of the Services. Review meetings between the Authority and the Contractor shall also cover, as appropriate, resolving disputes and/or dealing with contractual breaches in accordance with the terms and conditions of this Contract. Roles and responsibilities will be documented and the personnel involved in managing the relationship identified and suitably empowered.

- 1.8 The Authority may undertake spot checks at any time to ensure that the Contractor is complying with its obligations under this Contract and the Contractor shall co-operate fully, at its own cost, with the Authority. The Authority shall use all reasonable endeavours to ensure that the onsite monitoring will not interfere with the supply of the Services by the Contractor.
- 1.9 The Contractor will be responsible for managing and reporting on any sub-contractual arrangements. Arrangements shall include mechanisms for the provision of management information, including feedback to and from Customers and stakeholders; change control procedures and the prompt resolution of any problems. The Authority will agree with the Contractor day-to-day relationship management, contact points, communication flows and escalation procedures prior to reaching the dispute resolution procedure in clause I2.
- 1.10 The Contractor will be expected to continuously improve the quality of the provision including that delivered by its Sub-contractors. Where quality falls below acceptable levels (see 1.1 - minimum standard) the Contractor will be expected to have suitable escalation procedures in place and, in respect of sub-contracted provision, take action where necessary to terminate the Contract.
- 1.11 The Contractor shall manage the Contract and any Sub-contractors, including addressing poor performance. The Contractor must therefore ensure that all systems and processes used for the monitoring and recording of performance are robust, provide a clear audit trail of evidence and give confidence to the Authority that the Contractor and its supply chain are delivering the Services in accordance with the Contract.
- 1.12 The Authority will regularly monitor Contractor performance. The Contract will be managed by both Commercial Directorate and Performance Managers.
- 1.13 Commercial Directorate manage the commercial relationship with the Contractor.
- 1.14 The Commercial function manages Contractors and provision utilising a Supplier Relationship Management approach (by Contractor) and a Contract management approach (by provision /Contract).
 - Contract management entails managing the day to day commercial activities of a specific contract. Commercial Contract Specialists and Business Delivery functions work in partnership to drive Performance, quality and value for money throughout the life of the Contract.
 - Supplier relationship management is the management of the relationship between the Authority and the Contractor across their entire Authority portfolio. Category Managers are a single point of contact for key suppliers for all commercial matters. By meeting regularly they will develop strategic partnerships to understand the commercial and business drivers and the market in which the Contractor operates. They will develop long term strategic partnerships with these key Contractors to maximise performance,

quality, delivery of contractual services and value for money across the portfolio.

- 1.15 Performance Managers will specifically focus on the performance and quality of the delivery of the Services by the Contractor. During live running of the Contract, the Authority will utilise the Authority's Performance Management and Intervention Regime (PMIR) to assure delivery of the proposals and standards as set out in the Contract. Performance Managers of the Authority will carry out Contract performance reviews. More details on the PMIR can be found in the Contractor Guidance.
- 1.16 The purpose of the Contract performance reviews is to encourage an open and regular dialogue between the Parties with the purpose of ensuring that the Services, including the contractual standards and outputs are being delivered appropriately and to drive up the performance and quality of the Services. They will encourage the Parties to review performance, discuss opportunities for continuous improvement and raise and address any complaints or persistent problems encountered with the Contract.
- 1.17 Review meetings between the Authority and the Contractor shall also cover, as appropriate, resolving disputes and/or dealing with contractual breaches in accordance with the terms and conditions of the Contract.
- 1.18 Contract performance reviews will be formally undertaken and documented. The Contractor will be expected to provide any additional management information required by the Authority to facilitate the reviews and arrange where necessary access to any of its delivery locations, including those operated by Sub-contractors.
- 1.19 The Authority may appoint an assessor (which may be an internal or an external assessor, subject (in the case of an external assessor) to the external assessor entering into a non-disclosure arrangement and having the relevant expertise and competence), to participate in the monitoring of the Contractor's performance in supplying the Services and the Contractor will co-operate with the assessor and take all necessary steps to implement recommendations made. Any changes to any Services made as a result of a recommendation of any such persons shall be made in writing and in accordance with clause F3.

2 Access

- 2.1 The Contractor shall ensure that the Authority (and its authorised representatives) have access upon reasonable notice to all relevant property, including the Premises, and information (and where requested are given a copy of such information) necessary to carry out the monitoring referred to in this Schedule 3 including putting in place arrangements to permit legal access to information as may be required pursuant to the Authority's audit rights under clauses E9 and E10.
- 2.2 The Authority reserves the right to carry out physical checks on documentation as part of this process.
- 2.3 In all instances, the Contractor shall co-operate and provide such reasonable assistance as may be necessary to facilitate such monitoring. Failure to provide

such reasonable assistance shall be deemed a "Default" which is a Material Breach of the Contract and the Authority shall be entitled to exercise its rights under clause F5.3A.

3 Health and Safety Responsibilities of the Authority Visiting Officers

- 3.1 The Authority's Representatives may visit Contractors and its Sub-contractors for a variety of reasons. In the course of their normal duties such representatives of the Authority shall adopt an 'eyes and ears' approach to monitoring health and safety. In doing this the Authority's Representatives shall not be conducting a health and safety inspection, nor shall they be in a position to offer advice on whether something is safe or not. Instead they shall approach this from the position of any lay person. If, however, the Authority's Representative does notice something on which they require assurance or clarification, they shall raise this with the Contractor or the Sub-contractor's representative at the location where they are visiting. In no event are the Authority's Representatives to be seen as offering professional advice on health and safety matters and as such, shall not be liable for any advice or comments or otherwise given to the Contractor or its Sub-contractors or any omission to give such advice, comments or otherwise.

4. Not Used

5. Assuring Contractor's Systems

- 5.1 The Contractor must comply with the Authority's systems assurance requirements as described in this section and notified to the Contractor by the Authority from time to time.
- 5.2 The primary purpose of the Contracted Employment Programmes (CEP) Provider Assurance Team (PAT) is to provide the Authority with an assurance that payments to contracted employment provision contractors are in accordance with the Authority and Treasury, that public funds and Authority data are protected and that value for money has been obtained.
- 5.3 The Authority's Provider Assurance Team ("PAT") and the Security and Business Continuity Team ("S&BCT") review Contractors' internal control systems to assess the Contractors' ability to manage risk across four key areas:
- (a) Governance Arrangements – covering the Contractor's governance arrangements, systems for tracking and reporting performance and their anti-fraud measures;
 - (b) Service Delivery – includes the Contractor's systems for starting, ending and moving Customers through Service provision and generally looks to ensure that the Authority is getting the Service it is paying for. This section also covers management of the supply chain;
 - (b) Claim Procedures and Payments – looks to ensure that the Contractor has in place effective systems to support their claims for payment, including appropriate segregation of duties; and

- (e) Data Security – looks to ensure that the Contractor has in place adequate systems to safeguard Authority data whilst it is being stored and/or transmitted around their organisations.
- 5.4 On completion of each review by the Authority, the Contractor will be awarded an assurance rating from PAT in one of the following four categories – (i) weak; (ii) limited; (iii) reasonable; or (iv) strong, and will also receive an assurance rating from S&BCT regarding data security. The Authority shall also send a formal report to the Contractor which details the review findings including key strengths and areas for improvement; where weaknesses have been identified the Contractor will be asked to complete an action plan setting out appropriate steps for improvement and this is followed up at an agreed point.
- 5.5 The timescale for a subsequent review is determined at the sole discretion of the Authority. Further details of this are set out in the Specification.
- 5.6 If the Contractor is attributed a “Weak” or “Limited” Provider Assurance Rating and/or an equivalent rating from S&BCT, as notified to the Contractor by the Authority from time to time, the Contractor shall deploy all additional resources and take all remedial action that is necessary to remedy the “Weak” or “Limited” Contractor Assurance Rating or to prevent the “Weak” or “Limited” Contractor Assurance Rating from recurring by a date specified by the Authority.
- 5.7 If in the opinion of the Authority, the Contractor has failed to deploy the additional resources and to take the remedial action referred to in paragraph 5.6 of this Schedule 3 by the date specified by the Authority may treat such failure as a non Service failure Default and issue a Formal Warning Notice in accordance with the process for the issue of a Formal Warning Notice described in clause H2.
- 5.8 The Authority is entitled to regard the following circumstances, without limitation, to be a Material Breach entitling the Authority to exercise its rights under clause F53A:
- (a) where the Contractor has been awarded a Contractor Assurance Rating of “Weak” or “Limited” and/or an equivalent rating from S&BCT, as notified to the Contractor by the Authority from time to time, in two (2) separate consecutive Contractor Assurance Reviews for reasons which the Authority regards, at its sole discretion, as similar reasons; or
 - (b) where the Contractor has been awarded a Contractor Assurance Rating of “Weak” or “Limited” and/or an equivalent rating from S&BCT as notified to the Contractor by the Authority from time to time, in three (3) separate consecutive Contractor Assurance Reviews regardless of the reasons for such award; or
 - (c) on-going or repeated failures on the part of the Contractor to comply with and implement the Authority’s reasonable requirements as set out in an action plan issued by PAT and/or S&BCT.
- 5.9 Notwithstanding any other term of this Contract the Contractor hereby gives its consent for the Authority to publish from time to time any of the Contractor’s Assurance Ratings and/or equivalent rating from S&BCT to the general public and

to provide the Contractor's Assurance Ratings to any person as the Authority deems appropriate. The Contractor shall assist and cooperate with the Authority to enable the Authority to publish and provide the Contractor Assurance Ratings to any person the Authority deems appropriate in accordance with this paragraph 5.

- 5.10 The Authority will from time to time publish the Contractor's assurance levels and names and the Contractor hereby consents to such publication.
- 5.11 Further information as regards to the Contractor assurance processes and reviews can be found in the Contractor Guidance:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/446788/pg-chapter-6-v3.pdf

Appendix A – Contract Performance Targets

KPI's/Performance Requirements

1. In delivering the Services the Contractor acknowledges that it is under an obligation to meet or exceed the following performance targets and furthermore that failure to meet all or any of the defined Target Performance Levels, shall entitle the Authority to serve notice to terminate on the Contractor
2. The following KPI's and Target Performance Levels are agreed between the Parties.

Ref	Service Or Procedure	Description Of Standard Required	Monitored By	Compliance Risk Rating
<i>KPI 1</i>	<i>Initial contact made</i>	<i>Initial contact and appointment made within 2 working days following receipt of the PRaP referral by the Authority</i>	<i>The Authority</i>	<i>96% & above Green 95.9% - 91% Amber 90.9% & below Red</i>
<i>KPI 2</i>	<i>Submission of Mental Health Support Service Support Plan to designated AtW Adviser to the required quality standard</i>	<i>90% of reports to be returned within 1 calendar month of referral by the Authority to the designated AtW Adviser to the required quality standard the required standard.</i>	<i>The Authority</i>	<i>90% & above Green 89.9% - 85% Amber 84.9% & below Red</i>
<i>KPI 3</i>	<i>For any Mental Health Support Service Support Plans not deemed to be to the required quality standard, rework to be submitted to designated AtW Adviser within 1 Working Day</i>	<i>Reworks to be submitted within 1 working day of return by the Authority to the designated AtW Adviser.</i>	<i>The Authority</i>	<i>99% & above Green 98.9% - 97% Amber 96.9% & below Red</i>
<i>KPI 4</i>	<i>Submission of Mental Health Support Service 6 Month Report to designated AtW Adviser to the required quality standard</i>	<i>90% of reports to be returned to the designated AtW Adviser within 10 working days of the end of the 6 month support period to the required quality standard with</i>	<i>The Authority</i>	<i>90% & above Green 89.9% - 85% Amber 84.9% & below Red</i>

		<i>confirmation that the customer is still in employment.</i>		
<i>KPI 5</i>	<i>For any Mental Health Support 6 Month Report not found to be to the required quality standard, rework to be submitted to designated AtW Adviser within 1 Working Day</i>	<i>Reworks to be submitted within 1 working day of return by the Authority to the designated AtW Adviser.</i>	<i>The Authority</i>	<i>99% & above Green 98.97% - 97% Amber 96.9% & below Red</i>
<i>KPI 6</i>	<i>Submission of Mental Health Support Service Exit Report to designated AtW Advisor to the required quality standard</i>	<i>90% of reports to be returned to the designated AtW Adviser within 10 working days of the end of the 3 month sustainment period with confirmation that the customer is still in employment.</i>	<i>The Authority</i>	<i>90% & above Green 89.9% - 85% Amber 84.9% & below Red</i>
<i>KPI 7</i>	<i>For any Mental Health Support Service Exit Report not deemed to be to the required quality standard, rework to be submitted to designated AtW Adviser within 1 Working Day</i>	<i>Reworks to be submitted within 1 working day of return by the Authority to the designated AtW Adviser.</i>	<i>The Authority</i>	<i>99% & above Green 98.9% - 97% Amber 96.9% & below Red</i>
<i>KPI 8</i>	<i>Accuracy (quality)</i>	<i>Minimum of 99% of reports to meet the standard of acceptability defined in Annex H.</i>	<i>The Authority</i>	<i>99% & above Green 98.9% - 96% Amber 95.9% & below Red</i>
<i>KPI 9</i>	<i>PRaP input within 5 working days</i>	<i>Date of initial contact recorded in PRaP within 5 working days of initial referral (minimum 96%)</i> <i>Within 5 working days of confirmation by AtW Adviser that required</i>	<i>The Authority</i>	<i>96% & above Green 95.9% - 91% Amber 90.9% & below Red</i>

		<i>standard is met, record the following in PRaP (minimum 96% for each element listed):</i> • Support Plan • Support Plan (following re-work) • 6 Month Report • 6 Month Report (following re-work) • Exit Report <i>Exit Report (following re-work)</i>		
<i>KPI 10</i>	<i>Provide detailed Management Information</i>	<i>Monthly returns by the third (3rd) Working Day of each month. Yearly returns by third (3rd) Working Day following anniversary of the contract.</i>	<i>The Authority</i>	<i>100% Green 99.9% & below Red</i>
<i>KPI 11</i>	<i>To forward all Contractors complaints and proposed draft responses to the Authority</i>	<i>Within five (5) Working Days of receipt for approval ahead of issue to the Customer. Rework to be done within one (1) Working Day of notification by the Authority.</i>	<i>The Contract or</i>	<i>99% & above Green 98.9% - 96% Amber 95.9% & below Red</i>
<i>KPI 12</i>	<i>To forward any complaints relating to the Authority to the Authority</i>	<i>Within two (2) Working Days of receipt</i>	<i>The Contract or</i>	<i>99% & above Green 98.9% - 96% Amber 95.9% & below Red</i>

The Authority shall be entitled to measure the Contractor's performance under the Contract in relation to Cohorts net of any extrapolation error and where there is no measure for a cohort the last used extrapolation error shall be used for determining net performance for management purposes. When an extrapolation error is established for a Cohort then that revised error shall be used. By way of example and for avoidance of doubt, if the Contractor is achieving 100% of profile for a Cohort but they have an error rate of 10%, for performance management purposes the Authority would deem the Contractor's performance to be 90%, and it is the 90% which the Authority would use for Contract performance management purposes.

More details on how Cohorts are managed under the Contract are set out in the Contractor Guidance.

For the flow of new referrals, performance will be measured against Cohorts based on Key Performance Indicators/Target Performance Levels. The Authority may add Cohorts together to

provide information about performance over a different length of time, such as a quarter, year, or cumulatively over (potentially) the duration of the Contract.

The Authority operates a robust performance management regime to hold the Contractor to account for performance within their Contract. Formal Contract Performance Reviews (CPRs) will be conducted focusing on achieving Key Performance Indicators/Target Performance Levels based on monthly and cumulative Cohort-based performance. This measure will determine whether the Key Performance Indicators/Target Performance Levels are being met. Where the Contractor is not achieving these required levels, the Authority may take action as specified in the Contract.

Appendix B – Performance Review for Contract Management -

The Authority will regularly monitor Contractor performance utilising the Authority's Performance Management and Intervention Regime ("PMIR") as set out in the Contractor Guidance. The Authority's Performance Managers will carry out Contract Performance Reviews.

The purpose of Contract performance reviews is to encourage an open and regular dialogue between the Parties with the purpose of ensuring that the Services are being supplied in accordance with the KPIs and Target Performance Levels under the Contract. The Contract performance reviews will allow the Parties to review performance, discuss opportunities for continuous improvement and raise and address any complaints or persistent problems encountered with the Contract. Contract performance reviews will be formally undertaken and documented.

SCHEDULE 4 – CONTRACT PRICE AND PAYMENT

1 Contract Price

- 1.1 The Authority shall pay to the Contractor the Contract Price for the Services in accordance with the amounts set out in this Schedule 4.
- 1.2 The Contractor acknowledges and agrees that it shall have no entitlement to remuneration in respect of the Services whatsoever other than the Contract Price.
- 1.3 The Contract Price shall comprise, in respect of each Customer:
 - (a) Initial Payment = £[REDACTED];
 - (b) Second Payment = £[REDACTED]; and
 - (c) Final Payment = £[REDACTED]

provided that each element of the Contract Price shall only become payable by the Authority to on achievement of the relevant Outcome, as more particularly described at section 4 of this Schedule 4 (Contract Price and Payment), below.

- 1.4 The payment rates set out in this Schedule 4 will not be amended or adjusted if volumes change.

2 Value Added Tax

- 2.1 Payment from the Authority to the Contractor shall be by a HMRC approved self-billing process. The Contractor hereby agrees that for the duration of the Contract the Authority will be self-billing producing the invoices on the Contractors behalf. The Authority will issue VAT invoices and the Contractor shall confirm, on an annual basis, the rate of VAT that should be applied to self-billing invoices. It remains the responsibility of the Contractor to accurately account for and pay any VAT included in the payments received from the Authority to HMRC.
- 2.2 If the VAT status of the Contractor changes at any time during the delivery of the Services the Contractor shall notify the immediately and in any case within twenty-four (24) hours. If the Contractor intends to outsource the self-billing process to any third party it shall not do so without first having obtained the Authority's prior approval, such approval not to be unreasonably withheld or delayed.
- 2.3 The Parties acknowledge and agree that an appropriate self-billing agreement is required to be in place and signed by the Parties throughout the Contract Period to reflect the required self-billing treatment.

3 Additional Costs

- 3.1 Subject to the provisions of this Contract (including without limitation this Schedule 4 (Contract Price and Payment)), the Contract Price is fixed and unless otherwise agreed between the Parties in accordance with clause F3 (Contract Change) to and Schedule 12 (Change Control Procedure) any additional or unforeseen costs

incurred by the Contractor in delivering the Services shall be borne solely by the Contractor.

