

1 Interpretation

1.1 In these terms and conditions:

“Agreement”	means the contract between (i) the Customer acting as part of the Crown and (ii) the Supplier constituted by the Supplier’s countersignature of the Award Letter and includes the Award Letter;
“Award Letter”	means the letter (including the Annexes thereto) from the Customer to the Supplier via the e-Sourcing Suite at the point of award;
“Central Government Body”	means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: (a) Government Department; (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); (c) Non-Ministerial Department; or (d) Executive Agency;
“Charges”	means the charges for the Services as specified in the Award Letter;
“Confidential Information”	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
“Critical Service Level Failure”	means any instance of critical service level failure specified in Annex 2 to Part A of Schedule 1 (Service Levels, Service Credits and Performance Monitoring);
“Customer”	means the person named as Customer in the Award Letter;
“DPA”	means the Data Protection Act 1998;
“Expiry Date”	means the date for expiry of the Agreement as set out in the Award Letter;
“FOIA”	means the Freedom of Information Act 2000;
“Information”	has the meaning given under section 84 of the FOIA;
“Key Personnel”	means any persons specified as such in the Award Letter or otherwise notified as such by the Customer to the Supplier in writing;
“Party”	means the Supplier or the Customer (as appropriate) and “Parties” shall mean both of them;
“Performance Monitoring”	has the meaning given to it in paragraph 9.1 of Part B of Schedule 1 (Service Levels, Service Credits and Performance Monitoring);



Reports”

“Personal Data”	means personal data (as defined in the DPA) which is processed by the Supplier or any Staff on behalf of the Customer pursuant to or in connection with this Agreement;
“Prohibited Act”	means any of the following: a) to directly or indirectly offer, promise or give any person working for or engaged by the Customer and/or the Contracting Authority or other Contracting Authority or any other public body a financial or other advantage to: i) induce that person to perform improperly a relevant function or activity; or ii) reward that person for improper performance of a relevant function or activity; b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement; c) committing any offence: i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act) ii) under legislation or common law concerning fraudulent acts; or iii) defrauding, attempting to defraud or conspiring to defraud the Customer; or any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;
“Purchase Order Number”	means the Customer’s unique number relating to the supply of the Services;
“Request for Information”	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term “request” shall apply);
“Service Credit Cap”	(a) in the period of 12 months from the Start Date, 20% of the Charges; and (b) during the remainder of the Term, 20% of the Charges paid and/or due to be paid to the Supplier under this Agreement in the period of 12 months immediately preceding the period in respect of which Service Credits are accrued;
“Service Credits”	means any Service Credits specified in Annex 1 to Part A of Schedule 1 (Service Levels, Service Credits and Performance Monitoring) being payable by the Supplier to the Customer in respect of any failure by the Supplier to meet

	one or more Service Levels;
“Service Level Credits”	means the level of credits to be applied as detailed in Schedule 1
“Service Level Failure”	means a failure to meet the Service Level Threshold in respect of a Service Level Performance Criterion;
“Service Level Threshold”	shall be as set out against the relevant Service Level Performance Criteria in Annex 1 of Part A of Schedule 1 (Service Levels, Service Credits and Performance Monitoring);
“Service Levels”	means any service levels applicable to the provision of the Services under this Contract specified in Schedule 1 (Service Levels, Service Credits and Performance Monitoring);
“Services”	means the services to be supplied by the Supplier to the Customer under the Agreement;
“Specification”	means the specification for the Services (including as to quantity, description and quality) as specified in the Award Letter;
“Start Date”	means the commencement date of the Agreement as set out in the Award Letter;
“Staff”	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier’s obligations under the Agreement;
“Staff Vetting Procedures”	means vetting procedures that accord with good industry practice or, where requested by the Customer, the Customer’s procedures for the vetting of personnel as provided to the Supplier from time to time;
“Supplier”	means the person named as Supplier in the Award Letter;
“Term”	means the period from the Start Date of the Agreement set out in the Award Letter to the Expiry Date as such period may be extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement;
“VAT”	means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and
“Working Day”	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

1.2 In these terms and conditions, unless the context otherwise requires:

- 1.2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;
- 1.2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 1.2.3 the headings to the clauses of these terms and conditions are for information only and do not affect the interpretation of the Agreement;



1.2.4 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and

1.2.5 the word ‘including’ shall be understood as meaning ‘including without limitation’.