4 Types of Payment

- 4.1 The Initial Payment will become payable when the Contractor achieves an MHSS Support Plan Outcome in respect of a Customer.
- 4.2 The Second Payment will become payable when the Contractor achieves an MHSS 6 Month Report Outcome in respect of a Customer.
- 4.3 The Final Payment will become payable when the Contractor achieves an MHSS Exit Report Outcome in respect of a Customer.

5 Methods of payment

- 5.1 The Authority and the Contractor shall make payments using PRaP and/or other electronic methods.
- 5.2 The Authority may issue a Purchase Order to the Contractor prior to commencement of the Services.
- 5.3 All invoices payable outside of PRaP, must include the appropriate purchase order number sent to the following address:

SSCL Accounts Payable Team
Room 6124
Tomlinson House
Norcross
Blackpool FY5 3TA
Shared Services Helpline: 0845 602 8244

- 5.4 The Authority reserves the right to set and / or alter, at its absolute discretion, the method of payment and will use reasonable endeavours to give 30 days' Notice to the Contractor of any change to the method of payment.

6 Payment rates

- 6.1 For the performance of the Services by the Contractor the Contract Price shall be paid at the prices and rates entered in this Schedule. These rates are fixed and not subject to amendment or alteration over the Contract Period, save where an amendment or alteration is made in accordance with the Change Control Procedure.
- 6.2 All payments will be subject to the provisions of the Schedule 4 and clause 1.3 (Contract Price). The payment of any Outcome Payments shall not constitute acceptance and the Authority reserves the right to validate claims at any time in accordance with clause C2A Extrapolation and Validation of Contractor Claimed Outcomes.

Appendix 1

VAT Confirmation

The format of appendix is subject to change from time to time at the Authority's absolute discretion

Company Name: Remploy Ltd

VAT Registration Number: 207281428

Registered Office Address: 18c Meridian East
Meridian Business Park
Leicester
LE19 1WZ

Company Registration Number: 09457025

Please mark an X in the box that identifies the VAT rate to be applied to each Payment Type:

Supply [REDACTED]	Zero	Reduced	Standard	Exempt Supply	Outside the scope of VAT
Initial Payment					
Second Payment					
Final Payment					

The Contractor hereby confirms that the VAT rates indicated in the above table are the correct VAT rates in respect of the supply of Services under the Contract for Access to Work Mental Health Support Services (Contract Reference Number: UI_DWP_101960/2 dated).

For and on behalf of the Contractor

Signature of Director [REDACTED]

Name [REDACTED]

Date [REDACTED]

Appendix 2

Self-Billing Agreement

The format of appendix is subject to change from time to time at the Authority's absolute discretion

Authority: The Secretary of State for the Department of Work and Pensions

VAT Number: 8888 15554

and

Contractor: Remploy Ltd

VAT Number: 207281428

The Authority agrees:

1. to issue self-billed invoices for all supplies made to them by the Contractor until 19 June 2023;
2. to complete self-billed invoices showing the Contractor's name, address and VAT registration number, together with all the other details which constitute a full VAT Invoice;
3. to make a new self-billing agreement in the event that its VAT registration number changes; and
4. to inform the Contractor if the issue of self-billed invoices will be outsourced to a third party.

The Contractor agrees:

1. to accept invoices raised by the Authority until 19 June 2023;
2. not to raise sales invoices for the transactions covered by this Self-Billing Agreement;
3. to notify the Authority immediately if it
 - changes its VAT registration number,
 - ceases to be VAT registered; or
 - sells its business, or part of its business.

Authority Signature:

For and on behalf of: The Secretary of State for the Department of Work and Pensions

Date:

Contractor Signature: [REDACTED]

For and on behalf of: Remploy Ltd

Date:

1 General

For the performance of the Services, the Contractor shall be paid the Contract Price calculated using the prices and rates entered in this Schedule 4.

[REDACTED]

SCHEDULE 5 – COMMERCIALLY SENSITIVE INFORMATION

1. The Authority acknowledges that the Contractor has requested that the following information be treated as Commercially Sensitive Information;

Document	Page Number	Section	Condition or Paragraph Number	Explanation of harm which may result from disclosure and time period applicable to sensitivity.
Personal details provided on DWP eProcurement Solution (ePS) Portal.	All	All	All	Remploy Ltd asserts that section 40 of the FOIA applies to references to names, phone numbers, email addresses and any other personally identifiable information. The time period of sensitivity is unlimited.
Any Names or other personally identifiable information	All	All	All	Remploy Ltd asserts that Section 40 of the FOIA applies, and such information should be redacted from any response submitted. The time period of sensitivity is unlimited.
Delivery and 1.1 and 1.2	156 - 162	Schedule 1: Appendix 2	N/A	Disclosure of Remploy's strategy, approach and process that underpin its delivery, past and current experience which forms the strategy for future delivery challenges would enable too much detail to be shared with Remploy's competitors, which is not in the public interest. The information is commercially sensitive. The prejudice caused by a release of this information would, in our view, include a weakening of Remploy's position by revealing information

				that would have commercial market sensitivity for us. Release of information which details bid strategy would allow competitors to place bids in future competitions where it is likely to use similar strategies. This would reduce the competitive nature of procurements in which Remploy is likely to participate, in turn reducing value for money for the tax payer. This is not in the public interest.
Management and Staffing 2.1,2.2, 2.3 and 2.4 Marketing and Promotion 3.1 Key Performance 4.1 Implementation 5.1	162 - 181	Schedule 1: Appendix 2	N/A	Disclosure would enable too much detail of Remploy's approach and processes to be shared with its competitors, which is not in the public interest. The information is commercially sensitive. The prejudice caused by a release of this information would, in our view, include a weakening of Remploy's position by revealing information that would have commercial market sensitivity for us. Release of information which details bid strategy and would allow competitors to place bids in future competitions where it is likely to use similar strategies. This would reduce the competitive nature of procurements in which Remploy is likely to participate, in turn reducing value for money for the tax payer. This is not in the public interest.
Contract Cost Register	All	Contract Cost Register	N/A	Remploy asserts that section 43(2) of the FOIA applies, and that publication of the answer would, or

				would be likely to, prejudice its commercial interests. Disclosure would enable too much detail of Remploy's commercial information to be shared with its competitors, which is not in the public interest. The information is commercially sensitive. The prejudice caused by a release of this information would, in our view, include a weakening of Remploy's position by revealing information that would have commercial market sensitivity for us. Release of information which details bid strategy and commercials would allow competitors to place bids in future competitions where it is likely to use similar strategies. This would reduce the competitive nature of procurements in which Remploy is likely to participate, in turn reducing value for money for the tax payer. This is not in the public interest.
Security Plan and Offshore Proposal		Schedule 6: Appendix B	N/A	Remploy asserts that section 43(2) of the FOIA applies, and that publication of the answer would, or would be likely to, prejudice its commercial interests.
Staffing	All	All Annex J	N/A	Remploy asserts that section 43(2) of the FOIA applies, and that publication of the answer would, or would be likely to, prejudice its commercial interests.

2. The Contractor acknowledges that circumstances may arise that require disclosure and are outside the control of the Authority, for example, due to a legal requirement including a court order

3. The Authority will consult with the Contractor on any request for information, identified as Commercially Sensitive, under the FOIA.
4. The Authority reserves the right to disclose any Commercially Sensitive Information held within this Contract in response to a request under the FOIA as set out at clause E5 of this Contract.
5. The Authority will automatically publish all information provided by the Contractor **not** identified in this Schedule 5 as constituting Commercially Sensitive Information provided that it satisfies the requirements of the FOIA.
6. The Authority reserves the right to determine whether any information provided in this Schedule 5 does constitute Commercially Sensitive Information prior to publication.

SCHEDULE 6 – SECURITY REQUIREMENTS AND PLAN

1 Introduction

1.1 This Schedule 6 covers;

- (a) Principles of security for the Contractor ICT system, derived from the Security Policy, including without limitation principles of physical and information security;
- (b) The creation of the Security Plan;
- (c) Audit and testing of the Security Plan;
- (d) Conformance to ISO/IEC:27002 (Information Security Code of Practice) and ISO/IEC 27001 (Information Security Requirements Specification) (Standard Specification); and
- (e) Breaches of Security.

2 Principles of Security

2.1 The Contractor acknowledges that the Authority places great emphasis on confidentiality, integrity and availability of information and consequently on the security of the Premises and the security for the Contractor ICT system. The Contractor also acknowledges the confidentiality of the Authority's Data.

2.2 The Contractor shall be responsible for the security of the Contractor ICT system and shall at all times provide a level of security which;

- (a) is in accordance with Good Industry Practice and Law;
- (b) complies with the Security Policy;
- (c) meets any specific security threats to the Contractor ICT system; and
- (d) complies with ISO/IEC27002 and ISO/IEC27001 in accordance with paragraph 5 of this Schedule 6;
- (e) meets the requirements of the Cyber Essentials Scheme, unless deemed out of scope for this requirement.

2.3 Without limiting paragraph 2.2, the Contractor shall at all times ensure that the level of security employed in the provision of the Services is appropriate to minimise the following risks:

- (a) loss of integrity of Authority Data;
- (b) loss of confidentiality of Authority Data;
- (c) unauthorised access to, use of, or interference with Authority Data by any person or organisation;

- (d) unauthorised access to network elements and buildings;
- (e) use of the Contractor ICT system or services by any third party in order to gain unauthorised access to any computer resource or Authority Data; and
- (f) loss of availability of Authority Data due to any failure or compromise of the Services.
- (g) Loss of confidentiality, integrity and availability of Authority Data through Cyber/internet threats

3 Security Plan

Introduction

- 3.1 The Contractor shall develop, implement and maintain a Security Plan to apply during the Contract Period, which will be approved by the Authority, tested, periodically updated and audited in accordance with this Schedule 6.
- 3.2 A draft Security Plan provided by the Contractor as part of its Tender is set out in Appendix B.

Development

- 3.3 Within twenty (20) Working Days after the Commencement Date and in accordance with paragraphs 3.10 to 3.12 (Amendment and Revision), the Contractor will prepare and deliver to the Authority for approval the full and final Security Plan which will be based on the draft Security Plan set out in Appendix B.
- 3.4 If the Security Plan is approved by the Authority it will be adopted immediately. If the Security Plan is not approved by the Authority the Contractor shall amend it within ten (10) Working Days of a notice of non-approval from the Authority and re-submit to the Authority for approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days (or such other period as the Parties may agree in writing) from the date of its first submission to the Authority. If the Authority does not approve the Security Plan following its resubmission, the matter will be resolved in accordance with clause 12 Dispute Resolution. No approval to be given by the Authority pursuant to this paragraph 3.4 of this Schedule 6 may be unreasonably withheld or delayed. However any failure to approve the Security Plan on the grounds that it does not comply with the requirements set out in paragraphs 3.1 to 3.9 shall be deemed to be reasonable.

Content

- 3.5 The Security Plan will set out the security measures to be implemented and maintained by the Contractor in relation to all aspects of the Services and all processes associated with the delivery of the Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Services comply with:-

- (a) the provisions of this Contract; this Schedule 6 (including the principles set out in paragraph 2);
 - (b) the provisions of Schedule 1 relating to security;
 - (c) ISO/IEC27002 and ISO/IEC27001;
 - (d) the data protection compliance guidance produced by the Authority.
- 3.6 The references to standards, guidance and policies set out in paragraph 3.5 of this Schedule 6 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, from time to time.
- 3.7 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Contractor should notify the Authority's Representative of such inconsistency immediately upon becoming aware of the same, and the Authority's Representative shall, as soon as practicable, advise the Contractor which provision the Contractor shall be required to comply with.
- 3.8 The Security Plan will be structured in accordance with ISO/IEC27002 and ISO/IEC27001.
- 3.9 Where the Security Plan references any document which is not in the possession of the Authority, a copy of the document will be made available to the Authority upon request. The Security Plan shall be written in plain English in language which is readily comprehensible to the Staff of the Contractor and the Authority engaged in the Services and shall not reference any other documents which are not either in the possession of the Authority or otherwise specified in this Schedule 6.

Amendment and Revision

- 3.10 The Security Plan will be fully reviewed and updated by the Contractor annually, or from time to time to reflect:
- (a) emerging changes in Good Industry Practice;
 - (b) any change or proposed change to the Contractor ICT system, the Services and/or associated processes; and
 - (c) any new perceived or changed threats to the Contractor ICT system.
 - (d) a reasonable request by the Authority.
- 3.11 The Contractor will provide the Authority with the results of such reviews as soon as reasonably practicable after their completion and amend the Security Plan at no additional cost to the Authority.
- 3.12 Any change or amendment which the Contractor proposes to make to the Security Plan as a result of an Authority request or change to Schedule 1 (The Services)

or otherwise shall be subject to the Change Control Procedure and shall not be implemented until approved in writing by the Authority.

4 Audit and Testing

- 4.1 The Contractor shall conduct tests of the processes and counter measures contained in the Security Plan ("Security Tests") on an annual basis or as otherwise agreed by the Parties. The date, timing, content and conduct of such Security Tests shall be agreed in advance with the Authority.
- 4.2 The Authority shall be entitled to send a Authority's Representative to witness the conduct of the Security Tests. The Contractor shall provide the Authority with the results of such tests (in a form approved by the Authority in advance) as soon as practicable after completion of each Security Test.
- 4.3 Without prejudice to any other right of audit or access granted to the Authority pursuant to this Contract, the Authority shall be entitled at any time and without giving notice to the Contractor to carry out such tests (including penetration tests) as it may deem necessary in relation to the Security Plan and the Contractor's compliance with and implementation of the Security Plan. The Authority may notify the Contractor of the results of such tests after completion of each such test. Security Tests shall be designed and implemented so as to minimise the impact on the delivery Services. If such tests impact adversely on its ability to deliver the Services to the KPIs, the Contractor shall be granted relief against any resultant under-performance for the period of the tests.
- 4.4 Where any Security Test carried out pursuant to paragraphs 4.2 or 4.3 of this Schedule 6 reveals any actual or potential security failure or weaknesses, the Contractor shall promptly notify the Authority of any changes to the Security Plan (and the implementation thereof) which the Contractor proposes to make in order to correct such failure or weakness. Subject to the Authority's approval in accordance with paragraph 3.12 of this Schedule 6, the Contractor shall implement such changes to the Security Plan in accordance with the timetable agreed with the Authority or, otherwise, as soon as reasonably possible. For the avoidance of doubt, where the change to the Security Plan to address a non-compliance with the Security Policy or security requirements, the change to the Security Plan shall be at no additional cost to the Authority. For the purposes of this paragraph 4, a weakness means a vulnerability in security and a potential security failure means a possible breach of the Security Plan or security requirements.

5 Compliance with ISO/IEC 27001

- 5.1 The Contractor shall carry out such regular security audits as may be required by the British Standards Institute in order to maintain delivery of the Services in compliance with security aspects of ISO 27001 and shall promptly provide to the Authority any associated security audit reports and shall otherwise notify the Authority of the results of such security audits.
- 5.2 If it is the Authority's reasonable opinion that compliance with the principles and practices of ISO 27001 is not being achieved by the Contractor, then the Authority shall notify the Contractor of the same and give the Contractor a reasonable time

(having regard to the extent of any non-compliance and any other relevant circumstances) to become compliant with the principles and practices of ISO 27001. If the Contractor does not become compliant within the required time then the Authority has the right to obtain an independent audit against these standards in whole or in part.

- 5.3 If, as a result of any such independent audit as described in paragraph 5.2 of this Schedule 6 the Contractor is found to be non-compliant with the principles and practices of ISO 27001 then the Contractor shall, at its own expense, undertake those actions required in order to achieve the necessary compliance and shall reimburse in full the costs incurred by the Authority in obtaining such audit.

6 Breach of Security

- 6.1 Either Party shall notify the other immediately upon becoming aware of any Breach of Security including, but not limited to an actual, potential or attempted breach, or threat to, the Security Plan.

- 6.2 Upon becoming aware of any of the circumstances referred to in paragraph 6.1 of this Schedule 6, the Contractor shall;

- a) immediately take all reasonable steps necessary to;
 - (i) remedy such breach or protect the Contractor ICT system against any such potential or attempted breach or threat; and
 - (ii) prevent an equivalent breach in the future.

Such steps shall include any action or changes reasonably required by the Authority. In the event that such action is taken in response to a breach that is determined by the Authority acting reasonably not to be covered by the obligations of the Contractor under this Contract, then the Contractor shall be entitled to refer the matter to the Change Control Procedure in clause F3 (Contract Change) and Schedule 12 (Change Control Procedure).

- b) as soon as reasonably practicable provide to the Authority full details (using such reporting mechanism as may be specified by the Authority from time to time) of such actual, potential or attempted breach and of the steps taken in respect thereof.

Appendix A – Security Policy for Contractors

1. The Department for Work and Pensions (“DWP”, “Department” and “Departmental” shall be construed accordingly in this Appendix A) treats its information as a valuable asset and considers that it is essential that information must be protected, together with the systems, equipment and processes which support its use. These information assets may include data, text, drawings, diagrams, images or sounds in electronic, magnetic, optical or tangible media, together with any Personal Data and Special Category Personal Data for which the Department for Work and Pensions is the Data Controller.
2. In order to protect Departmental information appropriately, our Contractors must provide the security measures and safeguards appropriate to the nature and use of the information. All contractors of services to the Department for Work and Pensions must comply, and be able to demonstrate compliance, with the Department’s relevant policies and standards.
3. The Chief Executive or other suitable senior official of each Contractor must agree in writing to comply with these policies and standards. Each Contractor must also appoint a named officer who will act as a first point of contact with the Department for security issues. In addition all Staff, with access to the Authority ICT System, Services or Departmental information must be made aware of these requirements and must comply with them.
4. All contractors must comply with the relevant DWP Standards. The Standards are based on and follow the same format as ISO27001 and Cyber Essentials, but with specific reference to the Department’s use.
5. The following are key requirements and all contractors must comply with relevant DWP policies concerning:
6. **Personnel Security**
 - 6.1 Staff recruitment in accordance with government requirements for pre-employment checks;
 - 6.2 Staff training and awareness of Departmental security and any specific contract requirements.
7. **Secure Information Handling and Transfers**
 - 7.1 Physical and electronic handling, processing and transferring of DWP Data, including secure access to systems and the use of encryption where appropriate.
8. **Portable Media**
 - 8.1 The use of encrypted laptops and encrypted storage devices and other removable media when handling Departmental information.
9. **Offshoring**
 - 9.1 The Department’s Data must not be processed outside the United Kingdom without the prior written consent of DWP and must at all times comply with the Data Protection Act 1998.

10. Premises Security

10.1 Security of premises and control of access.

11. Security Incidents

11.1 Includes identification, managing and agreed reporting procedures for actual or suspected security breaches.

11.2 The Contractor must implement appropriate arrangements which ensure that the Department's information and any other Departmental assets are protected in accordance with prevailing statutory and central government requirements. These arrangements will clearly vary according to the size of the organisation.

11.3 It is the contractor's responsibility to monitor compliance of any sub-contractors and provide assurance to DWP.

11.4 Failure to comply with any of these Policies or Standards could result in termination of current contract.

Appendix B – Draft Security Plan

[REDACTED]

SCHEDULE 7 – SUSTAINABLE DEVELOPMENT REQUIREMENTS

This Schedule 7 sets out the Sustainable Development Requirements which are applicable to the provision of the Services.

1 General

- 1.1 The Contractor acknowledges that the Authority must at all times be seen to be actively promoting Sustainable Development through its environmental, social and economic responsibilities.
- 1.2 In delivering the Services, the Contractor shall and shall ensure that its Staff assist and cooperate with the Authority, by fully complying with the requirements of this Schedule 7.

2 Compliance

- 2.1 The Contractor shall produce a Sustainable Development Policy Statement and Sustainable Development Plan in accordance with paragraphs 2.2 and 2.3 of this Schedule 7, within six (6) months of the Commencement Date and annually thereafter. The Sustainable Development Policy Statement and Sustainable Development Plan must be specific to the Contract and include all Sub-contractors involved in delivery of the Contract. The Contractor must obtain the required information from Sub-contractors and then collate and submit as stated above.
- 2.2 In delivering the Services, the Contractor shall prepare a Sustainable Development Policy Statement giving, for each organisation involved in delivery of the Contract an overarching commitment to:
 - (a) dispose of Contract waste in a legal manner (i.e. waste is disposed of via a registered waste collector, the Waste Electrical and Electronic Equipment (WEEE) regulations are adhered to where relevant);
 - (b) reduce energy consumption;
 - (c) promote waste management including recycling;
 - (d) promote green or public transport;
 - (e) promote Corporate Social Responsibility (CSR);
 - (f) the Sustainable Development Policy and that of continuous improvement which should be signed and dated by senior management.
- 2.3 In delivering the Services, the Contractor shall prepare and deliver a Sustainable Development Plan which should be used to turn the commitment shown in the Sustainable Development Policy into action and which as a minimum, detail how each organisation involved in delivery of the Contract will:
 - (a) reduce their **Environmental** footprint of this Contract through:
 - (i) minimising the use of energy, water and materials;
 - (ii) minimising waste and increasing recycling levels;
 - (iii) utilising recycled goods within operations;
 - (iv) providing efficient low carbon delivery methods;
 - (v) promoting the use of green or public transport.

- (b) contribute to **Social** sustainability of this Contract through:
 - (i) purchasing goods and services that are produced and delivered in line with International Labour Organisation principles in respect to human rights and conditions of employment;
 - (ii) supporting a diverse supply chain by cultivating opportunities for Minority Owned Businesses;
 - (iii) providing adequate training opportunities for Staff.
- (c) drive **Economic** sustainability of this contract through:
 - (i) supporting job creation both locally and nationally;
 - (ii) facilitating opportunities for Minority Owned Businesses and Small and Medium-sized Enterprises.

2.4 To aid the Department in monitoring the progress of each organisation the following information should also be included in your plan:

- (a) a baseline assessment of current position in terms of waste minimisation, recycling and energy consumption (energy consumption only required if current energy usage is available to organisations);
- (b) annual estimates of the progress of Sustainable Development actions;
- (c) details of how Staff awareness of Sustainability will be increased in line with the Sustainable Development Plan.

SCHEDULE 8 – LIFE CHANCES

1 General

- 1.1 The Contractor acknowledges that the Crown is committed to assisting people to move from welfare to employment and driving forward improvements in economic, social and environmental well-being.
- 1.2 The Contractor (a) acknowledges that the Authority has a responsibility to support and promote wider social sustainability objectives for the benefit of society; and (b) agrees to cooperate with the Authority to improve life chances for those most disadvantaged and furthest from the labour market.
- 1.3 The Contractor acknowledges that the Authority is supporting the Crown's Life chances and social value agendas by aiming to promote opportunities for groups of persons ("DWP Priority Groups") which the Authority regards as meriting priority assistance including but not limited to Apprentices, Disabled People, Young People, Older Workers, Ex-Offenders and Black and Minority Ethnic People.

2 Diversity and Equality Delivery Plan

- 2.1 In addition to complying with its obligations set out in clause D and this Schedule 8, the Authority requires the Contractor to provide such information as the Authority may request on:-
 - a) the action(s) the Contractor is taking in the course of supplying the Services to comply with its obligations set out in clause D2 and in this Schedule 8; and
 - b) the effect such action(s) have on the Staff used in the performance of its obligations under the Contract.
- 2.2 As part of the information to be provided by the Contractor under paragraph 2.1 of this Schedule, the Authority requires the Contractor to provide to the Authority a diversity and equality delivery plan ("**Diversity and Equality Delivery Plan**") six (6) Months after the Commencement Date, and annually thereafter. The Diversity and Equality Delivery Plan must be specific to the Contract and include:-
 - a) details of all Staff including but not limited to all Sub-contractors involved in the performance of the Contractors obligations under the Contract.
 - b) details of the action(s) the Contractor is taking to support the Crown's social value agenda including but not limited to the action(s) the Contractor is taking to meet its obligations under paragraph 2.3 of this Schedule 8.
- 2.3 The Contractor shall, and shall ensure that its Sub-contractors, take steps to become a "Disability Confident Employer" and achieve level 3 within twelve (12) months of the Commencement Date and maintain such Disability Confident Employer status at all times thereafter during the Contract Period. For the purposes of this Schedule 8, the term "**Disability Confident Employer**" (including the levels associated with such definition) is more particularly described in the

Authority's Disability Confident accreditation publication, as updated and/or replaced by the Authority and notified to the Contractor from time to time. Any breach by the Contractor of this paragraph 2.3 shall be a Material Breach for the purposes of clause F5.3A. The Contractor shall also take the following action(s) in respect of DWP Priority Groups;

a) Apprentices

- Ensure that (5) % of the Staff used in the performance of the Contractor's obligations under the Contract are Apprentices.
- Make available to potential members of Staff used in the performance of the Contractor's obligations information about the National Apprenticeship Service.

b) Disabled People

- Take steps to become a Disability Confident Employer.
- Make appropriate use of Access to Work to support recruit and retain disabled workers.
- When recruiting Staff to be used in the performance of the Contractor's obligations under the Contract, offer Disabled People interviews under a guaranteed interview scheme for vacancies for Staff where the Disabled People meet the minimum criteria for such vacancies.
- Offer Work Trials to Disabled People to support filling vacancies for Staff.
- Provide Employment Experience to Disabled People as members of Staff used in the performance of the Contractor's obligations under the Contract to develop their skills and experience and increase their employability.

c) Young People – Under 25

- Offer Work Trials to Young People to support filling vacancies for Staff.
- Provide Employment Experience to Young People as members of Staff used in the performance of the Contractor's obligations under the Contract to develop their skills and experience and increase their employability.

d) Older Workers – Over 50

- Offer Work Trials to Older Workers to support filling vacancies for Staff.
- Provide Employment Experience to Older People as members of Staff used in the performance of the Contractor's obligations under the Contract to develop their skills and experience and increase their employability.

e) Ex-Offenders

- Offer Work Trials to Ex-Offenders to support filling vacancies for Staff.
- Provide Employment Experience to Ex-Offenders as members of Staff used in the performance of the Contractor's obligations under the Contract to develop their skills and experience and increase their employability.

f) Black and Minority Ethnic People

- Offer Work Trials to Black and Minority Ethnic people to support filling vacancies for Staff.
- Provide Employment Experience to Black and Minority Ethnic people as members of Staff used in the performance of the Contractor's obligations

under the Contract to develop their skills and experience and increase their employability.

g) Employee Vacancies

- Advertise all vacancies for Staff via Universal Jobmatch in addition to any other recruitment agencies with whom the Contractor advertises such vacancies and any other actions the Contractor takes to recruit Staff.

2.4 The Diversity and Equality Delivery Plan must also include:

- (a) an overview of Contractor and any Sub-contractor's policies and procedures for preventing unlawful discrimination and promoting equality of opportunity in respect of:
 - i) age;
 - ii) disability;
 - iii) gender reassignment;
 - iv) marriage and civil partnership;
 - v) pregnancy and maternity;
 - vi) race;
 - vii) religion or belief;
 - viii) sex; and
 - ix) sexual orientation.
- (b) an overview of Contractor and any Sub-contractor's policies and procedures covering:
 - i) harassment
 - ii) bullying
 - iii) victimisation
 - iv) Staff training and development
- (c) details of the way in which the above policies and procedures are, or will be (and by when), communicated to Staff;
- (d) details of what general diversity and equality related training has been, or will be delivered (and by when), to Staff;
- (e) details of what structure and resources are currently directed towards active promotion of diversity and equality within the Staff used in the performance of the Contractor's obligations under this Contract, or if not currently in place, what will be put in place and by when.

2.5 The Authority will consider and must agree the contents of Diversity and Equality Delivery Plan. Any issues will be raised with the Contractor by the contract manager acting on behalf of the Authority. If an issue relates to a Sub-contractor, the Contractor must raise and resolve the issue with the Sub-contractor.

Life Chances Workforce Monitoring Template

- 2.6 The Contractor shall provide the Life Chances Workforce Monitoring template (contained in Appendix 1 to this Schedule 8 as amended from time to time), duly completed in full by the Contractor in respect of all Staff (including but not limited to all Sub-contractors used in the performance of the Contractor's obligations under the Contract), six (6) Months after the Commencement Date and annually thereafter.
- 2.7 The Contractor shall complete the Life Chances Workforce Monitoring template inline with the 'Life Chances through Procurement Guidance for DWP Contractors' and the contract definitions.
- 2.8 The Contractor will compare figures in all categories listed in the Appendix 1 - Workforce Monitoring template and provide (where possible) comparisons against any official national/regional statistics that are publicly available in accordance with the 'Social Value Guidance for Contractors' provided by the Authority to the Contractor.
- 2.9 The 'Social Value Guidance for Contractors' provides links to a number of data collection sources, this is not an exhaustive list and other sources are available. The Authority recognises that there may be regional variations in terms of population demographics and some data categories and coverage may not be complete or fully aligned, however, the Contractor agrees to provide high level analysis and identification of trends as and when requested by the Authority.
- 2.10 The Contractor shall provide and shall ensure that its Sub-contractors provide such evidence as the Authority may require of action(s) undertaken or planned by the Contractor and/or any Sub-contractor to improve the numbers in the Social Value Workforce Monitoring template (contained in Appendix 1 to this Schedule 8) to the satisfaction of the Authority.
- 2.11 Diversity and Equality, the Crown's social value agenda and DWP Priority Groups will be discussed jointly by the Authority and the Contractor as an on-going item at Contract review meetings. Such meetings will discuss the information provided by the Contractor in accordance with paragraph 2.2 of this Schedule 8.

SCHEDULE 8 APPENDIX 1 – LIFE CHANCES WORKFORCE MONITORING TEMPLATE

Important – the figures the Contractor provides must relate specifically to the staff used in the performance of the contractor’s obligations under the contract only, which for the avoidance of doubt includes any Sub-contractor.

Name of Contract:	
Contract Number:	
Name of Contractor:	
Commencement Date:	
Total Number of Staff, which for the avoidance of doubt includes any Sub-contractors	

1 – Number of new Staff posts created in the performance of the Contractor’s obligations under the Contract

New Staff Posts	Number of new Staff posts created in period	
	1-34 hr per week posts	35 hr + per week posts
Baseline return (at 6 months for months 0-6)		
1 st annual return (at 18 months for months 7-18)		
2 nd annual return (at 30 months for months 19 - 30)		
3 rd annual return (at 42 months for months 31-42)		

2 – Number of Apprentices in Staff used in the performance of the Contractor’s obligations under the Contract

DWP Priority Group - Apprentices	Number of Apprentices in Staff which have been employed for 26 weeks or longer in period	% of Apprentices in Staff at the end of the period	Number of Apprentices who began apprenticeships as part of the Staff during the period
Baseline return (at 6 months for months 0-6)			
1 st annual return (at 18 months for months 7-18)			
2 nd annual return (at 30 months for months 19 - 30)			
3 rd annual return			

(at 42 months for months 31-42)			
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3 – Number of Disabled People in Staff used in the performance of the Contractor's obligations under the Contract

DWP Priority Group - Disabled People	Number of Disabled People in Staff which have been employed for 26 weeks or longer in period	% of Disabled People in Staff at end of period	Number of Disabled People who began employment as part of the Staff during the period
Baseline return (at 6 months for months 0-6)			
1 st annual return (at 18 months for months 7-18)			
2 nd annual return (at 30 months for months 19 - 30)			
3 rd annual return (at 42 months for months 31-42)			

4 – Number of Disabled People, who had been interviewed by the Contractor under the Guaranteed Interview Scheme (GIS) for Staff posts used in the performance of the Contractor's obligations under the Contract,

DWP Priority Group – Disabled People in the Staff who had been interviewed by the Contractor under the GIS	Number of Disabled People who have been interviewed for Staff posts by the Contractor under the GIS during the period
Baseline return (at 6 months for months 0-6)	
1 st annual return (at 18 months for months 7-18)	
2 nd annual return (at 30 months for months 19 - 30)	
3 rd annual return (at 42 months for months 31-42)	

5 – Number of Young People in Staff used in the performance of the Contractor's obligations under the Contract

DWP Priority Group - Young People	Number of Young People in Staff which have been employed for 26 weeks or longer in period	% Young People in Staff at end of period	Number of Young People who began employment as part of the Staff during the period

Baseline return (at 6 months for months 0-6)			
1 st annual return (at 18 months for months 7-18)			
2 nd annual return (at 30 months for months 19 - 30)			
3 rd annual return (at 42 months for months 31-42)			

6 – Number of Older Workers in Staff used in the performance of the Contractor's obligations under the Contract

DWP Priority Group - Older Workers	Number of Older Workers in Staff which have been employed for 26 weeks or longer in period	% Older Workers in Staff at end of period	Number of Older Workers who began employment as part of the Staff during the period
Baseline return (at 6 months for months 0-6)			
1 st annual return (at 18 months for months 7-18)			
2 nd annual return (at 30 months for months 19 - 30)			
3 rd annual return (at 42 months for months 31-42)			

7 – Number of Ex-Offenders in Staff used in the performance of the Contractor's obligations under the Contract.

DWP Priority Group - Ex-Offenders	Number of ex-offenders in Staff which have been employed for 26 weeks or longer in period	% ex-offenders in Staff at end of period	Number of ex-offenders who began employment as part of the Staff during the period
Baseline return (at 6 months for months 0-6)			
1 st annual return (at 18 months for months 7-18)			
2 nd annual return (at 30 months for months 19 - 30)			
3 rd annual return			

(at 42 months for months 31-42)			
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8 – Number of Black or Minority Ethnic (BME) in Staff used in the performance of the Contractor's obligations under the Contract.

DWP Priority Group - Ex-Offenders	Number BME in Staff which have been employed for 26 weeks or longer in period	% BME in Staff at end of period	Number of BME who began employment as part of the Staff during the period
Baseline return (at 6 months for months 0-6)			
1 st annual return (at 18 months for months 7-18)			
2 nd annual return (at 30 months for months 19 - 30)			
3 rd annual return (at 42 months for months 31-42)			

9 – Number of Employment Experience placements conducted in the performance of the Contractor's obligations under the Contract

Employment Experience placements	Number of Employment Experience placements conducted during the period
Baseline return (at 6 months for months 0-6)	
1 st annual return (at 18 months for months 7-18)	
2 nd annual return (at 30 months for months 19 - 30)	
3 rd annual return (at 42 months for months 31-42)	

10 – Number of Work Trials conducted as part of the recruitment of Staff used in the performance of the Contractor's obligations under the Contract.

Work Trials	Number of Work Trials conducted during the period
Baseline return (at 6 months for months 0-6)	
1 st annual return (at 18 months for months 7-18)	
2 nd annual return (at 30 months for months 19 - 30)	
3 rd annual return (at 42 months for months 31-42)	

11 – Number of vacancies for Staff advertised via Universal Jobmatch

Staff vacancies advertised via Universal Jobmatch	Number of vacancies for Staff advertised via Universal Jobmatch during the period	% of all vacancies for Staff advertised via Universal Jobmatch during the period.
Baseline return (at 6 months for months 0-6)		
1 st annual return (at 18 months for months 7-18)		
2 nd annual return (at 30 months for months 19 - 30)		
3 rd annual return (at 42 months for months 31-42)		

SCHEDULE 9 – WELSH LANGUAGE SCHEME

This Schedule 9 sets out the Contractor's obligations which are applicable to the provision of the Services in Wales.

1 General

- 1.1 The Contractor acknowledges that in relation to the operation of its Services which are delivered in Wales, the Authority must at all times be seen to be actively promoting the equality of the English and Welsh languages, in accordance with the Welsh Language Act 1993.
- 1.2 In the performance of the Contract, the Contractor shall ensure that it cooperates with the Authority in satisfying this duty, by fully complying with the requirements of this Schedule 9.

2 The DWP Welsh Language Scheme

- 2.1 The DWP Welsh Language Scheme can be found at:

<https://www.gov.uk/government/organisations/department-for-work-pensions/about/welsh-language-scheme>

- 2.2 The Contractor shall, in the delivery of the Services, ensure that it complies with the Department for Work and Pensions Welsh Language Scheme and such instructions as the Authority may issue from time to time in respect of promoting the equality of the English and Welsh languages.

3 Delivery of Services Through the Medium of Welsh

- 3.1 The Contractor undertakes that those who have dealings with them are able to do so in English or Welsh, whichever is their preference.
- 3.2 The Contractor will ensure that:
 - a) those who want, or are required, to correspond with the Contractor will be able to do so in English or Welsh;
 - b) those who are known to prefer corresponding through the medium of Welsh will have correspondence initiated in Welsh;
 - c) any correspondence received in Welsh will be answered in Welsh within the same timescales and standards as those written in English;
 - d) Staff who are in Wales will greet any telephone callers in English and Welsh once the caller's preferred language can be ascertained;
 - e) any help lines set up to deliver the service must offer a Welsh or English option and sufficient Welsh language speakers must be available to deal with callers through the medium of Welsh, if they select the Welsh option;
 - f) any answer phones in the Contractor's offices in Wales will have a pre-recorded bilingual message;

- g) all people who participate in the Services are able to contribute through the medium of English or Welsh;
- h) all material published and printed for use in Wales shall be available in English and Welsh, and available for use within the same timescales. The standard of bilingual or Welsh material shall be of equal quality to those produced solely in English;
- i) all forms and explanatory material be available in both English and Welsh and available for use within the same timescales; and
- j) any complaints or grievance procedure should be provided in both English and Welsh;
- k) any websites, including any interactive pages, set up to support the delivery of the service must be available in both Welsh and English;
- l) where DWP has notified the Contractor or the Participant has identified that Welsh is their preferred language this should be recorded, ensuring all future dealings with that participant will be in Welsh.