2 Basis of Agreement

2.1 The Award Letter constitutes an offer by the Customer to purchase the Services subject to and in accordance with the terms and conditions of the Agreement.

2.2 The offer comprised in the Award Letter shall be deemed to be accepted by the Supplier on receipt by the Customer, within 7 days of the date of the award letter, of a copy of the Award Letter countersigned by the Supplier.

3 Supply of Services

3.1 In consideration of the Customer’s agreement to pay the Charges, the Supplier shall supply the Services to the Customer for the Term subject to and in accordance with the terms and conditions of the Agreement.

3.2 In supplying the Services, the Supplier shall:

3.2.1 co-operate with the Customer in all matters relating to the Services and comply with all the Customer’s instructions;

3.2.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Supplier’s industry, profession or trade;

3.2.3 use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier’s obligations are fulfilled in accordance with the Agreement;

3.2.4 ensure that the Services shall conform with all descriptions, requirements, service levels and specifications set out in the Specification;

3.2.5 comply with all applicable laws; and

3.2.6 provide all equipment, tools and vehicles and other items as are required to provide the Services.

3.3 The Customer may by written notice to the Supplier at any time request a variation to the scope of the Services. In the event that the Supplier agrees to any variation to the scope of the Services, the Charges shall be subject to fair and reasonable adjustment to be agreed in writing between the Customer and the Supplier.

4 Term

4.1 The Agreement shall take effect on the Start Date and shall expire on the Expiry Date, unless it is otherwise extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement.

4.2 The Customer may extend the Agreement for a period(s) of up to 24 months by giving not less than 10 Working Days’ notice in writing to the Supplier prior to the Expiry Date. The terms and conditions of the Agreement shall apply throughout any such extended period.



5 Charges, Payment and Recovery of Sums Due

- 5.1 The Charges for the Services shall be as set out in the Award Letter and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 5.2 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Customer shall, following the receipt of a valid VAT invoice, pay to the Supplier a sum equal to the VAT chargeable in respect of the Services.
- 5.3 The Supplier shall invoice the Customer as specified in the Agreement. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant Purchase Order Number and a breakdown of the Services supplied in the invoice period.
- 5.4 In consideration of the supply of the Services by the Supplier, the Customer shall pay the Supplier the invoiced amounts no later than 30 days after verifying that the invoice is valid and undisputed and includes a valid Purchase Order Number. The Customer may, without prejudice to any other rights and remedies under the Agreement, withhold or reduce payments in the event of unsatisfactory performance.
- 5.5 If the Customer fails to consider and verify an invoice in a timely fashion the invoice shall be regarded as valid and undisputed for the purpose of paragraph 5.4 after a reasonable time has passed.
- 5.6 If there is a dispute between the Parties as to the amount invoiced, the Customer shall pay the undisputed amount. The Supplier shall not suspend the supply of the Services unless the Supplier is entitled to terminate the Agreement for a failure to pay undisputed sums in accordance with clause 16.4. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 19.
- 5.7 If a payment of an undisputed amount is not made by the Customer by the due date, then the Customer shall pay the Supplier interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.8 Where the Supplier enters into a sub-contract, the Supplier shall include in that sub-contract:
- 5.8.1 provisions having the same effects as clauses 5.3 to 5.7 of this Agreement; and
 - 5.8.2 a provision requiring the counterparty to that sub-contract to include in any sub-contract which it awards provisions having the same effect as 5.3 to 5.8 of this Agreement.
 - 5.8.3 In this clause 5.8, “sub-contract” means a contract between two or more suppliers, at any stage of remoteness from the Authority in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement.
- 5.9 If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Customer in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Customer from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Customer. The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount



in whole or in part.