SCHEDULE 10 – Exit Management

“Delivery Fee Periodic Payment” means the total sums claimed by the Contractor as elements of the Contract Price during any period of delay under paragraph 3.4 or 4.8 of this Schedule 10, as the context requires.

“Emergency Exit” means any termination of this Contract which is a:

- (a) termination of the whole or part of this Contract in accordance with Section H (Termination Rights and Disruption), except where the period of notice given under that Clause is greater than or equal to 6 months;
- (b) termination of the provision of the Services for any reason prior to the expiry of any period of notice of termination served pursuant to Section H (Termination Rights and Disruption); or
- (c) wrongful termination or repudiation of this Contract by either Party;

“Exit Information” has the meaning given in Paragraph 3.2;

“Exit Information Delay Payment” has the meaning given in Paragraph 3.4;

“Exit Manager” means the person appointed by each Party pursuant to either Paragraph 2.2 or Paragraph 2.3 for managing the Parties' respective obligations under this Schedule;

“Ordinary Exit” means any termination of this Contract which occurs:

- (a) pursuant to Section H (Termination Rights and Disruption) other than an Emergency Exit;
- (b) where the period of notice given by the Party serving notice to terminate pursuant to such Clause is greater than or equal to 6 months; or
- (c) as a result of the expiry of the Contract Term or any Extension Period;

“Registers” means the register referred to in Paragraphs 2.1(a) and 2.1(b);

“Termination Assistance Notice” has the meaning given in Paragraph 5.1 of this Schedule;

“Termination Assistance Period” in relation to a Termination Assistance Notice, the period specified in the Termination Assistance Notice for which the Contractor is required to provide the Termination Services as such period may be extended pursuant to Paragraph 5.2 of this Schedule;

“Termination Payment” means the commitments, liabilities and expenditure which would otherwise represent an unavoidable loss by the Contractor by reason of termination of the Contract pursuant to the occurrence of a Termination Payment Event which shall be calculated as and be exclusively equal to:

- (a) Breakage Costs and Unrecovered Costs, if termination occurs in the period from the Commencement Date up to and including the date which is thirty four (34) Months after the Commencement Date; or
- (b) Unrecovered Costs, if termination occurs after the date which is thirty four (34) Months after the Commencement Date

“Termination Payment Event” means termination of the Contract pursuant to one of the grounds referred to in Clauses H1.1(a) or H1.1(d)

“Termination Services” means any of the Services, which may include all of the Services, to be performed by the Contractor during the Termination Assistance Period and any other actions required pursuant to the Termination Assistance Notice;

“Transferable Contracts” means the Sub-contracts or other agreements which are necessary to enable the Authority or any Replacement Contractor to perform the Services or the Replacement Services; and

“Transferring Contracts” has the meaning given in Paragraph 6.2

2 OBLIGATIONS DURING THE TERM TO FACILITATE EXIT

2.1 During the Contract Period, the Contractor shall:

- (a) create and maintain a register of all:
 - (i) Customers in respect of whom Services are currently being delivered;
 - (ii) Sub-contracts and other relevant agreements required for the performance of the Services; and
 - (iii) personnel engaged on the Services under this Contract by the Contractor, it's Sub-contractors or elsewhere within its supply chain, denoting those that are employees or otherwise, including any individuals that are agency staff and/or self-employed (**“the Personnel List”**). The Contractor shall provide the Authority with an updated register of the Personnel List annually or at any point during the Contract Period within 10 days of a written request by the Authority;
- (b) create and maintain a database detailing the infrastructure and operating procedures through which the Contractor provides the Services, which shall contain sufficient detail to permit the Authority and/or Replacement Contractor to understand how the Contractor provides the Services and to enable the smooth transition of the Services with the minimum of disruption;
- (c) agree the format of the Registers with the Authority as part of the process of agreeing the Exit Plan; and
- (d) at all times keep the Registers up to date, in particular in the event that Sub-contracts or other relevant agreements are added to or removed from the Services.

- 2.2 Each Party shall appoint a person for the purposes of managing the Parties' respective obligations under this Schedule and provide written notification of such appointment to the other Party within 3 months of the Commencement Date. The Contractor's Exit Manager shall be responsible for ensuring that the Contractor and its employees, agents and Sub-contractors comply with this Schedule. The Contractor shall ensure that its Exit Manager has the requisite Authority to arrange and procure any resources of the Contractor as are reasonably necessary to enable the Contractor to comply with the requirements set out in this Schedule. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the termination of this Contract and all matters connected with this Schedule and each Party's compliance with it.
- 2.3 Either Party may appoint a replacement Exit Manager by providing prior written notification of such appointment to the other Party.
- 2.4 The Contractor undertakes that it shall not knowingly do or omit to do anything which may adversely affect the ability of the Authority (i) to ensure an orderly transfer of responsibility for the supply of the Services (or their equivalent) to any Replacement Contractor or (ii) to discontinue the supply of all or part of the Services.
- 2.5 The Contractor shall bear its own costs and expenses incurred in respect of compliance with its obligations under this Schedule 10.

3 OBLIGATIONS TO ASSIST ON RE-TENDERING OR REPLACEMENT OF SERVICES

- 3.1 In order to facilitate a smooth and orderly transfer of responsibility on the expiry, termination or re-tendering, in full or in part, of the Contract the Contractor shall:-
 - (a) act fairly and in good faith at all times in connection with any re-tender process for supply of the Services (or their equivalent) conducted by the Authority;
 - (b) comply with the Authority's reasonable requests in connection with any tender process so as to enable the Authority to facilitate a fair and open competitive tender of the supply of the Services (or their equivalent);
 - (c) do or perform such other acts and things and execute all documents as may reasonably be required in order to facilitate the re-tender or transition process;
 - (d) save for any Commercially Sensitive Information deliver any documents, information and data (in any form whatsoever but for the avoidance of doubt, any machine readable or electronic data shall be provided in a readily readable form) in the possession or control of the Contractor which relate to:
 - (i) the performance, monitoring, management and reporting of the Services; and

- (ii) the terms and conditions of employment and the employment records of those of the Transferring Contractor Employees or those employees who may be affected by the TUPE Regulations upon any transfer of responsibility for the supply of the Services (or their equivalent).

3.2 On reasonable notice at any point during the Contract Period, the Contractor shall provide to the Authority and/or its potential Replacement Contractors (subject to the potential Replacement Contractors entering into reasonable written confidentiality undertakings), the following material and information in order to facilitate the preparation by the Authority of any invitation to tender and/or to facilitate any potential Replacement Contractors undertaking due diligence:

- (a) details of the Service(s);
- (b) a copy of the Registers, updated by the Contractor up to the date of delivery of such Registers;
- (c) an inventory of Authority Data in the Contractor's possession or control;
- (d) details of any key terms of any third party contracts, particularly as regards charges, termination, assignment and novation;
- (e) a list of on-going and/or threatened disputes in relation to the provision of the Services;
- (f) within 20 days of a written request from the Authority, to the extent permitted by applicable Law, all information relating to Transferring Contractor Employees or those who may be Transferring Contractor Employees required to be provided by the Contractor under this Contract, such information to include the Staffing Information (as defined in Clauses B10, B11, B12, B13 and B14 (Employee Provisions and TUPE) and the information contained within Paragraph 1.6 of Part D of Clauses B10, B11, B12, B13 and B14 (Employee Provisions and TUPE); and
- (g) such other material and information as the Authority shall reasonably require, (together, the “**Exit Information**”).

3.3 The Contractor represents and warrants that the Exit Information is full, accurate and complete as at the date of provision to the Authority. If the Contractor fails to provide the Information set out in Paragraph 3.2(f) within the 20 days, the Contractor shall pay an Exit Information Delay Payment to the Authority.

3.4 The Exit Information Delay Payment shall accrue:

- (a) at a daily rate of an amount equal to 10 per cent. of the Delivery Fee Periodic Payment for each Working Day's delay (exclusive of VAT);
- (b) from (but excluding) the date the Authority requested the information in Paragraph 3.2(f) to (and including) the date on which the Contractor provides

the Exit Information under Paragraph 3.2(f) to the Authority to the Authority's satisfaction; and

(c) on a daily basis, with any part day counting as a day.

3.5 The Contractor acknowledges that the Authority may disclose the Contractor's Confidential Information to an actual or prospective Replacement Contractor or any third party whom the Authority is considering engaging to the extent that such disclosure is necessary in connection with such engagement (except that the Authority may not under this Paragraph 3.3 disclose any Contractor's Confidential Information which is information relating to the Contractor's or its Sub-contractors' prices or costs).

3.6 The Contractor shall:

- (a) notify the Authority within 5 Working Days of any material change to the Exit Information which may adversely impact upon the potential transfer and/or continuance of any Services and shall consult with the Authority regarding such proposed material changes; and
- (b) provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and in any event within 10 Working Days of a request in writing from the Authority.

3.7 The Contractor may charge the Authority for its reasonable additional costs to the extent the Authority requests more than 4 updates in any 6 month period.

3.8 The Exit Information shall be accurate and complete in all material respects and the level of detail to be provided by the Contractor shall be such as would be reasonably necessary to enable a third party to:

- (a) prepare an informed offer for those Services; and
- (b) not be disadvantaged in any subsequent procurement process compared to the Contractor (if the Contractor is invited to participate).

4 EXIT PLAN

4.1 The Contractor shall, within 3 months after the Commencement Date, deliver to the Authority an Exit Plan which:

- (a) sets out the Contractor's proposed methodology for achieving an orderly transition of the Services from the Contractor to the Authority and/or its Replacement Contractor on the expiry or termination of this Contract;
- (b) complies with the requirements set out in Paragraph 4.2; and
- (c) is otherwise reasonably satisfactory to the Authority.

4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within 20 Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

4.3 The Exit Plan shall set out, as a minimum:

- (a) how the Exit Information is obtained;
- (b) separate mechanisms for dealing with Ordinary Exit and Emergency Exit, the provisions relating to Emergency Exit being prepared on the assumption that the Contractor may be unable to provide the full level of assistance which is required by the provisions relating to Ordinary Exit, and in the case of Emergency Exit, provision for the supply by the Contractor of all such reasonable assistance as the Authority shall require to enable the Authority or its Sub-contractors to provide the Services;
- (c) the management structure to be employed during both transfer and cessation of the Services in an Ordinary Exit and an Emergency Exit;
- (d) the management structure to be employed during the Termination Assistance Period;
- (e) a detailed description of both the transfer and cessation processes, including a timetable, applicable in the case of an Ordinary Exit and an Emergency Exit, including (without limitation) returning the Authority Data to the Authority and maintenance of security;
- (f) how the Services will transfer to the Replacement Contractor and/or the Authority;
- (g) the duties and responsibilities of the Contractor and the Authority leading up to and covering the expiry or termination of the Contract and the transition process for the transfer of the supply of the Services (or their equivalent);
- (h) how the Contractor shall co-operate and liaise with any Replacement Contractor appointed by the Authority to supply the Services (or their equivalent);
- (i) procedures to deal with requests made by the Authority and/or a Replacement Contractor for Staffing Information pursuant to Clauses B10, B11, B12, B13 and B14 (Employee Provisions and TUPE) to determine (i) which employees are or are likely to become Transferring Contractor Employees and (ii) to identify or develop any measures for the purposes of the TUPE Regulations envisaged in respect of Transferring Contractor Employees); and
- (j) how each of the issues set out in this Schedule will be addressed to facilitate the transition of the Services from the Contractor to the Replacement Contractor and/or the Authority with the aim of ensuring that there is no disruption to or degradation of the Services during the Termination Assistance Period.

4.4 The Parties acknowledge that the migration of the Services from the Contractor to the Authority and/or its Replacement Contractor may be phased, such that certain of the Services are handed over before others.

- 4.5 The Contractor shall review and (if appropriate) update the Exit Plan on a basis consistent with the principles set out in this Schedule in the first month of each Contract Year (commencing with the second Contract Year) to reflect any changes in the Services that have occurred since the Exit Plan was last agreed. Following such update the Contractor shall submit the revised Exit Plan to the Authority for review. Within 20 Working Days following submission of the revised Exit Plan, the Parties shall meet and use reasonable endeavours to agree the contents of the revised Exit Plan. If the Parties are unable to agree the contents of the revised Exit Plan within that 20 Working Day period, such dispute shall be resolved in accordance with the Dispute Resolution Procedure.

Finalisation of the Exit Plan

- 4.6 Within 20 Working Days after service of a Termination Notice by either Party or 6 months prior to the expiry of this Contract, the Contractor will submit for the Authority's approval the Exit Plan in a final form that could be implemented immediately. The final form of the Exit Plan shall be prepared on a basis consistent with the principles set out in this Schedule and shall reflect any changes in the Services that have occurred since the Exit Plan was last agreed.
- 4.7 If the Contractor fails to submit an Exit Plan for the Authority's approval pursuant to in Paragraph 4.6, the Contractor shall pay an Exit Plan Delay Payment to the Authority.
- 4.8 The Exit Plan Delay Payment shall accrue:
- (a) at a daily rate of an amount equal to 10 per cent. of the Delivery Fee Periodic Payment for each Working Day's delay (exclusive of VAT);
 - (b) from (but excluding) the date the Authority served the Termination Notice or the date 6 months prior to the expiry of this Contract, as applicable, to (and including) the date on which the Contractor submits the Exit Plan under Paragraph 4.6 to the Authority for the Authority's approval; and
 - (c) on a daily basis, with any part day counting as a day.
- 4.9 The Parties will meet and use their respective reasonable endeavours to agree the contents of the final form of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within 20 Working Days following its delivery to the Authority then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure. Until the agreement of the final form of the Exit Plan, the Contractor shall provide the Termination Services in accordance with the principles set out in this Schedule and the last approved version of the Exit Plan (insofar as relevant).

5 TERMINATION SERVICES

Notification of Requirements for Termination Services

- 5.1 The Contractor shall provide the Termination Services at any time during the Contract Period on receipt of written notice from the Authority (a “**Termination Assistance Notice**”), such notice to be given as soon as reasonably practicable (but in any event, not later than 1 month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
- (a) the date from which Termination Services are required;
 - (b) the nature of the Termination Services required; and
 - (c) the period during which it is anticipated that Termination Services will be required, which shall continue no longer than 24 months after the date that the Contractor ceases to provide the Services.
- 5.2 The Authority shall have an option to extend the period of assistance beyond the period specified in the Termination Assistance Notice provided that such extension shall not extend for more than 6 months after the date the Contractor ceases to provide the Services or, if applicable, beyond the end of the Termination Assistance Period and provided that it shall notify the Contractor to such effect no later than 20 Working Days prior to the date on which the provision of Termination Services is otherwise due to expire. The Authority shall have the right to terminate its requirement for Termination Services by serving not less than 20 Working Days' written notice upon the Contractor to such effect.

Termination Assistance Period

- 5.3 Throughout the Termination Assistance Period, or such shorter period as the Authority may require, the Contractor shall:
- (a) provide the Termination Services;
 - (b) in addition to providing the Termination Services, provide to the Authority any reasonable assistance requested by the Authority to allow the Services to continue without interruption following the termination or expiry of this Contract and to facilitate the orderly transfer of responsibility for and conduct of the Services to the Authority and/or its Replacement Contractor;
 - (c) use all reasonable endeavours to reallocate resources to provide such assistance as is referred to in Paragraph 5.3(b) without additional costs to the Authority;
 - (d) provide the Termination Services at no detriment to the Authority Requirements, save to the extent that the Parties agree otherwise in accordance with Paragraph 5.5;
 - (e) at the Authority's request and on reasonable notice, deliver up-to-date Registers to the Authority; and
 - (f) conduct itself during the Termination Assistance Period in a way that does not result in the Authority suffering reputational damage that would affect the level of trust the public places in the Authority.

- 5.4 Without prejudice to the Contractor's obligations under Paragraph 5.3(c), if it is not possible for the Contractor to reallocate resources to provide such assistance as is referred to in Paragraph 5.3(b) without additional costs to the Authority, any additional costs incurred by the Contractor in providing such reasonable assistance which is not already in the scope of the Termination Services or the Exit Plan shall be subject to the Change Control Procedure.
- 5.5 If the Contractor demonstrates to the Authority's reasonable satisfaction that transition of the Services and provision of the Termination Services during the Termination Assistance Period will have a material, unavoidable adverse effect on the Contractor's ability to meet the Authority Requirements, the Parties shall vary the Authority Requirements to take account of such adverse effect.

Obligations on Termination or Expiry

- 5.6 The Contractor acknowledges that on termination (for any reason) or expiry of the Contract or on change or variation of the Contract pursuant to F3 (Contract Change) which constitutes a cessation of all (or part) of the Services, the continuity of the Services is of paramount importance. Accordingly the Contractor acknowledges that the Authority may, amongst other reasonable actions, suspend referral of Participants to the Services within the stated notice period given to terminate the Contract or, in the case of Variation of the Contract pursuant to F3 which constitutes a cessation of all (or part) of the Services, upon the Authority confirming in writing that it wishes to proceed with the Variation pursuant to clause F3. In relation to any Participants referred to the Contractor prior to the stated notice period or the effective date of the Variation whose participation in the relevant part of the Services has not completed on or prior to the date of termination or expiry, the Contractor will comply with its obligations pursuant to paragraph 5.7.
- 5.7 Both before and for a reasonable time after termination or expiry of the Contract the Contractor shall promptly provide assistance at no extra cost to the Authority save that in the event of termination by the Authority pursuant to clause H1.1(a), H1.1(d) or a change or variation of the Contract pursuant to F3 (Contract Change) which constitutes a cessation of all (or part) of the Services, such reasonable costs shall, subject to the Approval of any such costs, be for the account of the Authority; for the avoidance of doubt, such Approval shall not be unreasonably withheld or delayed. The Contractor shall do its utmost to minimise disruption caused to Participants and assist with the implementation of any contingency plan proposed by the Authority to deal with the effects of such termination or expiry in so far as it is practicable to do so. At the option of the Authority, the Contractor may, pursuant to this paragraph 5.7, be required:
- (a) to continue to deliver or procure the supply of the Services until Participants have completed their participation on the Services in accordance with the Specification and where relevant the Authority shall continue to pay the Contract Amount in accordance with the Contract; or

- (b) to transfer the Contractor's obligations in respect of Participants whose participation on the Services has not been or will not be completed in accordance with the Specification to an alternative contractor designated by the Contracting Authority.
- 5.8 The Contractor shall comply with all of its obligations contained in the Exit Plan and shall comply with such timetable as the Authority may reasonably require, for the purpose of ensuring an orderly transfer of responsibility for supply of the Services (or their equivalent) or remaining Services (or their equivalent) upon the expiry or other termination of the Contract or the variation of the Contract pursuant to clause F3 which constitutes a cessation of all (or part) of the Services. The Contractor shall ensure that the Staff and its Sub-contractors are under a similar obligation.
- 5.9 Upon 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 Contractor's performance of the Services and the Termination Services and its compliance with the other provisions of this Schedule), the Contractor shall:
 - (a) cease to use the Authority Data except insofar as it reasonably needs to use the Authority Data in order to comply with its continuing obligations under Clause E14 (Records Relating to Services);
 - (b) provide the Authority and/or the Replacement Contractor with a complete and uncorrupted version of the Authority Data in electronic form (or such other format as reasonably required by the Authority);
 - (c) return to the Authority any items that have been on-charged to the Authority, such as consumables, which are in the Contractor's possession or control;
 - (d) provide access during normal working hours to the Authority and/or the Replacement Contractor for up to 12 months after expiry or termination to:
 - (i) such information relating to the Services as remains in the possession or control of the Contractor; and
 - (ii) such members of the Staff as have been involved in the design, development and provision of the Services and who are still employed by the Contractor, provided that the Authority and/or the Replacement Contractor shall pay the reasonable costs of the Contractor actually incurred in responding to requests for access under this Paragraph 5.7(e)(ii).
- 5.10 If the Contractor fails to comply with paragraph 5.9, the Authority may recover possession thereof and the Contractor grants a licence to the Authority or its appointed agents to enter (for the purposes of such recovery) any premises of the Contractor or its permitted suppliers or Sub-contractors where any such items may be held.