6 Premises and equipment

- 6.1 If necessary, the Customer shall provide the Supplier with reasonable access at reasonable times to its premises for the purpose of supplying the Services. All equipment, tools and vehicles brought onto the Customer's premises by the Supplier or the Staff shall be at the Supplier's risk.
- 6.2 If the Supplier supplies all or any of the Services at or from the Customer's premises, on completion of the Services or termination or expiry of the Agreement (whichever is the earlier) the Supplier shall vacate the Customer's premises, remove the Supplier's plant, equipment and unused materials and all rubbish arising out of the provision of the Services and leave the Customer's premises in a clean, safe and tidy condition. The Supplier shall be solely responsible for making good any damage to the Customer's premises or any objects contained on the Customer's premises which is caused by the Supplier or any Staff, other than fair wear and tear.
- 6.3 If the Supplier supplies all or any of the Services at or from its premises or the premises of a third party, the Customer may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant Services are supplied at or from the relevant premises.
- 6.4 The Customer shall be responsible for maintaining the security of its premises in accordance with its standard security requirements. While on the Customer's premises the Supplier shall, and shall procure that all Staff shall, comply with all the Customer's security requirements.
- 6.5 Where all or any of the Services are supplied from the Supplier's premises, the Supplier shall, at its own cost, comply with all security requirements specified by the Customer in writing.
- 6.6 Without prejudice to clause 3.2.6, any equipment provided by the Customer for the purposes of the Agreement shall remain the property of the Customer and shall be used by the Supplier and the Staff only for the purpose of carrying out the Agreement. Such equipment shall be returned promptly to the Customer on expiry or termination of the Agreement.
- 6.7 The Supplier shall reimburse the Customer for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by the Supplier or any Staff. Equipment supplied by the Customer shall be deemed to be in a good condition when received by the Supplier or relevant Staff unless the Customer is notified otherwise in writing within 5 Working Days.

7 Staff and Key Personnel

- 7.1 If the Customer reasonably believes that any of the Staff are unsuitable to undertake work in respect of the Agreement, it may, by giving written notice to the Supplier:
 - 7.1.1 refuse admission to the relevant person(s) to the Customer's premises;
 - 7.1.2 direct the Supplier to end the involvement in the provision of the Services of the relevant person(s); and/or
 - 7.1.3 require that the Supplier replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Customer to the person removed is surrendered, and the Supplier shall comply with any such notice.
- 7.2 The Supplier shall:

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- 7.2.1 ensure that all Staff are vetted in accordance with the Staff Vetting Procedures;
 - 7.2.2 if requested, provide the Customer with a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Customer's premises in connection with the Agreement; and
 - 7.2.3 procure that all Staff comply with any rules, regulations and requirements reasonably specified by the Customer.
- 7.3 Any Key Personnel shall not be released from supplying the Services without the agreement of the Customer, except by reason of long-term sickness, parental leave and termination of employment or other extenuating circumstances.
- 7.4 Any replacements to the Key Personnel shall be subject to the prior written agreement of the Customer (not to be unreasonably withheld). 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.

8 Assignment and sub-contracting

- 8.1 The Supplier shall not without the written consent of the Customer assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of the Agreement or any part of the Agreement. The Customer may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Supplier shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.
- 8.2 Where the Customer has consented to the placing of sub-contracts, the Supplier shall, at the request of the Customer, send copies of each sub-contract, to the Customer as soon as is reasonably practicable.
- 8.3 The Customer may assign, novate, or otherwise dispose of its rights and obligations under the Agreement without the consent of the Supplier provided that such assignment, novation or disposal shall not increase the burden of the Supplier's obligations under the Agreement.

9 Intellectual Property Rights

- 9.1 All intellectual property rights in any materials provided by the Customer to the Supplier for the purposes of this Agreement shall remain the property of the Customer or the respective owner of such intellectual property rights but the Customer hereby grants the Supplier a royalty-free, non-exclusive and non-transferable licence to use such materials as required until termination or expiry of the Agreement for the sole purpose of enabling the Supplier to perform its obligations under the Agreement.
- 9.2 All intellectual property rights in any materials created or developed by the Supplier pursuant to the Agreement vests with the Supplier. If, and to the extent, that any intellectual property rights in such materials vest in the Customer by operation of law, the Customer hereby assigns to the Supplier by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such intellectual property rights all its intellectual property rights in such materials (with full title guarantee and free from all third party rights).
- 9.3 The Supplier hereby grants the Customer:
- 9.3.1 a perpetual, royalty-free, irrevocable, non-exclusive licence (with a right to sub-license) to use all intellectual property rights in the materials created or developed pursuant to

- the Agreement and any intellectual property rights arising as a result of the provision of the Services; and
- 9.3.2 a perpetual, royalty-free, irrevocable and non-exclusive licence (with a right to sub-license) to use:
- (a) any intellectual property rights vested in or licensed to the Supplier on the date of the Agreement; and
 - (b) any intellectual property rights created during the Term but which are neither created or developed pursuant to the Agreement nor arise as a result of the provision of the Services, including any modifications to or derivative versions of any such intellectual property rights, which the Customer reasonably requires in order to exercise its rights and take the benefit of the Agreement including the Services provided.