- 5.11 Upon 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 Contractor's performance of the Services and the Termination Services 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 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, especially without limitation the Contractor's obligations under Clause E14 (Records Relating to Services), or Termination Services or for statutory compliance purposes.
- 5.12 Except where this Contract provides otherwise, all licences, leases and authorisations granted by the Authority to the Contractor in relation to the Services shall be terminated with effect from the end of the later of the Termination Assistance Period the termination or expiry (as the case may be) of this Contract.
- 5.13 On the expiry or termination of the Contract for any reason (or in advance if stated as such), the Contractor shall:
- (a) assist and co-operate with the Authority to ensure an orderly transition of the provision of the Services to the Replacement Contractor and/or the completion of any work in progress in accordance with the provisions of this Schedule;
 - (b) no later than either:
 - (i) six (6) Month(s) in advance of expiry; or
 - (ii) upon notice of termination of this Contract,
 without prejudice to its other obligations under the Contract, promptly provide all information concerning the supply of the Services which may reasonably be requested by the Authority for the purposes of adequately understanding the manner in which the Services have been supplied or for the purpose of allowing the Authority or the Replacement Contractor to conduct due diligence in accordance with the provisions of this Schedule 10;
 - (c) if requested by the Authority, use all reasonable endeavours to promptly procure the transfer of any licences, or the granting of an appropriate licence or sub-licence, to the Authority or the Replacement Contractor of any third party Intellectual Property Rights that are necessary for the continued supply of the Services following termination or expiry of the Contract. Where the owner of the third party Intellectual Property Rights requires payment in consideration for transferring or granting such licence or sub-licence (the "Transfer Fee") the Contractor shall first notify the Authority. If the Authority informs the Contractor that the transfer/granting of a licence should proceed, the Authority shall (unless the end of the Contract Period arises due to the Contractor's Default) be responsible for paying the Transfer Fee. For the

avoidance of doubt, the Authority shall have no liability for any Transfer Fee that the Contractor has incurred without obtaining Approval; and

- (d) repay to the Authority any part of the Contract Price the Contractor has been paid in respect of Services not provided by the Contractor as at the date of expiry or termination.

- 5.14 Where the Authority has issued a Termination Notice to the Contractor pursuant to Clause H1.1 (b), the Contractor shall provide all assistance under Paragraphs 5.13(a) and (b) free of charge. Otherwise, the Authority shall pay the Contractor's reasonable costs of providing the assistance and the Contractor shall take all reasonable steps to mitigate such costs.

6 SUB-CONTRACTS

- 6.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Contractor shall not, without the Authority's prior written consent, terminate, enter into or vary any Sub-contract except to the extent that such change does not or will not affect the provision of Services or the Contract Price.
- 6.2 Within 20 Working Days of receipt of the up-to-date Registers provided by the Contractor pursuant to Paragraph 5.3(e), the Authority shall provide written notice to the Contractor setting out which, if any, of Transferable Contracts the Authority requires to be assigned or novated to the Replacement Contractor (the **"Transferring Contracts"**), in order for the Replacement Contractor to provide the Services from the expiry of the Termination Assistance Period. Where requested by the Authority and/or its Replacement Contractor, the Contractor shall provide all reasonable assistance to the Authority and/or its Replacement Contractor to enable it to determine which Transferable Contracts the Replacement Contractor requires to provide the Services or Replacement Services.
- 6.3 The Contractor shall as soon as reasonably practicable assign or procure the novation to the Replacement Contractor of the Transferring Contracts. The Contractor shall execute such documents and provide such other assistance as the Authority reasonably requires to effect this novation or assignment.
- 6.7 The Authority shall:
 - (a) accept assignments from the Contractor or join with the Contractor in procuring a novation of each Transferring Contract; and
 - (b) once a Transferring Contract is novated or assigned to the Replacement Contractor, carry out, perform and 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 Contractor does the same.
- 6.8 The Contractor shall hold any Transferring Contracts on trust for the Authority until such time as the transfer of the relevant Transferring Contract to the Authority and/or the Replacement Contractor has been effected.

- 6.9 The Contractor shall within three (3) Working Days of demand, indemnify fully, keep the Authority (and/or the Replacement Contractor, as applicable) indemnified and hold harmless the Authority (and/or the Replacement Contractor, as applicable) at all times from and against all claims, proceedings, actions, damages, costs and expenses (including, but not limited to, legal costs and disbursements), losses, amounts, sums, outgoings of any description and any other liabilities caused to the Authority (and/or the Replacement Contractor, as applicable) whether directly or indirectly in whole or in part by reason of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Authority (and/or Replacement Contractor) pursuant to Paragraph 6.6 in relation to any matters arising prior to the date of assignment or novation of such Sub-contract.
- 6.10 All outgoings and expenses (including any remuneration due) and all periodical payments receivable in respect of the Transferring Contracts shall be apportioned between the Authority and the Contractor and/or the Replacement Contractor and the Contractor (as applicable) as follows:
- (a) the amounts shall be annualised and divided by 365 to reach a daily rate;
 - (b) the Authority shall be responsible for (or shall procure that the Replacement Contractor 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
 - (c) the Contractor shall be responsible for or entitled to (as the case may be) the rest of the invoice.
- 6.11 Each Party shall pay (and/or the Authority shall procure that the Replacement Contractor shall pay) any monies due under Paragraph 6.10 as soon as reasonably practicable.

7 STAFF

- 7.1 The Authority and Contractor agree and acknowledge that in the event of the Contractor ceasing to provide the Services or part of them for any reason, Clauses B10, B11, B12, B13 and B14 (Employee Provisions and TUPE) shall apply.
- 7.2 The Contractor shall not and shall procure that any relevant Sub-contractor shall not take any step (expressly or implicitly or directly or indirectly by itself or through any other person) without the prior written consent of the Authority to dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Authority and/or the Replacement Contractor and/or a Replacement Sub-contractor.
- 7.3 During the Termination Assistance Period, the Contractor shall and shall procure that any relevant Sub-contractor shall:
- (a) give the Authority and/or the Replacement Contractor and/or a Replacement Sub-contractor reasonable access to the Contractor's personnel and/or their consultation representatives to present the case for

transferring their employment to the Authority and/or the Replacement Contractor and/or a Replacement Sub-contractor; and

- (b) co-operate with the Authority and/or a Replacement Contractor and/or a Replacement Sub-contractor to ensure an effective consultation process and smooth transfer in respect of Transferring Contractor Employees in line with good employee relations and the effective continuity of the Services.

7.4 The Contractor shall immediately notify the Authority or, at the direction of the Authority, the Replacement Contractor of any period of notice given by the Contractor or received from any person referred to in the Staffing Information, regardless of when such notice takes effect.

7.5 The Contractor shall not and shall procure that any relevant Sub-contractor shall not for a period of 12 months from the date of transfer reemploy or re-engage or entice any employees, Contractors or Sub-contractors whose employment or engagement is transferred to the Authority and/or the Replacement Contractor and/or a Replacement Sub-contractor, except that this paragraph shall not apply where the employee, Contractor or Sub-contractor applies in response to a public advertisement of a vacancy or where such an offer is made pursuant to an express right to make such an offer under Clauses B10, B11, B12, B13 or B14 (Employee Provisions and TUPE).

8 CONTRACT PRICE

8.1 During the Termination Assistance Period (or for such shorter period as the Authority may require the Contractor to provide the Termination Services), the Authority shall pay the Contract Price to the Contractor in respect of the Termination Services in accordance with the rates set out in the Exit Plan (but shall not be required to pay costs in excess of the estimate set out in the Exit Plan). If the scope or timing of the Termination Services is changed and this results in a change to the costs of such Termination Services, the estimate may be varied in accordance with the Change Control Procedure.

8.2 For the purpose of calculating the costs of providing the Termination Services for inclusion in the Exit Plan or, if no Exit Plan has been agreed, the costs of providing Termination Services shall be determined in accordance with the Change Control Procedure.

8.3 Except as otherwise expressly specified in this Contract, the Contractor shall not make any charges for the Services provided by the Contractor pursuant to, and the Authority shall not be obliged to pay for costs incurred by the Contractor in relation to its compliance with, this Schedule including the preparation and implementation of the Exit Plan and any activities mutually agreed between the Parties to carry on after the expiry of the Termination Assistance Period.

Schedule 10A

Allocation of Costs on Termination

Payments on Termination

1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

“Anticipated Contract Life Profit Margin” means the anticipated Contractor Profit Margin over Contract Period;

“Applicable Staff” means any Staff who:

(i) at the Termination Date:

a) are employees of the Contractor;

b) are Dedicated Staff;

c) have not transferred (and are not in scope to transfer at a later date) to the Authority or the Replacement Contractor by virtue of the Employment Regulations; and

(ii) are dismissed or given notice of dismissal by the Contractor within:

a) 40 Working Days of the Termination Date; or

b) such longer period required by Law, their employment contract (as at the Termination Date) or an applicable collective agreement; and

(iii) have not resigned or given notice of resignation prior to the date of their dismissal by the Contractor; and

(iv) the Contractor can demonstrate to the satisfaction of the Authority:

a) are surplus to the Contractor's requirements after the Termination Date notwithstanding its obligation to provide services to its other customers;

b) are genuinely being dismissed for reasons of redundancy; and

c) have been selected for redundancy by the Contractor on objective grounds other than the fact that the Contractor is entitled to reimbursement under this provision in respect of such employees;

“Breakage Costs Payment” means an amount equal to the Redundancy Costs and the Contract Breakage Costs as at the Termination Date as determined in accordance with Paragraph 3;

“Compensation Payment” means the payment calculated in accordance with Paragraph 6;

“Contract Breakage Costs” means the amounts payable by the Contractor to its Sub-contractors for terminating all relevant Sub-contracts as a direct result of the early termination of this Contract;

“Contractor Profit” means the difference between the total Contract Price (in nominal cash flow terms but excluding any deductions paid or payable to the Authority under this Contract) and total Costs (in nominal cash flow terms) paid or payable to the Contractor under this Contract;

“Contractor Profit Margin” means in relation to a period, the Contractor Profit for the relevant period divided by the total Contract Price over the same period and expressed as a percentage;

“Costs” the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Contractor in providing the Services:

- (i) the cost to the Contractor, calculated per Man Day, of engaging the Staff, including:
 - a) base salary paid to the Staff;
 - b) employer’s national insurance contributions;
 - c) pension contributions;
 - d) car allowances;
 - e) any other contractual employment benefits;
 - f) staff training;
 - g) work place accommodation;
- h) work place ICT equipment and tools reasonably necessary to perform the Services (but not including items included within limb (b) below); and
 - i) reasonable recruitment costs, as agreed with the Authority;

- (ii) costs incurred in respect of those Assets which are detailed on the Registers and which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Assets by the Contractor to the Authority or (to the extent that risk and title in any Asset is not held by the Contractor) any cost actually incurred by the Contractor in respect of those Assets;
- (iii) operational costs which are not included within (i) or (ii) above, to the extent that such costs are necessary and properly incurred by the Contractor in the delivery of the Services;
- (iv) Forecast Contingency Costs;

but excluding:

- (i) Overhead;
- (ii) financing or similar costs;
- (iii) maintenance and support costs to the extent that these relate to maintenance and/or support services provided beyond the Contract Period, whether in relation to Assets or otherwise;
- (iv) taxation;
- (v) fines and penalties; and
- (vi) non-cash items (including depreciation, amortisation, impairments and movements in provisions);

“Dedicated Staff” means all Staff then assigned to the Services or any part of the Services. If the Contractor is unsure as to whether Contractor Personnel are or should be regarded as so assigned, it shall consult with the Authority whose view shall be determinative provided that the employee has been materially involved in the provision of the Services or any part of the Services;

“Forecast Contingency Costs” means the costs which the Contractor forecasts may be incurred in relation to the risks and contingencies that are identified in the Risk Register, such costs being those set out in the column headed ‘Forecast Contingency Costs’ in the Risk Register (as such costs are updated from time to time);

“Man Day” means 7.5 Man Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;

“Man Hours” means the hours spent by the Staff properly working on the Services including time spent travelling (other than to and from the Contractor's offices, or to and from the Premises) but excluding lunch breaks;

“Overhead” means those amounts which are intended to recover a proportion of the Contractor's 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 Staff and accordingly included within limb (a) of the definition of “Costs”;

“Profit Already Paid” means the Contractor Profit paid or payable to the Contractor under this Contract for the period from the Commencement Date up to (and including) the Termination Date;

“Redundancy Costs” means the total sum of any of the following sums paid to Applicable Contractor Personnel, each amount apportioned between the Contractor and the Authority based on the time spent by such employee on the Services as a proportion of the total Service duration:

- (a) any statutory redundancy payment; and
- (b) in respect of an employee who was a Transferring Former Contractor Employee or a Transferring Authority Employee, any contractual redundancy payment (or where such a contractual benefit on redundancy is a benefit payable from a pension scheme, the increase in cost to the Contractor as a net present value compared to the benefit payable on termination of employment without redundancy), provided that such employee was entitled to such contractual redundancy payment immediately prior to his or her transfer to the Contractor under the Employment Regulations;

“Request for Estimate” means a written request sent by the Authority to the Contractor, requiring that the Contractor provide it with an accurate estimate of the Termination Payment and Compensation Payment that would be payable if the Authority exercised its right under Clause H1 (Termination by the Authority) to terminate this Contract for convenience on a specified Termination Date;

“Risk Register” means the register of risks and contingencies that have been factored into any Costs due under this Contract, a copy of which is set out in Annex 2 of this Schedule;

“Shortfall Period” has the meaning given in Paragraph 6.2;

“Termination Estimate” has the meaning given in Paragraph 11.2;

“Total Costs Incurred” means the Costs incurred by the Contractor up to the Termination Date in the performance of this Contract (but excluding Contract Breakage Costs, Redundancy Costs and any costs the Contractor would not otherwise be able to recover through the Charges) less any Deductions up to (and including) the Termination Date;

“Unrecovered Costs” means the Costs incurred by the Contractor in the performance of this Contract to the extent that the same remain at the Termination Date to be recovered through Charges that but for the termination of this Contract would have been payable by the Authority after the Termination Date in accordance with Schedule 4 (Contract Price and Payment);

“Unrecovered Payment” means an amount equal to the lower of:

- (a) the sum of the Unrecovered Costs and the Unrecovered Profit; and
- (b) the amount specified in Paragraph 4; and

“Unrecovered Profit” means (Total Costs Incurred x Anticipated Contract Life Profit Margin) - Profit Already Paid remaining unpaid at the Termination Date.

2 TERMINATION PAYMENT

The Termination Payment payable pursuant to Clause [H6.1] (Payments by the Authority) shall be an amount equal to the aggregate of the Breakage Costs Payment and the Unrecovered Payment.

3 BREAKAGE COSTS PAYMENT

3.1 The Contractor may recover through the Breakage Costs Payment only those costs incurred by the Contractor directly as a result of the termination of this Contract which:

- (a) would not have been incurred had this Contract continued until the scheduled expiry of the Contract Period;
- (b) are unavoidable, proven, reasonable, and not capable of recovery;
- (c) are incurred under arrangements or agreements that are directly associated with this Contract;
- (d) are not Contract Breakage Costs relating to contracts or Sub-contracts with Affiliates of the Contractor; and
- (e) relate directly to the termination of the Contract.

Limitation on Breakage Costs Payment

3.2 The Breakage Costs Payment shall not exceed the lower of:

- (a) **[REDACTED]**; and
- (b) 120% of the estimate for the Breakage Costs Payment set out in any relevant Termination Estimate.

3.3 The Authority shall not be liable under this Schedule for any costs associated with Staff (whether relating to redundancy, redeployment or otherwise).

Contract Breakage Costs

3.5 The Contractor shall be entitled to Contract Breakage Costs only in respect of Sub-contracts which:

- (a) are not assigned or novated to a Replacement Contractor at the request of the Authority in accordance with Schedule 10 (Exit Management); and
- (b) the Contractor can demonstrate:
 - (i) are surplus to the Contractor's requirements after the Termination Date, whether in relation to use internally within its business or in providing services to any of its other customers; and
 - (ii) have been entered into by it in the ordinary course of business.

3.6 The Contractor shall seek to negotiate termination of any Sub-contracts with the relevant Sub-contractor using all reasonable endeavours to minimise the cancellation or termination charges.

3.7 Except with the prior written agreement of the Authority, the Authority shall not be liable for any costs (including cancellation or termination charges) that the Contractor is obliged to pay in respect of:

- (a) the termination of any contractual arrangements for occupation of, support of and/or services provided for Contractor premises which may arise as a consequence of the termination of this Contract; and/or
- (b) Assets not yet installed at the Termination Date.

4 UNRECOVERED PAYMENT

The Unrecovered Payment shall not exceed the lowest of:

- (a) **[REDACTED]**;

- (b) 120% of the estimate for the Unrecovered Payment set out in any relevant Termination Estimate; and
- (c) the Charges that but for the termination of this Contract would have been payable by the Authority after the Termination Date in accordance with Schedule 4 (Contract Price and Payment) as forecast in the Financial Model.