- 9.4 The Supplier shall indemnify, and keep indemnified, the Customer in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Customer as a result of or in connection with any claim made against the Customer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Supplier or any Staff.

10 Governance and Records

- 10.1 The Supplier shall:

- 10.1.1 attend progress meetings with the Customer at the frequency and times specified by the Customer and shall ensure that its representatives are suitably qualified to attend such meetings; and
- 10.1.2 submit progress reports to the Customer at the times and in the format specified by the Customer.

- 10.2 The Supplier shall keep and maintain until 6 years after the end of the Agreement, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including the Services supplied under it and all payments made by the Customer. The Supplier shall on request afford the Customer or the Customer's representatives such access to those records as may be reasonably requested by the Customer in connection with the Agreement.

11 Confidentiality, Transparency and Publicity

- 11.1 Subject to clause 11.2, each Party shall:

- 11.1.1 treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and
- 11.1.2 not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under the Agreement.

- 11.2 Notwithstanding clause 11.1, a Party may disclose Confidential Information which it receives from the other Party:

- 11.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;



- 11.2.2 to its auditors or for the purposes of regulatory requirements;
- 11.2.3 on a confidential basis, to its professional advisers;
- 11.2.4 to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;
- 11.2.5 where the receiving Party is the Supplier, to the Staff on a need to know basis to enable performance of the Supplier's obligations under the Agreement provided that the Supplier shall procure that any Staff to whom it discloses Confidential Information pursuant to this clause 11.2.5 shall observe the Supplier's confidentiality obligations under the Agreement; and
- 11.2.6 where the receiving Party is the Customer:
 - (a) on a confidential basis to the employees, agents, consultants and contractors of the Customer;
 - (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company to which the Customer transfers or proposes to transfer all or any part of its business;
 - (c) to the extent that the Customer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or
 - (d) in accordance with clause 12.

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Customer under this clause 11.

- 11.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Agreement is not Confidential Information and the Supplier hereby gives its consent for the Customer to publish this Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Agreement agreed from time to time. The Customer may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA.
- 11.4 The Supplier shall not, and shall take reasonable steps to ensure that the Staff shall not, make any press announcement or publicise the Agreement or any part of the Agreement in any way, except with the prior written consent of the Customer.

12 Freedom of Information

- 12.1 The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall:
 - 12.1.1 provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its obligations under the FOIA and the Environmental Information Regulations 2004;



- 12.1.2 transfer to the Customer all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
 - 12.1.3 provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within 5 Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and
 - 12.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Customer.
- 12.2 The Supplier acknowledges that the Customer may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning the Supplier or the Services (including commercially sensitive information) without consulting or obtaining consent from the Supplier. In these circumstances the Customer shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.
- 12.3 Notwithstanding any other provision in the Agreement, the Customer shall be responsible for determining in its absolute discretion whether any Information relating to the Supplier or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.

13 Protection of Personal Data and Security of Data

- 13.1 The Supplier shall, and shall procure that all Staff shall, comply with any notification requirements under the DPA and both Parties shall duly observe all their obligations under the DPA which arise in connection with the Agreement.
- 13.2 Notwithstanding the general obligation in clause 13.1, where the Supplier is processing Personal Data for the Customer as a data processor (as defined by the DPA) the Supplier shall:
- 13.2.1 ensure that it has in place appropriate technical and organisational measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA;
 - 13.2.2 provide the Customer with such information as the Customer may reasonably request to satisfy itself that the Supplier is complying with its obligations under the DPA;
 - 13.2.3 promptly notify the Customer of:
 - (a) any breach of the security requirements of the Customer as referred to in clause 13.3; and
 - (b) any request for personal data; and
 - 13.2.4 ensure that it does not knowingly or negligently do or omit to do anything which places the Customer in breach of the Customer's obligations under the DPA.



13.3 When handling Customer data (whether or not Personal Data), the Supplier shall ensure the security of the data is maintained in line with the security requirements of the Customer as notified to the Supplier from time to time.

14 Liability

14.1 The Supplier shall not be responsible for any injury, loss, damage, cost or expense suffered by the Customer if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Agreement.