5 MITIGATION OF CONTRACT BREAKAGE COSTS, REDUNDANCY COSTS AND UNRECOVERED COSTS

5.1 The Contractor agrees to use all reasonable endeavours to minimise and mitigate Contract Breakage Costs, Redundancy Costs and Unrecovered Costs by:

- (a) the appropriation of Assets, employees and resources for other purposes;
- (b) at the Authority's request, assigning any Sub-contracts to the Authority or a third party acting on behalf of the Authority;

and

- (c) in relation to Sub-contracts that are not to be assigned to the Authority or to another third party, terminating those contracts at the earliest possible date without breach or where contractually permitted.

5.2 If Assets, employees and resources can be used by the Contractor for other purposes, then there shall be an equitable reduction in the Contract Breakage Costs, Redundancy Costs and Unrecovered Costs payable by the Authority or a third party to the Contractor. In the event of any Dispute arising over whether the Contractor can use any Assets, employees and/or resources for other purposes and/or over the amount of the relevant equitable reduction, the Dispute shall be referred to an Expert for determination in accordance with the procedure detailed in Schedule 16 (Dispute Resolution Procedure).

6 COMPENSATION PAYMENT

6.1 The Compensation Payment payable pursuant to Clause H6.1 (Payments by the Authority) shall be an amount equal to the total forecast Contract Price over the Shortfall Period multiplied by the Anticipated Contract Life Profit Margin.

6.2 For the purposes of Paragraph 6.1, the “**Shortfall Period**” means:

- (a) where the Authority terminates this Contract pursuant to Clause H1.1 (Termination by the Authority), a number of days equal to the number of

days by which the notice given (or deemed given pursuant to Clause A5.2 (Notices)) falls short of 365 days; or

- (b) where the Contractor terminates this Contract pursuant to Clause H2.1 (Termination by the Contractor), a number of days equal to the number of days by which the period from (and including) the date of the non-payment by the Authority to (and including) the Termination Date falls short of 365 days, but in each case subject to the limit set out in Paragraph 6.3.

6.3 The Compensation Payment shall be no greater than the lower of:

- (a) [REDACTED]; and
- (b) 120% of the estimate for the Compensation Payment set out in the relevant Termination Estimate.

7 FULL AND FINAL SETTLEMENT

Any Termination Payment and/or Compensation Payment paid under this Schedule shall be in full and final settlement of any claim, demand and/or proceedings of the Contractor in relation to any termination by the Authority pursuant to Clause H1.1 (Termination by the Authority) or termination by the Contractor pursuant to Clause H1.2 (Termination by the Contractor) (as applicable), and the Contractor shall be excluded from all other rights and remedies it would otherwise have been entitled to in respect of any such termination.

8 INVOICING FOR THE PAYMENTS ON TERMINATION

All sums due under this Schedule shall be payable by the Authority to the Contractor in accordance with the payment terms set out in Schedule 4 (Contract Price and Payments).

9 SET OFF

The Authority shall be entitled to set off any outstanding liabilities of the Contractor against any amounts that are payable by it pursuant to this Schedule.

10 NO DOUBLE RECOVERY

10.1 If any amount payable under this Schedule (in whole or in part) relates to or arises from any Transferring Assets then, to the extent that the Authority makes any payments pursuant to Schedule 10 (Exit Management) in respect of such Transferring Assets, such payments shall be deducted from the amount payable pursuant to this Schedule.

10.2 The value of the Termination Payment and/or the Compensation Payment shall be reduced or extinguished to the extent that the Contractor has already received

the Charges or the financial benefit of any other rights or remedy given under this Contract so that there is no double counting in calculating the relevant payment.

- 10.3 Any payments that are due in respect of the Transferring Assets shall be calculated in accordance with the provisions of the Exit Plan.

11 ESTIMATE OF TERMINATION PAYMENT AND COMPENSATION PAYMENT

- 11.1 The Authority may issue a Request for Estimate at any time during the Term provided that no more than 2 Requests for Estimate may be issued in any 6 month period.

- 11.2 The Contractor shall within 20 Working Days of receiving the Request for Estimate (or such other timescale agreed between the Parties), provide an accurate written estimate of the Termination Payment and the Compensation Payment that would be payable by the Authority based on a postulated Termination Date specified in the Request for Estimate (such estimate being the “Termination Estimate”). The Termination Estimate shall:

(a) include:

- (i) details of the mechanism by which the Termination Payment is calculated;
- (ii) full particulars of the estimated Contract Breakage Costs in respect of each Sub-contract and appropriate supporting documentation; and
- (iii) such information as the Authority may reasonably require; and

(b) state the period for which that Termination Estimate remains valid, which shall be not less than 20 Working Days.

- 11.3 The Contractor acknowledges that issue of a Request for Estimate shall not be construed in any way as to represent an intention by the Authority to terminate this Contract.

- 11.4 If the Authority issues a Termination Notice to the Contractor within the stated period for which a Termination Estimate remains valid, the Contractor shall use the same mechanism to calculate the Termination Payment as was detailed in the Termination Estimate unless otherwise agreed in writing between the Contractor and the Authority.

SCHEDULE 11 – PARENT COMPANY GUARANTEE

DATED

PARENT COMPANY GUARANTEE

between

THE SECRETARY OF STATE FOR WORK AND PENSIONS

and

[INSERT NAME OF PARENT COMPANY]

THIS DEED is dated

[DATE]

PARTIES

- (1) **THE SECRETARY OF STATE FOR WORK AND PENSIONS** whose address is Caxton House, Tothill Street, Greater London, SW1H 9NA (“the **Authority**”); and
- (2) **[INSERT NAME OF PARENT COMPANY]** incorporated and registered in England and Wales with company registration number **[NUMBER]** whose registered office is at **[REGISTERED OFFICE ADDRESS]** (“the **Guarantor**”).

BACKGROUND

- (1) By an agreement dated on or about the date of this guarantee (“the **Contract**”, which term includes all amendments to, variations of, or supplements to such agreement, from time to time in force), the Authority has agreed to engage **[INSERT NAME]** (“the **Contractor**”) to deliver **[INSERT DETAILS]**.
- (2) It is a condition of the Contract **[being awarded to the Contractor]** that the Contractor ensures the execution and delivery to the Authority of a parent company guarantee substantially in the form of this guarantee.
- (3) The Guarantor has agreed to guarantee the due performance of the Contract by the Contractor.
- (4) It is the intention of the Parties that this document be executed as a deed.

AGREED TERMS

1 Interpretation

- 1.1 Unless the context requires otherwise, the definitions and rules of interpretation in the Contract shall apply in this guarantee.
- 1.2 A reference in this deed to this guarantee shall be construed as a reference to this deed of guarantee.

2 Obligations of The Guarantor

- 2.1 In consideration of the Authority entering into the Contract with the Contractor, the Guarantor agrees:
 - 2.1.1 as primary obligor, to guarantee to the Authority the due and punctual performance by the Contractor of each and all of the obligations, representations, warranties, duties and undertakings of the Contractor under and pursuant to the Contract when and if such obligations, representations, warranties, duties and undertakings shall become due and performable according to the terms of the Contract;
 - 2.1.2 in addition to its obligations set out in clause 2.1.1, to indemnify the Authority against all losses which may be awarded against the Authority or which the Authority may otherwise incur arising out of, under or otherwise in connection with the Contract whether arising under statute, contract or at common law including without limitation by reason of any

default by the Contractor of its obligations, representations, warranties, duties and undertakings under and/or pursuant to the Contract save that, subject to the other provisions of this guarantee (including without limitation clause 2.1.3), this shall not be construed as imposing greater obligations or liabilities on the Guarantor than are imposed on the Contractor under the Contract; and

- 2.1.3 to indemnify the Authority against all losses whether arising under statute, contract or at common law which may be awarded against the Authority or which the Authority may otherwise incur if any obligation guaranteed by the Guarantor is or becomes totally or partially unenforceable, invalid or illegal as if the obligation guaranteed had not become unenforceable, invalid or illegal provided that the Guarantor's liability shall be no greater than the Contractor's liability would have been if the obligation guaranteed had not become unenforceable, invalid or illegal.

3 Liability

- 3.1 The Guarantor agrees that it shall not in any way be released from liability under this guarantee by any act, omission, matter or other thing whereby (in absence of this provision) the Guarantor would or might be released in whole or in part from liability under this guarantee including, without limitation and whether or not known to the Guarantor:

- 3.1.1 any arrangement made between the Contractor and the Authority;
- 3.1.2 any alteration in the obligations undertaken by the Contractor whether by way of any addendum or variation referred to in clause 4 or otherwise;
- 3.1.3 any waiver or forbearance by the Authority whether as to payment, time, performance or otherwise;
- 3.1.4 the taking, variation, renewal or release of, the enforcement or neglect to perfect or enforce any right, guarantee, remedy or security from or against the Contractor or any other person;
- 3.1.5 any unenforceability, illegality or invalidity of any of the provisions of the Contract or any of the Contractor's obligations under the Contract, so that this guarantee shall be construed as if there were no such unenforceability, illegality or invalidity;
- 3.1.6 any legal limitation, disability, incapacity or other circumstances relating to the Contractor, or any other person; or
- 3.1.7 the dissolution, amalgamation, reconstruction, reorganisation, change in status, function, control or ownership, insolvency, Liquidation or the appointment of an administrator or receiver of the Contractor or any other person.

4 Addendum Or Variation

The Guarantor by this guarantee authorises the Contractor and the Authority to make any addendum or variation to the Contract, the due and punctual performance of which addendum and variation shall be likewise guaranteed by the Guarantor in accordance with the terms of this guarantee.

5 Guarantee

- 5.1 This guarantee shall be a primary obligation of the Guarantor and accordingly the Authority shall not be obliged before enforcing this guarantee to take any action in any court or arbitral proceedings against the Contractor, to make any claim against or any demand of the Contractor, to enforce any other security held by it in respect of the obligations of the Contractor under the Contract or to exercise, levy or enforce any distress, diligence or other process of execution against the Contractor. In the event that the Authority brings proceedings against the Contractor, the Guarantor shall be bound by any findings of fact, interim or final award or judgment made by an arbitrator or the court in such proceedings.
- 5.2 This guarantee is a continuing guarantee and accordingly shall remain in full force and effect (notwithstanding any intermediate satisfaction by the Contractor, the Guarantor or any other person) until all obligations, warranties, duties and undertakings now or hereafter to be carried out or performed by the Contractor under the Contract have been satisfied or performed in full and is not revocable and is in addition to and not in substitution for and shall not merge with any other right, remedy, guarantee or security which the Authority may at any time hold for the performance of such obligations and may be enforced without first having recourse to any such security.

6 Outstanding Payments

- 6.1 Until all amounts which may be or become payable under the Contract or this guarantee have been irrevocably paid in full, the Guarantor shall not as a result of this guarantee or any payment or performance under this guarantee be subrogated to any right or security of the Authority or claim or prove in competition with the Authority against the Contractor or any other person or demand or accept repayment of any monies or claim any right of contribution, set-off or indemnity and any sums received by the Guarantor or the amount of any set-off exercised by the Guarantor in default of this provision shall be held by the Guarantor in trust for and shall be promptly paid to the Authority.
- 6.2 The Guarantor shall not hold any security from the Contractor in respect of this guarantee and any such security which is held in default of this provision shall be held by the Guarantor in trust for and shall promptly be transferred to the Authority.
- 6.3 Until all amounts which may be or become payable under the Contract or this guarantee have been irrevocably paid in full, if (notwithstanding the provisions of clause 6.1 and clause 6.2) the Guarantor has any rights of subrogation against the Contractor or any rights to prove in a Liquidation of the Contractor, the Guarantor agrees to exercise such rights in accordance with the directions of the Authority.

7 Change of Control

The Guarantor shall not be discharged of its obligations under this Guarantee in the event there is a change of control of the Contractor within the meaning of section 1124 of the Corporation Tax Act 2010, save unless the Authority gives its prior written consent to an assignment of the guarantee by the Guarantor to another entity of comparable financial standing.

8 Payment And Expenses

- 8.1 Each payment to be made by the Guarantor under this guarantee shall be made in pounds sterling, free and clear of all deductions or withholdings of any kind, except for those required by law, and if any deduction or withholding must be made by law, the Guarantor shall pay that additional amount which is necessary to ensure that the Authority receives a net amount equal to the full amount which it would have received if the payment had been made without the deduction or withholding.
- 8.2 The Guarantor shall pay interest on any amount due under this guarantee from the day after the date on which payment was due up to and including the date of payment in full (whether before or after judgment) in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
- 8.3 The Guarantor shall reimburse the Authority for all legal and other costs (including VAT) incurred by the Authority in connection with the enforcement of this guarantee.

9 Settlement

Any settlement or discharge between the Authority and the Contractor and/or the Guarantor shall be conditional upon no settlement with security or payment to the Authority by the Contractor or the Guarantor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any provision or law relating to bankruptcy, insolvency or Liquidation for the time being in force and accordingly (but without limiting the Authority's other rights hereunder) the Authority shall be entitled to recover from the Guarantor, as if such settlement or discharge had not occurred, the value which the Authority has placed upon such settlement or security or the amount of any such payment.

10 Warranties

- 10.1 The Guarantor warrants and confirms to the Authority that:
- 10.1.1 it is duly incorporated with limited liability and validly existing under the laws of England;
 - 10.1.2 it has full power under its memorandum and articles of association or equivalent constitutional documents in the jurisdiction in which it is established to enter into this guarantee;
 - 10.1.3 it has full power to perform the obligations expressed to be assumed by it or contemplated by this guarantee;
 - 10.1.4 it has been duly authorised to enter into this guarantee;
 - 10.1.5 it has taken all necessary corporate action to authorise the execution, delivery and performance of this guarantee;
 - 10.1.6 this guarantee when executed and delivered will constitute a legally binding obligation on it enforceable in accordance with its terms;
 - 10.1.7 all necessary consents and authorisations for the giving and implementation of this guarantee have been obtained; and

10.1.8 it has not received any notice, nor to the best of its knowledge is there pending or threatened any notice of any violation of any applicable laws, ordinances, regulations, rules, decrees, awards, permits or orders which may affect its ability to perform under this guarantee.

10.2 The Guarantor warrants and undertakes to the Authority that it will take all necessary action directly or indirectly to perform the obligations expressed to be assumed by it or contemplated by this guarantee and to implement the provisions of this guarantee.

10.3 The Guarantor warrants and confirms to the Authority that it has not entered into this guarantee in reliance upon, nor has it been induced to enter into this guarantee by any representation, warranty or undertaking made by or on behalf of the Authority (whether express or implied and whether pursuant to statute or otherwise) which is not set out in this guarantee.

11 Assignment

The Authority shall be entitled by notice in writing to the Guarantor to assign the benefit of this guarantee at any time to any person without the consent of the Guarantor being required and any such assignment shall not release the Guarantor from liability under this guarantee.

12 Notices

12.1 Any notice to or demand on the Guarantor to be served under this guarantee may be by letter (sent by hand, post, registered post or by the recorded delivery service) or by facsimile transmission or electronic mail (confirmed in either case by letter) to the Guarantor at its address appearing in this guarantee or at such other address as it may have notified to the Authority in accordance with this clause 12.

12.2 Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two (2) Working Days after the day on which the letter was posted, or four (4) hours, in the case of electronic mail or facsimile transmission or sooner where the other Party acknowledges receipt of such letters, facsimile transmission or item of electronic mail.

13 Waiver

13.1 No delay or omission of the Authority in exercising any right, power or privilege under this guarantee shall impair or be construed as a waiver of such right, power or privilege nor shall any single or partial exercise of any such right, power or privilege preclude any further exercise of such right, power or privilege or the exercise of any other right, power or privilege. The rights and remedies of the Authority provided for in this guarantee are cumulative and not exclusive of any rights or remedies provided by law.

13.2 A waiver given or consent granted by the Authority under this guarantee will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

13.3 A waiver by the Authority shall not constitute a continuing waiver and shall not prevent the Authority from subsequently enforcing any of the provisions of this guarantee.

14 Severability

The invalidity, illegality or unenforceability in whole or in part of any of the provisions of this guarantee shall not affect the validity, legality and enforceability of the remaining part or provisions of this guarantee.

15 Contracts (Rights of Third Parties) Act 1999

It is agreed for the purposes of the Contracts (Rights of Third Parties) Act 1999 that this guarantee is not intended to, and does not, give to any person who is not a party to this guarantee any rights to enforce any provisions contained in this guarantee except for any person to whom the benefit of this guarantee is assigned or transferred in accordance with clause 11.

16 Governing Law

16.1 This guarantee and any disputes or claims arising out of or in connection with it, its subject matter or formation (including non-contractual disputes or claims) is governed by and shall be construed in accordance with English law.

16.2 The Guarantor submits to the exclusive jurisdiction of the English courts for all purposes relating to this guarantee and any disputes or claims arising out of, or in connection with, its subject matter or formation (including non-contractual disputes or claims) [and the Guarantor irrevocably appoints [INSERT NAME] as its agent for service of process.

17 Entire Agreement

17.1 This guarantee contains the whole agreement between the Parties relating to the transactions contemplated by this guarantee and supersedes all previous agreements between the Parties relating to the transactions.

17.2 Each party acknowledges that in entering into this guarantee it has not relied on any representation, warranty, collateral contract or other assurance (except those set out in this guarantee and the documents referred to in it) made by or on behalf of any other party before the date of this guarantee. Each party waives all rights and remedies which, but for this clause 17.2, might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance.

17.3 Nothing in clause 17.2 limits or excludes any liability for fraud.

This deed has been entered into on the date stated at the beginning of it.

Executed as a Deed for and on behalf of:

(1) [Insert Name of Contractor]	
Signed by:- Director Name:	Witnessed in the presence of:- Witness Name:
Director Signature:	Witness Signature:

Date of Signature:	Date of Signature:
AND	
(2) The Secretary of State for Work and Pensions, for and on behalf of the Authority.	
Signed by:- Name: Signature: Date of Signature: Position in Organisation:	Secretary of State Seal

SCHEDULE 12 – CHANGE CONTROL PROCEDURE

1 General Principles of Change Control Procedure

- 1.1 This Schedule 12 sets out the procedure for dealing with Contract Changes and Operational Changes.
- 1.2 If either Party is in doubt about whether a change falls within the definition of an Operational Change, it must be processed as a Contract Change.
- 1.3 For any Change Communication to be valid under this Schedule 12, it must be sent in accordance with the provisions of clause A5 (*Notices*) as if it were a notice.

2 Costs

- 2.1 The Contractor shall be entitled to increase the Contract Price only if it can demonstrate in the Impact Assessment that the proposed Contract Change requires additional resources and the Authority agrees to pay such increase.
- 2.2 The Contractor shall decrease the Contract Price if the Impact Assessment demonstrates that the proposed Contract Change would result in fewer resources being required to deliver the Services after that Contract Change is implemented than before that Contract Change is implemented.
- 2.3 Any change to the Contract Price resulting from a Contract Change, whether the change will cause an increase or a decrease in the Contract Price, will be strictly proportionate to the increase or decrease in the level of resources required for the provision of the Services affected by the change.
- 2.4 Both Parties' costs incurred in respect of any use of this Change Control Procedure as a result of any error or Default by the Contractor shall be paid for by the Contractor.