14.2 Subject always to clauses 14.3 and 14.4:

14.2.1 the aggregate liability of the Supplier in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Agreement, the supply or failure to supply of the Services, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise shall in no event exceed a sum equal to 125% of the Charges paid or payable to the Supplier; and

14.2.2 except in the case of claims arising under clauses 9.4 and 18.3, in no event shall the Supplier be liable to the Customer for any:

- (a) loss of profits;
- (b) loss of business;
- (c) loss of revenue;
- (d) loss of or damage to goodwill;
- (e) loss of savings (whether anticipated or otherwise); and/or
- (f) any indirect, special or consequential loss or damage.

14.3 Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:

14.3.1 death or personal injury caused by its negligence or that of its Staff;

14.3.2 fraud or fraudulent misrepresentation by it or that of its Staff; or

14.3.3 any other matter which, by law, may not be excluded or limited.

14.4 The Supplier's liability under the indemnity in clause 9.4 and 18.3 shall be unlimited.

15 Force Majeure

15.1 Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the Party affected. Each Party shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than two months, either Party may terminate the Agreement by written notice to the other Party.

16 Termination

16.1 The Customer may terminate the Agreement at any time by notice in writing to the Supplier to take effect on any date falling at least 1 month (or, if the Agreement is less than 3 months in duration, at least 10 Working Days) later than the date of service of the relevant notice.



- 16.2 Without prejudice to any other right or remedy it might have, the Customer may terminate the Agreement by written notice to the Supplier with immediate effect if the Supplier:
- 16.2.1 (without prejudice to clause 16.2.5), is in material breach of any obligation under the Agreement which is not capable of remedy;
 - 16.2.2 repeatedly breaches any of the terms and conditions of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Agreement;
 - 16.2.3 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;
 - 16.2.4 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;
 - 16.2.5 breaches any of the provisions of clauses 7.2, 11, 12, 13 and 17;
 - 16.2.6 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier's assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause 16.2.6) in consequence of debt in any jurisdiction; or
 - 16.2.7 fails to comply with legal obligations in the fields of environmental, social or labour law.
- 16.3 The Supplier shall notify the Customer as soon as practicable of any change of control as referred to in clause 16.2.4 or any potential such change of control.
- 16.4 The Supplier may terminate the Agreement by written notice to the Customer if the Customer has not paid any undisputed amounts within 90 days of them falling due.
- 16.5 Termination or expiry of the Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under this clause and clauses 2, 3.2, 6.1, 6.2, 6.6, 6.7, 7, 9, 10.2, 11, 12, 13, 14, 16.6, 17.4, 18.3, 19 and 20.7 or any other provision of the Agreement that either expressly or by implication has effect after termination.
- 16.6 Upon termination or expiry of the Agreement, the Supplier shall:
- 16.6.1 give all reasonable assistance to the Customer and any incoming supplier of the Services; and
 - 16.6.2 return all requested documents, information and data to the Customer as soon as reasonably practicable.

17 Compliance

- 17.1 The Supplier shall promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Customer shall promptly notify the Supplier of any health and safety hazards which may exist or arise at the Customer's premises and which may affect the Supplier in the performance of its obligations under the Agreement.



17.2 The Supplier shall:

- 17.2.1 comply with all the Customer's health and safety measures while on the Customer's premises; and
- 17.2.2 notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Agreement on the Customer's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

17.3 The Supplier shall:

- 17.3.1 perform its obligations under the Agreement in accordance with all applicable equality Law and the Customer's equality and diversity policy as provided to the Supplier from time to time; and
- 17.3.2 take all reasonable steps to secure the observance of clause 17.3.1 by all Staff.

17.4 The Supplier shall supply the Services in accordance with the Customer's environmental policy as provided to the Supplier from time to time.

17.5 The Supplier shall comply with, and shall ensure that its Staff shall comply with, the provisions of:

- 17.5.1 the Official Secrets Acts 1911 to 1989; and
- 17.5.2 section 182 of the Finance Act 1989.

18 Prevention of Fraud and Corruption

18.1 The Supplier shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Agreement or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement.

18.2 The Supplier shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Agreement and shall notify the Customer immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

18.3 If the Supplier or the Staff engages in conduct prohibited by clause 18.1 or commits fraud in relation to the Agreement or any other contract with the Crown (including the Customer) the Customer may:

- 18.3.1 terminate the Agreement and recover from the Supplier the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer throughout the remainder of the Agreement; or
- 18.3.2 recover in full from the Supplier any other loss sustained by the Customer in consequence of any breach of this clause.

19 Dispute Resolution

19.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them



arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.

- 19.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in clause 19.1, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the “**Mediator**”) chosen by agreement between the Parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.
- 19.3 If the Parties fail to appoint a Mediator within one month, or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either Party may exercise any remedy it has under applicable law.

20 General

- 20.1 Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its duly authorised representative.
- 20.2 A person who is not a party to the Agreement 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 the Parties.
- 20.3 The Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.
- 20.4 The Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.
- 20.5 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.
- 20.6 The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.
- 20.7 Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 20.8 If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.



21 Notices

- 21.1 Any notice to be given under the Agreement shall be in writing and may be served by personal delivery, first class recorded or, subject to clause 21.3, e-mail to the address of the relevant Party set out in the Award Letter, or such other address as that Party may from time to time notify to the other Party in accordance with this clause:
- 21.2 Notices served as above shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery shall be deemed to occur on the next Working Day. An email shall be deemed delivered when sent unless an error message is received.
- 21.3 Notices under clauses 15 (Force Majeure) and 16 (Termination) may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in clause 21.1.

22 Service Levels and Credits

- 22.1 This Clause 22 shall apply where the Customer has specified Service Levels and Service Credits in the Agreement. Where the Customer has specified Service Levels but not Service Credits, only sub-clauses 22.2, 22.3 and 22.7 shall apply.
- 22.2 When this Clause 22.2 applies, the Parties shall also comply with the provisions of Annex 1 to Part A (Service Levels and Service Credits) of Schedule 1 (Service Levels, Service Credits and Performance Monitoring).
- 22.3 The Supplier shall at all times during the Agreement Term provide the Services to meet or exceed the Service Level Performance Measure for each Service Level Performance Criterion.
- 22.4 The Supplier acknowledges that any Service Level Failure may have a material adverse impact on the business and operations of the Customer and that it shall entitle the Customer to the rights set out in Part A of Schedule 1 (Service Levels, Service Credits and Performance Monitoring) including the right to any Service Credits.
- 22.5 The Supplier acknowledges and agrees that any Service Credit is a price adjustment and not an estimate of the loss that may be suffered by the Customer as a result of the Supplier's failure to meet any Service Level Performance Measure.
- 22.6 A Service Credit shall be the Customer's exclusive financial remedy for a Service Level Failure except where:
- 22.6.1 the Supplier has over the previous (twelve) 12 Month period accrued Service Credits in excess of the Service Credit Cap;
- 22.6.2 the Service Level Failure:
- 22.6.2.1 exceeds the relevant Service Level Threshold;
- 22.6.2.2 has arisen due to a Prohibited Act or wilful Default by the Supplier or any Supplier Personnel; and
- 22.6.2.3 results in:
- (a) the corruption or loss of any Customer Data (in which case the remedies under Clause 13 (Protection of Personal Data and Security of Data) shall also be available); and/or



- (b) the Customer being required to make a compensation payment to one or more third parties; and/or

22.6.3 the Customer is otherwise entitled to or does terminate this Agreement pursuant to Clause 16 (Termination).

23 Critical Service Failure

23.1 This Clause 23 shall apply if the Customer specified both Service Credits and Critical Service Level Failure in the Contract.

23.2 On the occurrence of a Critical Service Level Failure:

23.2.1.1 any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and

23.2.1.2 the Customer shall (subject to the Liability cap set out in Clause 14 (Liability)) be entitled to withhold and retain as compensation for the Critical Service Level Failure a sum equal to any Agreement Charges which would otherwise have been due to the Supplier in respect of that Service Period ("**Compensation for Critical Service Level Failure**"),

provided that the operation of this Clause 23.2 shall be without prejudice to the right of the Customer to terminate this Agreement and/or to claim damages from the Supplier for material default as a result of such Critical Service Level Failure.

23.3 The Supplier:

23.3.1.1 agrees that the application of Clause 23.2 is commercially justifiable where a Critical Service Level Failure occurs; and

23.3.1.2 acknowledges that it has taken legal advice on the application of Clause 23.2 and has had the opportunity to price for that risk when calculating the Agreement Charges.

24 Governing Law and Jurisdiction

The validity, construction and performance of the Agreement, and all contractual and non-contractual matters arising out of it, shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.