Operational Change Procedure

- 3.1 Any Operational Changes identified by either Party to improve operational efficiency of the Services may be implemented by the Contractor without following the Change Control Procedure provided they do not:
 - (a) involve the Authority in paying any additional Contract Price or other costs;
 - (b) have an impact on the business of the Authority;
 - (c) require a change to this Contract; or
 - (d) have a direct impact on use of the Services.
- 3.2 Either Party may request an Operational Change by submitting an Operational Change Request to other Party at any time during the Contract Period, and

which may be sent by electronic mail or by letter, notwithstanding clause A5.2.

- 3.3 If the Party that receives an Operational Change Request wishes to agree to the Operational Change it must submit an Operational Change Confirmation to the other Party.
- 3.4 The Contractor shall inform the Authority of any impact on the Services that may arise from the proposed Operational Change.
- 3.5 The Contractor shall complete the Operational Change by the date agreed by the Parties in the Operational Change Confirmation and shall promptly notify the Authority when it is completed.

4 Contract Change Procedure

- 4.1 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 of this Schedule 12 or such form as specified by the Authority from time to time.
- 4.2 If the Authority issues a Change Request, then the Contractor shall provide as soon as reasonably practical, and in any event within ten (10) Working Days of the date of receiving the Change Request, an Impact Assessment to the Authority.
- 4.3 If the Contractor issues the Change Request, then it shall provide an Impact Assessment to the Authority at the same time as the Change Request.
- 4.4 If the Contractor requires any clarification in relation to the Change Request before it can deliver the Impact Assessment, then it shall make a request for clarification to the Authority within three (3) Working Days of the date of receiving the Change Request.
- 4.5 Provided that sufficient information is received by the Authority to fully understand the nature of the request for clarification and the reasonable justification for the request, the time period to complete the Impact Assessment shall be extended by the time taken by the Authority to provide that clarification. The Authority shall respond to the request for clarification as soon as is reasonably practicable.

5 Impact Assessment

- 5.1 An Impact Assessment shall be substantially in the form of Appendix 2 of this Schedule 12 or such form as specified by the Authority from time to time.
- 5.2 Each Impact Assessment shall be completed in good faith and shall include:
 - (a) details of the impact the proposed Contract Change will have on the Services and the Contractor's ability to meet its other obligations under this Contract;

- (b) any additional changes to the terms of this Contract that will be required as a result of that impact which may include changes to:
 - (i) the Services and/or the Target Performance Levels;
 - (ii) the format of Authority Data, as set out in the Services;
 - (iii) the Implementation Plan and any other timetable previously agreed by the Parties; and
 - (iv) other services provided by third party contractors to the Authority, including any changes required by the proposed Contract Change to the Authority ICT System;
- (c) a timetable for the implementation, together with any proposals for the testing of the Contract Change;
- (d) details of how the proposed Contract Change will ensure compliance with any applicable change in Law which impacts on the performance of the Services which comes into force after the Commencement Date;
- (e) any amendments to the Contract wording proposed in the Change Request Form;
- (f) such other information as the Authority may reasonably request in (or in response to) the Change Request;
- (g) details of the cost of implementing the proposed Contract Change; and
- (h) details of any 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.

5.3 The calculation of costs for the purposes of paragraphs 5.1(g) and (h) shall:

- (a) include estimated volumes of each type of resource to be employed and the applicable rate card, where appropriate;
- (b) include full disclosure of any assumptions underlying such Impact Assessment;
- (c) include evidence of the cost of any assets required for the Change; and
- (d) include details of any new Sub-contracts necessary to accomplish the Change.

5.4 If the Contract Change involves the processing or transfer of any Personal Data and/or Special Category Personal Data outside the European Economic

Area, the preparation of the Impact Assessment shall also be subject to clause E2 (Protection of Personal Data an Special Category Personal Data).

- 5.5 Subject to the provisions of paragraph 4.6 of this Schedule 12, the Authority shall review the Impact Assessment and respond to the Contractor in accordance with Paragraph 5 within fifteen (15) Working Days of receiving the Impact Assessment.
- 5.6 If the Authority is the Receiving Party and 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 or that a Change Request or Impact Assessment contains errors it shall notify the Contractor of this fact and detail any further information that it requires. The Contractor shall then re-issue the relevant Impact Assessment to the Authority within ten (10) Working Days of receiving such notification.
- 5.7 At the Authority's discretion, the Parties may repeat the process described in paragraph 5.6 of this Schedule 12 until the Authority is satisfied that it has sufficient information to properly evaluate the Change Request and Impact Assessment to enable it to take one of the steps prescribed by paragraph 6 of this Schedule 12.

6 Authority's Right of Approval

- 6.1 Subject to paragraph 4.6 and 4.7 of this Schedule 12, within fifteen (15) Working Days, or timescale agreed between both Parties, of receiving the Impact Assessment from the Contractor, the Authority shall do one of the following:
- (a) approve the proposed Contract Change, in which case the Parties shall follow the procedure set out in paragraph 5.4 of this Schedule 12; or
 - (b) in its absolute discretion reject the Contract Change, in which case it shall notify the Contractor of the rejection. The Authority shall not reject any proposed Contract Change to the extent that the Contract Change is necessary for the Contractor or the Services to comply with any changes in Law.
- 6.2 No proposed Contract Change shall be implemented by the Contractor until a Change Authorisation Note has been signed and issued by the Authority in accordance with paragraph 5.4 of this Schedule 12.
- 6.3 Unless the Authority expressly agrees (or requires) otherwise in writing, the Contractor shall continue to supply the Services in accordance with the existing terms of this Contract as if the proposed Contract Change did not apply.
- 6.4 Any discussions, negotiations or other communications which may take place between the Authority and the Contractor 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.

- 6.5 If the Authority approves the proposed Contract Change pursuant to paragraph 5.1 of this Schedule 12 and it has not been rejected by the Contractor in accordance with paragraph 6 of this Schedule 12, then the Authority shall prepare two copies of a Change Authorisation Note in the form of Appendix 3 of this Schedule 12 or such form as specified by the Authority from time to time and send them to the Contractor. The Contractor shall sign both copies and deliver both signed copies to the Authority for its signature. Following receipt by the Authority of the Change Authorisation Note, it shall sign both copies and return one copy to the Contractor. On the Authority's signature the Change Authorisation Note shall constitute a binding change to this Contract.

7 Contractor's Right Of Rejection

- 7.1 Following an Impact Assessment, if the Contractor reasonably believes that any proposed Contract Change which is requested by the Authority would:

(a) materially and adversely affect the risks to the health and safety of any person; and/or

(b) require the Services to be performed in a way that infringes any Law,

- 7.2 then the Contractor 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 3.2 of this Schedule 12.

- 7.3 The Contractor shall have the right to reject a Change Request solely in the manner set out in paragraph 6.1 of this Schedule 12.

8 Failure to Comply

- 8.1 If the Contractor fails to complete an Impact Assessment, implement or successfully comply with the Contract Change by the required date, the Authority may:-

(a) give the Contractor a further opportunity to implement or comply with the Contract Change; or

(b) escalate any issues arising out of the failure to implement or comply with the Contract Change to the Contractor's finance director (or equivalent) under the dispute resolution procedure set out in clause I2 (Dispute Resolution).

- 8.2 If, despite the measures taken under paragraph 7.1 (a) & 7.1(b) of this Schedule 12, the Contractor fails to implement or comply with the Contract Change, the Authority may elect to refer the matter for resolution by the dispute resolution procedure set out in clause I2 (Dispute Resolution).

9 Contract Management

- 9.1 The Parties shall update the Contract to reflect all Contract Changes or Operational Changes agreed in the relevant Change Authorisation Note or Operational Change Request and annotate with a reference to the Change Authorisation Note or Operational Change Request pursuant to which the relevant Contract Changes or Operational Changes were agreed.

APPENDIX 1 - Change Request Form**(For Completion by the Party Requesting Change)**

Change Request No:	Contract Title & Contract Number:	Contractor Name & Registered No:
Contract Change Title:		Contract Change Implementation Date:
Full Description of Requested Contract Change (including proposed changes to wording of the contract):		
Reasons for and Benefits of Requested Contract Change:		
Name of Owner Requesting Change:		
Signature of Owner Requesting Change:		
Date of Signature:		
(For Completion by Party Receiving Request for Change)		
Disadvantages of Requested Contract Change, if any:		
Details of any proposed alternative scenarios, if any;		
Authorisation to Complete Impact Assessment: (Name)		
Impact Assessment Assigned to: (Name)		
Impact Assessment Assigned on: (Date)		

APPENDIX 2 - Impact Assessment

(For Completion by DWP Contractor)

Change Request No:	Contract Title & Contract Number:	Contractor Name & Registered No:
Contract Change Title:		Contract Change Implementation Date:
Full Details of the Impact the proposed Contract Change will have on the services and your ability to meet your other obligations under this Contract:		
Any additional changes to this Contract that will be required as a result of the change – including any: 1. Service/ Performance Levels 2. Format of Authority Data 3. Timetable for the Implementation, including testing 4. Amendments to contract wording 5. Cost of implementing the change – ongoing/increase/decrease in costs 6. Alteration in Resources – estimated volumes and applicable rates		
Impact Assessment Completed by: (Name & Position in Organisation)		
(For Completion by DWP) Impact Assessment Approved by: (Name & Date)		
Impact Assessment Rejected by: (Name & Date)		
Reason for Rejection:		

APPENDIX 3 - Change Authorisation Note

(For Completion by DWP)

Change Request No:	Contract Title & Contract No:	Contractor Name & Registered No:
Contract Change Title:		Contract Change Implementation Date:
Detailed Description of Agreed Contract Change for which the Impact Assessment has been prepared. Provide details:		
Details of Agreed adjusted Contract Price resulting from the Contract Change for which the Impact Assessment has been prepared. Provide details:		
Amended/New Contract Wording – must include details of Cross Referencing to Original Contract Documents:		
In consideration of the rights and obligations created, granted and assumed by each Party to the other Party pursuant to this Change Authorisation Note, the Parties have agreed to enter into this Change Authorisation Note.		
The provisions of the Contract shall, save as amended in this Change Authorisation Note, continue in full force and effect, and shall be read and construed as one document with this Change Authorisation Note.		

(If the original was entered into as a Deed this Change Authorisation Note will need to be executed as a Deed – delete this signature box and use alternative below)

Signed on Behalf of the Authority:	Signed on Behalf of the Contractor:
Signature:	Signature:
Name:	Name:
Position:	Position:
Date:	Date:

(Remove the signature box below if original was not entered into as a Deed)

Executed as a Deed for and on behalf of:

Signed on behalf of the Contractor:- Director Name: Director Signature: Date of Signature:	Witnessed on behalf of the Contractor in the presence of:- Witness Name: Witness Signature: Date of Signature:
AND	
The Secretary of State for Work and Pensions, for and on behalf of the Authority.	
Signed by:- Name: Signature: Date of Signature: Position in Organisation:	Secretary of State Seal:-

Schedule 13

Management Information

1 General

1.1 The Contractor grants the Authority a non-exclusive, transferable, perpetual, irrevocable, royalty-free licence to:

(a) use and share with:

(i) any Crown Body;

(ii) any other Contracting Authority; and

(iii) any other third party as may be agreed by the Authority and the Contractor from time to time (such Contractor's agreement not to be unreasonably withheld); and/or

(b) publish (subject to any information that is exempt from disclosure in accordance with the provisions of FOIA being redacted),

any Management Information supplied to the Authority for the Authority's normal operational activities including but not limited to administering this Contract, monitoring public expenditure, identifying savings or potential savings and planning future procurement activity.

2 Contractor Information (MI) Requirements

2.1 The Authority intends, wherever it can, to capture and collate information through the Authority ICT System(s). However, the Authority reserves the right to make reasonable requests for information (at no additional charge) from the Contractor including ad-hoc requests for information from time to time.

2.2 The Contractor shall supply Management Information requested relevant to the Contractor's compliance with the Contract to the Authority, using formats and to timescales specified by the Authority in this Contract, including this Schedule 13 and the Specification.

2.3 The Contractor shall also capture and use their own monitoring information and retain evidence for contractual and performance purposes. This should include pipeline data (forward look performance information relating to attainment of your cohorts) to inform performance discussions between Performance Managers and robust tracking systems to be able to identify and performance manage Customers in each Cohort.

2.4 Any additional requests for Management Information (which is not covered by other clauses of this Contract) shall be considered in consultation with the Contractor as shall the process of defining the methods of collection.

- 2.5 Where an on-going, short-term or one-off requirement is agreed, both Parties agree that it shall be included, or deemed to be included within this Schedule 13.

3 Management Information and Format

- 3.1 In accordance with paragraph 3.2 below, the Contractor shall supply the Authority with Management Information stated below by encrypted email on a monthly and yearly basis (by the 3rd Working Day of each month) to the AtW Team and Performance Manager. The Contractor can discuss and agree with the Authority ways to improve this format after the Contracts have been awarded.
- 3.2 The Contractor agrees to provide timely MI Reports to the Authority which incorporates the data listed below, in the correct format, and which the Contractor represents and warrants are full, accurate and complete as at the date of provision to the Authority.
- 3.3 The monthly MI must comprise:
- Key Performance Indicator reports;
 - Number of referrals received in month and year to date;
 - The number of Apprentice referrals received in month and year to date;
 - Number of Support Plans completed in month and year to date;
 - Number of 6 Month Reports completed in month and year to date;
 - Number of Exit Reports completed in month and year to date;
 - The number of Support Plans reports returned outside 1 calendar month in month, year to date and as a percentage of the total reports;
 - The number of 6 Month Reports returned outside ten (10) Working Days in month, year to date and as a percentage of the total reports;
 - The number of Exit Reports returned outside ten (10) Working Days in month, year to date and as a percentage of the total reports;
 - The volume of withdrawals made by Customers in month and by year to date prior to completion of the minimum 6 month support period;
 - Employment retention rate for Apprentices at the 6 Month Report stage and at the Exit Report stage;

- The number of complaints handled by the Contractor and time taken to resolve to Customer's satisfaction (Working Days) in month and year to date;
- The number of complaints referred to the Authority in month and year to date;
- A list of all staff engaged with customers on the contract detailing their skills, experience, clearances and qualifications.

3.4 The yearly MI must comprise:

- List of customer's primary mental health conditions;
- Key customer demographics (e.g. age, geographical location)
- Summary report for all delivery staff detailing all continuous professional development activities undertaken in the last 12 months and a forward look plan for the next 12 months:
 - (a) This should include how and why the activities were selected;
 - (b) The benefits of these activities to the service delivered.
- Report provided using data from the Support Plan, 6 Month Report and Exit Report on the customer's evaluation of their mental health and MHSS journey. Alongside this the raw data must be submitted in an anonymised format for the Support Plan, 6 Month Report and Exit Report. This should include:
 - (a) All questions from the second table (completed by the customer) of the Support Plan, 6 Month Report and Exit Report;
 - (b) Mental health disclosure rates from the Support Plan, 6 Month Report and Exit Report.

3.5 As and when directed by the Authority's Representative, the Contractor shall collect statistical data which, in the opinion of the Authority's Representative, is relative to the Services being provided under the Contract. The Staff shall make available for inspection all such records and work counts upon the request of the Authority's Representative within ten (10) Working Days.

3.6 The Authority may from time to time make changes to the data it requires the Contractor to provide in an MI Report including to the data required or format of the report and notify such changes to the Contractor. The Authority shall give

notice in writing of any such change to the MI Report and shall specify the date from which such changes to the content or format of the MI Reports shall be effective which date shall be at least thirty (30) calendar days following the date of the notice.

- 3.7 If the Authority changes the data required or format of the MI Report at any time, then the Contractor agrees to provide all future MI Reports in accordance with such notification.
- 3.8 The Authority may provide the Contractor with supplemental guidance for completing the MI Report or submitting MI Reports from time to time which may for example indicate which fields are mandatory and which are optional. The Contractor agrees to complete the MI Report in accordance with any such guidance.
- 3.9 The Authority shall have the right from time to time (on reasonable written notice) to amend the nature of the Management Information which the Contractor is required to supply to the Authority.

4 Sharing of Management Information

- 4.1 There are defined controls in place concerning the sharing of Management Information that the Contractor must ensure are followed.
- 4.2 The Contractor shall not (and shall ensure that any of its Staff does not) at any time publish, disclose or divulge any of the Management Information to any third party until the date of publication of the official and/or national statistics.
- 4.3 The Contractor must implement appropriate arrangements which ensure that the Authority's information and any other Authority assets are protected in accordance with prevailing statutory and central government requirements.
- 4.4 It is the Contractor's responsibility to monitor compliance of any sub-contractors and provide assurance to the Authority.
- 4.5 Any Special Category Personal Data transferred to the Authority must adhere to data security standards.

5 Frequency and Coverage

- 5.1 All MI Reports must be returned to the Authority on or prior to the Reporting Date every Month during the Contract Period and thereafter, until all transactions relating to Contracts to which the Contractor is a party have permanently ceased.

- 5.2 The MI Report should be used (among other things) to report activity and transactions occurring during the Month(s) to which the MI Report relates.
- 5.3 Unless otherwise notified to the Contractor by the Authority, the Contractor must return the MI Report for each Month(s) even where there are no transactions to report in the relevant Month (a "**Nil Return**").
- 5.4 The Contractor must inform the Authority of any errors or corrections to the Management Information:
 - (a) in the next MI Report due immediately following discovery of the error by the Contractor; or
 - (b) as a result of the Authority querying any data contained in an MI Report.

6 Submission of the MI Report

The completed MI Report shall be completed electronically and returned to the Authority by uploading and/or sending the MI Report in accordance with the instructions notified by the Authority to the Contractor from time to time. The Contractor agrees to comply with any such instructions provided they do not materially increase the burden on the Contractor.

7 Defective Management Information

- 7.1 The Contractor acknowledges that it is essential that the Authority receives timely and accurate Management Information pursuant to this Contract because Management Information is used by the Authority to inform strategic decision making.
- 7.2 Following an MI Failure the Authority may issue reminders to the Contractor or require the Contractor to rectify defects in the MI Report provided to the Authority. The Contractor shall rectify any deficient or incomplete MI Report as soon as possible and not more than five (5) Working Days following receipt of any such reminder.

8 Meetings

The Contractor agrees to attend meetings between the Authority and the Contractor in person to discuss the circumstances of any MI Failure(s) at the request of the Authority (without prejudice to any other rights the Authority may have). If the Authority requests such a meeting the Contractor shall propose measures to ensure that the MI Failures are rectified and do not occur in the future. The Authority and the Contractor shall document these measures and continue to monitor the Contractor's performance.