SCHEDULE 1: SERVICE LEVELS, SERVICE CREDITS AND PERFORMANCE MONITORING

1. SCOPE

- 1.1 This Schedule 1 (Service Levels, Service Credits and Performance Monitoring) sets out the Service Levels which the Supplier is required to achieve when providing the Services, the mechanism by which Service Level Failures and Critical Service Level Failures will be managed and the method by which the Supplier's performance in the provision by it of the Services will be monitored.
- 1.2 This Schedule comprises:
 - 1.2.1 Part A: Service Levels and Service Credits;
 - 1.2.2 Annex 1 to Part A: Service Levels and Service Credits Table; and
 - 1.2.3 Part B: Performance Monitoring.



PART A: SERVICE LEVELS AND SERVICE CREDITS

1. GENERAL PROVISIONS

- 1.1 The Supplier shall provide a proactive Agreement manager to ensure that all Service Levels in this Agreement are achieved to the highest standard throughout the Term.
- 1.2 The Supplier shall provide a managed service through the provision of a dedicated Agreement manager where required on matters relating to:
 - 1.2.1 Supply performance;
 - 1.2.2 Quality of Services;
 - 1.2.3 Customer support;
 - 1.2.4 Complaints handling; and
 - 1.2.5 Accurate and timely invoices.
- 1.3 The Supplier accepts and acknowledges that failure to meet the Service Level Performance Measures set out in the table in Annex 1 to this Part A of this Schedule will result in Service Credits being issued to Customers.

2. PRINCIPAL POINTS

- 2.1 The objectives of the Service Levels and Service Credits are to:
 - 2.1.1 ensure that the Services are of a consistently high quality and meet the requirements of the Customer;
 - 2.1.2 provide a mechanism whereby the Customer can attain meaningful recognition of inconvenience and/or loss resulting from the Supplier's failure to deliver the level of service for which it has contracted to deliver; and
 - 2.1.3 incentivise the Supplier to comply with and to expeditiously remedy any failure to comply with the Service Levels.

3. SERVICE LEVELS

- 3.1 Annex 1 to this Part A of this Schedule sets out the Service Levels the performance of which the Parties have agreed to measure.
- 3.2 The Supplier shall monitor its performance of this Agreement by reference to the relevant performance criteria for achieving the Service Levels shown in Annex 1 to this Part A of this Schedule (the "**Service Level Performance Criteria**") and shall send the Customer a report detailing the level of service which was achieved in accordance with the provisions of Part B (Performance Monitoring) of this Schedule.
- 3.3 The Supplier shall, at all times, provide the Services in such a manner that the Service Levels Performance Measures are achieved.
- 3.4 If the level of performance of the Supplier of any element of the provision by it of the Services during the Agreement Term:



-
- 3.4.1 is likely to or fails to meet any Service Level Performance Measure or
- 3.4.2 is likely to cause or causes a Critical Service Level Failure to occur,
- 3.4.3 the Supplier shall immediately notify the Customer in writing and the Customer, in its absolute discretion and without prejudice to any other of its rights howsoever arising including under Clause 23 of this Agreement (Service Levels and Credits), may:
- (a) require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Customer and to rectify or prevent a Service Level Failure or Critical Service Level Failure from taking place or recurring; and
 - (b) if the action taken under paragraph (a) above has not already prevented or remedied the Service Level Failure or Critical Service Level Failure, the Customer shall be entitled to instruct the Supplier to comply with an agreed rectification plan; or
 - (c) if a Service Level Failure has occurred, deduct from the Agreement Charges the applicable Service Level Credits payable by the Supplier to the Customer in accordance with the calculation formula set out in Annex 1 of this Part A of this Schedule; or
 - (d) if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure in accordance with Clause 23 of this Agreement (Critical Service Level Failure) (including subject, for the avoidance of doubt, the proviso in Clause 16.2 of this Agreement in relation to material breach).

3.5 Approval and implementation by the Customer of any rectification plan shall not relieve the Supplier of any continuing responsibility to achieve the Service Levels, or remedy any failure to do so, and no estoppels or waiver shall arise from any such Approval and/or implementation by the Customer.