9 Admin Fees

- 9.1 If, in any rolling three (3) Month period, two (2) or more MI Failures occur, the Contractor acknowledges and agrees that the Authority shall have the right to invoice the Contractor Admin Fees and (subject to 7.2) in respect of any MI Failures as they arise in subsequent Months.
- 9.2 If, following activation of the Authority's right to charge Admin Fee(s) in respect of MI Failures pursuant to paragraph 7.2, the Contractor submits the Monthly MI Report for two (2) consecutive Months and no MI Failure occurs then the right to charge the Admin Fee(s) shall lapse. For the avoidance of doubt the Authority shall not be prevented from exercising such right again during the Contract Period if the conditions in paragraph 7.1 are met.
- 9.3 The Contractor acknowledges and agrees that the Admin Fees are a fair reflection of the additional costs incurred by the Authority as a result of the Contractor failing to supply Management Information as required by this Contract.
- 9.4 The Authority shall notify the Contractor if any Admin Fees arise pursuant to paragraph 7.1 above and shall be entitled to invoice the Contractor for such Admin Fees, which shall be payable by the Contractor within thirty (30) days of the date of the relevant invoice. Any exercise by the Authority of its rights under this paragraph 9.4 shall be without prejudice to any other rights that may arise pursuant to the terms of this Contract.

Schedule 14

Personal Data, Special Categories Of Personal Data And Data Subjects

ANNEX A – DATA PROCESSING

NOT USED

ANNEX B – DATA CONTROLLER

PART 1

The Authority shall be the Data Controller of any Personal Data and Special Category Personal Data relating to the Contract that it collects and transfers to the Contractor. The Authority is also Data Controller for any sets of Personal Data and Special Category Personal Data which it prescribes the Contractor shall process pursuant to the Contract.

PART 2

The Contractor shall be the Data Controller of any sets of Personal Data and Special Category Personal Data which the Contractor processes pursuant to or in connection with the Contract, of which the contents are not specifically prescribed by the Authority.

Schedule 15

Dispute Resolution Procedure

1 DEFINITIONS

In this Schedule, the following definitions shall apply:

“CEDR”	the Centre for Effective Dispute Resolution of International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU;
“Counter Notice”	has the meaning given in paragraph 7.2;
“Expert”	in relation to a Dispute, a person appointed in accordance with paragraph 6.2 to act as an expert in relation to that Dispute;
“Expert Determination”	determination by an Expert in accordance with paragraph 6;
“Mediation Notice”	has the meaning given in paragraph 4.2;
“Mediator”	the independent third party appointed in accordance with paragraph 5.2 to mediate a Dispute;
“Multi-Party Dispute”	a Dispute which involves the Parties and one or more Related Third Parties;
“Multi-Party Dispute Representative”	has the meaning given in paragraph 9.6;
“Multi-Party Dispute Resolution Board”	has the meaning given in paragraph 9.6;
“Related Third Party”	a party to: (a) another contract with the Authority or the Contractor which is relevant to this Contract; or (b) a Sub-contract; and
“Contractor Request”	a notice served by the Contractor requesting that the Dispute be treated as a Multi-Party Dispute, setting out its grounds for that request and specifying each Related Third Party that it believes should be involved in the Multi-Dispute Resolution Procedure in respect of that Dispute.

2 DISPUTE NOTICES

2.1 If a Dispute arises then:

- (a) the Authority's Representative and the Contractor's Representative shall attempt in good faith to resolve the Dispute; and
- (b) if such attempts are not successful within a reasonable period, not being longer than twenty (20) Working Days, either Party may issue to the other a Dispute Notice.

2.2 A Dispute Notice:

- (a) shall set out:
 - (i) the material particulars of the Dispute;
 - (ii) the reasons why the Party serving the Dispute Notice believes that the Dispute has arisen; and
 - (iii) if the Party serving the Dispute Notice believes that the Dispute should be dealt with under the Expedited Dispute Timetable as set out in paragraph 3, the reason why; and
- (b) may specify in accordance with the requirements of paragraphs 9.2 and 9.3 that the Party issuing the Dispute Notice has determined (in the case of the Authority) or considers (in the case of the Contractor) that the Dispute is a Multi-Party Dispute, in which case paragraph 2.3 shall apply.

2.3 If a Dispute Notice specifies that the Dispute has been determined or is considered to be a Multi-Party Dispute pursuant to paragraph 2.2(b), then:

- (a) if it is served by the Authority it shall be treated as a Multi-Party Procedure Initiation Notice; and
- (b) if it is served by the Contractor it shall be treated as a Contractor Request, and in each case the provisions of paragraph 9 shall apply.

2.4 Subject to paragraphs 2.5 and 3.2 and so long as the Authority has not served a Multi-Party Procedure Initiation Notice in respect of the relevant Dispute, following the issue of a Dispute Notice the Parties shall seek to resolve the Dispute:

- (a) first by commercial negotiation (as prescribed in paragraph 4);
- (b) then, if either Party serves a Mediation Notice, by mediation (as prescribed in paragraph 5); and
- (c) lastly by recourse to arbitration (as prescribed in paragraph 7) or litigation (in accordance with clause 11 (Governing Law and Jurisdiction)).

- 2.5 Specific issues shall be referred to Expert Determination (as prescribed in paragraph 6) where specified under the provisions of this Contract and may also be referred to Expert Determination where otherwise appropriate as specified in paragraph 6.1.
- 2.6 Unless agreed otherwise in writing, the Parties shall continue to comply with their respective obligations under this Contract regardless of the nature of the Dispute and notwithstanding any issue of a Dispute Notice or a Multi-Party Procedure Initiation Notice or proceedings under paragraph 8 (Urgent Relief).

3 EXPEDITED DISPUTE TIMETABLE

- 3.1 In exceptional circumstances where the use of the times in this Schedule would be unreasonable, including (by way of example) where one Party would be materially disadvantaged by a delay in resolving the Dispute, the Parties may agree to use the Expedited Dispute Timetable. If the Parties are unable to reach agreement on whether to use the Expedited Dispute Timetable within five (5) Working Days of the issue of a Dispute Notice, the use of the Expedited Dispute Timetable shall be at the sole discretion of the Authority.
- 3.2 If the Expedited Dispute Timetable is to be used pursuant to the provisions of paragraph 3.1 or is otherwise specified under the provisions of this Contract, then the following periods of time shall apply in lieu of the time periods specified in the applicable paragraphs:
- (a) in paragraph 4.2(b), ten (10) Working Days;
 - (b) in paragraph 5.2, ten (10) Working Days;
 - (c) in paragraph 6.2, five (5) Working Days; and
 - (d) in paragraph 7.2, ten (10) Working Days.
- 3.3 If at any point it becomes clear that an applicable deadline cannot be met or has passed, the Parties may (but shall be under no obligation to) agree in writing to extend the deadline. If the Parties fail to agree within two (2) Working Days after the deadline has passed, the Authority may set a revised deadline provided that it is no less than five (5) Working Days before the end of the period of time specified in the applicable paragraphs (or two (2) Working Days in the case of paragraph 6.2). Any agreed extension shall have the effect of delaying the start of the subsequent stages by the period agreed in the extension. If the Authority fails to set such a revised deadline then the use of the Expedited Dispute Timetable shall cease and the normal time periods shall apply from that point onwards.

4 COMMERCIAL NEGOTIATION

- 4.1 Following the service of a Dispute Notice, then, so long as the Authority has not served a Multi-Party Procedure Initiation Notice in respect of the relevant Dispute, the Authority and the Contractor shall make reasonable endeavours to resolve the Dispute as soon as possible by commercial negotiation between

a person nominated in writing by the Authority by notice to the Contractor and a person nominated in writing by the Contractor by notice to the Authority.

4.2 If either Party is of the reasonable opinion that the resolution of a Dispute by commercial negotiation, or the continuance of commercial negotiation, will not result in an appropriate solution:

- (a) the Parties have already held discussions of a nature and intent (or otherwise were conducted in the spirit) that would equate to the conduct of commercial negotiation in accordance with this paragraph 4; or
- (b) the Parties have not settled the Dispute in accordance with paragraph 4.1 within thirty (30) Working Days of service of the Dispute Notice,

either Party may serve a written notice to proceed to mediation in accordance with paragraph 5 (a "**Mediation Notice**").

5 MEDIATION

5.1 If a Mediation Notice is served, the Parties shall attempt to resolve the dispute in accordance with the version of CEDR's Model Mediation Procedure which is current at the time the Mediation Notice is served (or such other version as the Parties may agree).

5.2 If the Parties are unable to agree on the joint appointment of an independent person to mediate the Dispute within twenty (20) Working Days from (and including) the service of a Mediation Notice then either Party may apply to CEDR to nominate such a person.

5.3 If the Parties are unable to reach a settlement in the negotiations at the mediation, and only if both Parties so request and the Mediator agrees, the Mediator shall produce for the Parties a non-binding recommendation on terms of settlement. This shall not attempt to anticipate what a court might order but shall set out what the Mediator suggests are appropriate settlement terms in all of the circumstances.

5.4 Any settlement reached in the mediation shall not be legally binding until it has been reduced to writing and signed by, or on behalf of, the Parties (in accordance with the Change Control Procedure where appropriate). The Mediator shall assist the Parties in recording the outcome of the mediation.

6 EXPERT DETERMINATION

6.1 If a Dispute relates to any aspect of the technology underlying the provision of the Services or otherwise relates to a technical matter of an IT, accounting or financing nature and the Dispute has not been resolved by commercial negotiation in accordance with paragraph 4 or, if applicable, mediation in accordance with paragraph 5, then either Party may by written notice to the other request (agreement to which request shall not be unreasonably withheld or delayed) that the Dispute be referred to an expert for determination.

6.2 The expert shall be appointed by agreement in writing between the Parties, but in the event of a failure to agree within ten (10) Working Days of the relevant request made pursuant to paragraph 6.1, or if the person appointed is unable or unwilling to act, the expert shall be appointed:

- (a) if the Dispute relates to any aspect of the technology underlying the provision of the Services or a matter of an IT technical nature, on the instructions of the President of the British Computer Society (or any other association that has replaced the British Computer Society);
- (b) if the Dispute relates to a matter of a financial technical nature, on the instructions of the President of the Institute of Chartered Accountants of England and Wales; or
- (c) if the Dispute relates to a matter of a technical nature not falling within paragraphs 6.2(a) or (b), on the instructions of the president (or equivalent) of:
 - (i) an appropriate body agreed between the Parties; or
 - (ii) if the Parties do not reach agreement on the relevant body within fifteen (15) Working Days of the relevant request made pursuant to paragraph 6.1, such body as may be specified by the President of the law Society on application by either Party.

6.3 The Expert shall act on the following basis:

- (a) he/she shall act as an expert and not as an arbitrator and shall act fairly and impartially;
- (b) the Expert's determination shall (in the absence of a material failure to follow the agreed procedures) be final and binding on the Parties;
- (c) the Expert shall decide the procedure to be followed in the determination and shall be requested to make his/her determination within thirty (30) Working Days of his appointment or as soon as reasonably practicable thereafter and the Parties shall assist and provide the documentation that the Expert requires for the purpose of the determination;
- (d) any amount payable by one Party to another as a result of the Expert's determination shall be due and payable within twenty (20) Working Days of the Expert's determination being notified to the Parties;
- (e) the process shall be conducted in private and shall be confidential; and
- (f) the Expert shall determine how and by whom the costs of the determination, including his/her fees and expenses, are to be paid.

7 ARBITRATION

7.1 Subject to compliance with its obligations under paragraph 4.1 and to the provisions of paragraph 6, the Authority may at any time before court

proceedings are commenced refer the Dispute to arbitration in accordance with the provisions of paragraph 7.5.

- 7.2 Before the Contractor commences court proceedings or arbitration, it shall serve written notice on the Authority of its intentions and the Authority shall have fifteen (15) Working Days following receipt of such notice to serve a reply (a “**Counter Notice**”) on the Contractor requiring the Dispute to be referred to and resolved by arbitration in accordance with paragraph 7.5 or be subject to the exclusive jurisdiction of the courts of England and Wales. The Contractor shall not commence any court proceedings or arbitration until the expiry of such fifteen (15) Working Day period.
- 7.3 If the Authority serves a Counter Notice, then:
- (a) if the Counter Notice requires the Dispute to be referred to arbitration, the provisions of paragraph 7.5 shall apply; or
 - (b) if the Counter Notice requires the Dispute to be subject to the exclusive jurisdiction of the courts of England and Wales, the Dispute shall be so referred to those courts and the Contractor shall not commence arbitration proceedings.
- 7.4 If the Authority does not serve a Counter Notice within the fifteen (15) Working Day period referred to in paragraph 7.2, the Contractor may either commence arbitration proceedings in accordance with paragraph 7.5 or commence court proceedings in the Courts of England and Wales which shall (in those circumstances) have exclusive jurisdiction.
- 7.5 The Parties hereby confirm that if any arbitration proceedings are commenced pursuant to paragraphs 7.1 to 7.4:
- (a) the Dispute shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration (“**LCIA**”) (subject to paragraphs 7.5(e), (f) and (g));
 - (b) the arbitration shall be administered by the LCIA;
 - (c) the LCIA procedural rules in force at the date that the Dispute was referred to arbitration shall be applied and are deemed to be incorporated by reference into this Contract and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;
 - (d) if the Parties fail to agree the appointment of the arbitrator within ten (10) Working Days from the date on which arbitration proceedings are commenced or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
 - (e) the chair of the arbitral tribunal shall be British;
 - (f) the arbitration proceedings shall take place in London and in the English language; and

(g) the seat of the arbitration shall be London.

8 URGENT RELIEF

Either Party may at any time take proceedings or seek remedies before any court or tribunal of competent jurisdiction:

- (a) for interim or interlocutory remedies in relation to this Contract or infringement by the other Party of that Party's Intellectual Property Rights; and/or
- (b) where compliance with paragraph 2.1 and/or referring the Dispute to mediation may leave insufficient time for that Party to commence proceedings before the expiry of the limitation period.

9 MULTI-PARTY DISPUTES

- 9.1 All Multi-Party Disputes shall be resolved in accordance with the procedure set out in this paragraph 9 (the "**Multi-Party Dispute Resolution Procedure**").
- 9.2 If at any time following the issue of a Dispute Notice, the Authority reasonably considers that the matters giving rise to the Dispute involve one or more Related Third Parties, then the Authority shall be entitled to determine that the Dispute is a Multi-Party Dispute and to serve a notice on the Contractor which sets out the Authority's determination that the Dispute is a Multi-Party Dispute and specifies the Related Third Parties which are to be involved in the Multi-Party Dispute Resolution Procedure, such notice a "**Multi-Party Procedure Initiation Notice**".
- 9.3 If following the issue of a Dispute Notice but before the Dispute has been referred to Expert Determination or to arbitration in accordance with paragraph 7, the Contractor has reasonable grounds to believe that the matters giving rise to the Dispute have been contributed to by one or more Related Third Parties, the Contractor may serve a Contractor Request on the Authority.
- 9.4 The Authority shall (acting reasonably) consider each Contractor Request and shall determine within five (5) Working Days whether the Dispute is:
 - (a) a Multi-Party Dispute, in which case the Authority shall serve a Multi-Party Procedure Initiation Notice on the Contractor; or
 - (b) not a Multi-Party Dispute, in which case the Authority shall serve written notice of such determination upon the Contractor and the Dispute shall be treated in accordance with paragraphs 3 to 8.
- 9.5 If the Authority has determined, following a Contractor Request, that a Dispute is not a Multi-Party Dispute, the Contractor may not serve another Contractor Request with reference to the same Dispute.
- 9.6 Following service of a Multi-Party Procedure Initiation Notice a Multi-Party Dispute shall be dealt with by a board (in relation to such Multi-Party Dispute, the "**Multi-Party Dispute Resolution Board**") comprising representatives

from the following parties to the Multi-Party Dispute, at least one of whom from each of the parties shall be of a suitable level of seniority and have full authority to finalise any agreement with the other parties to settle the Multi-Party Dispute:

- (a) the Authority;
- (b) the Contractor;
- (c) each Related Third Party involved in the Multi-Party Dispute; and
- (d) any other representatives of any of the Parties and/or any Related Third Parties whom the Authority considers necessary,

(together “**Multi-Party Dispute Representatives**”).

9.7 The Parties agree that the Multi -Party Dispute Resolution Board shall seek to resolve the relevant Multi-Party Dispute in accordance with the following principles and procedures:

- (a) the Parties shall procure that their Multi-Party Dispute Representatives attend, and shall use their best endeavours to procure that the Multi-Party Dispute Representatives of each Related Third Party attend, all meetings of the Multi-Party Dispute Resolution Board in respect of the Multi-Party Dispute;
- (b) the Multi-Party Dispute Resolution Board shall first meet within ten (10) Working Days of service of the relevant Multi-Party Procedure Initiation Notice at such time and place as the Parties may agree or, if the Parties do not reach agreement on the time and place within five (5) Working Days of service of the relevant Multi-Party Procedure Initiation Notice, at the time and place specified by the Authority, provided such place is at a neutral location within England and that the meeting is to take place between 9.00 a.m. and 5.00 p.m. on a Working Day; and
- (c) in seeking to resolve or settle any Multi-Party Dispute, the members of the Multi-Party Dispute Resolution Board shall have regard to the principle that a Multi-Party Dispute should be determined based on the contractual rights and obligations between the Parties and the Related Third Parties and that any apportionment of costs should reflect the separate components of the Multi-Party Dispute.

9.8 If a Multi-Party Dispute is not resolved between the Parties and all Related Third Parties within twenty-five (25) Working Days of the issue of the Multi-Party Procedure Initiation Notice (or such longer period as the Parties may agree in writing), then:

- (a) either Party may serve a Mediation Notice in respect of the Multi-Party Dispute in which case paragraph 5 shall apply;
- (b) either Party may request that the Multi-Party Dispute is referred to an expert in which case paragraph 6 shall apply; and/or

- (c) subject to paragraph 9.9, paragraph 7 shall apply to the Multi-Party Dispute,

and in each case references to the “Contractor” or the “Parties” in such provisions shall include a reference to all Related Third Parties.

- 9.9 If a Multi-Party Dispute is referred to arbitration in accordance with paragraph 7 or a Dispute becomes a Multi-Party Dispute during the course of arbitration proceedings and either Party is unable to compel a Related Third Party to submit to such arbitration proceedings, the Authority or the Contractor may discontinue such arbitration proceedings and instead initiate court proceedings. The costs of any such discontinued arbitration proceedings shall be borne by the Party which is in a direct contractual relationship with the Related Third Party or, where the Related Third Party is a Sub-contractor, by the Contractor.