4. SERVICE CREDITS

4.1 Service Credits are set out in the table at Annex 1 to Part A.

5. NATURE OF SERVICE CREDITS

NOT USED

6. SERVICE CREDIT CAP

6.1 As per the definition set out in this Contract.

NOT USED



ANNEX 1 TO PART A: SERVICE LEVELS AND SERVICE CREDITS TABLE

THESE SERVICE LEVEL AGREEMENTS RELATE TO LOT 1 – TEXT TO BE REMOVED BEFORE AWARD

Service Level Performance Criterion	Service Level Performance Measure	Service Level Threshold	Service Credit
1. Refresh and delivery of each of the programme's four modules to the time agreed within the programme schedule	• Delivery of each module on time, • Refresh of module content which includes engagement with the Customer 3 months each cohort commences • Issuance of end of module assessments including collecting responses and reporting back to the Authority	Customer is engaged no less than 3 months before programme cycle to being refresh work 100% successful delivery of each module	1 percentage point reduction in the payment for each working day over the deadline. Capped at 10% of the total amount payable for said module value.
2. Design and deliver the evaluation of the programme through reporting at agreed points within the programme schedule as per Appendix B para 4.2.10	Issuance, collection and reporting of participant evaluation reports	100% successful delivery of evaluation reports	1 percentage point reduction in payment for each working day over the deadline for each agreed evaluation collection point for scenario builds. Individually capped at 10%



Service Level Performance Criterion	Service Level Performance Measure	Service Level Threshold	Service Credit
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THESE SERVICE LEVEL AGREEMENTS RELATE TO LOT 2 – TEXT TO BE REMOVED BEFORE AWARD

Service Level Performance Criterion	Service Level Performance Measure	Service Level Threshold	Service Credit
1. Refresh and delivery of module 1 for each cohort to the time agreed within the programme schedule	Delivery of module 1 on time, which includes engagement with the Customer 3 months each cohort commences, and delivery of refreshed programme content 1 month before cohort programme begins	Customer is engaged no less than 3 months before programme cycle to being refresh work 100% successful delivery of each module	1 percentage point reduction in the payment for each working day over the deadline. Capped at 10% of the total amount payable for said module value.
2. For module 1 develop, issue, assess and report on the assessments issued	Delivery and reporting of assessments on time	100% successful delivery of assessments	1 percentage point reduction in the payment for each working day over the deadline. Capped at 10% of the total amount payable for said module value.



PART B: PERFORMANCE MONITORING

7. PRINCIPAL POINTS

- 7.1 Part B to this Schedule provides the methodology for monitoring the provision of the Services:
- 7.1.1 to ensure that the Supplier is complying with the Service Levels; and
 - 7.1.2 for identifying any failures to achieve Service Levels in the performance of the Supplier and/or provision of the Services ("**Performance Monitoring System**").
- 7.2 Within twenty (20) Working Days of the Agreement Commencement Date the Supplier shall provide the Customer with details of how the process in respect of the monitoring and reporting of Service Levels will operate between the Parties and the Parties will endeavour to agree such process as soon as reasonably possible.

8. REPORTING OF SERVICE FAILURES

- 8.1 The Supplier shall report all failures to achieve Service Levels and any Critical Service Level Failure to the Customer in accordance with the processes agreed in paragraph 7.1.2 of Part B of this Schedule above.

9. PERFORMANCE MONITORING AND PERFORMANCE REVIEW

- 9.1 The Supplier shall provide the Customer with performance monitoring reports ("**Performance Monitoring Reports**") in accordance with the process and timescales agreed pursuant to paragraph 7.2 of Part B of this Schedule above which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
- 9.1.1 for each Service Level, the actual performance achieved over the Service Level for the relevant Service Period;
 - 9.1.2 a summary of all failures to achieve Service Levels that occurred during that Service Period;
 - 9.1.3 any Critical Service Level Failures and details in relation thereto;
 - 9.1.4 for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
 - 9.1.5 the Service Credits to be applied in respect of the relevant period indicating the failures and Service Levels to which the Service Credits relate; and
 - 9.1.6 such other details as the Customer may reasonably require from time to time.
- 9.2 The Parties shall attend meetings to discuss Performance Monitoring Reports ("**performance review meetings**") on a monthly basis (unless otherwise agreed). The performance review meetings will be the forum for the review by the Supplier and the Customer of the Performance Monitoring Reports. The performance review meetings shall (unless otherwise agreed):



- 9.2.1 take place within one (1) week of the Performance Monitoring Reports being issued by the Supplier;
 - 9.2.2 take place at such location and time (within normal business hours) as the Customer shall reasonably require unless otherwise agreed in advance;
 - 9.2.3 be attended by the Supplier's Representative and the Customer's Representative; and
 - 9.2.4 be fully minuted by the Supplier. The prepared minutes will be circulated by the Supplier to all attendees at the relevant meeting and also to the Customer's Representative and any other recipients agreed at the relevant meeting. The minutes of the preceding month's Performance Review Meeting will be agreed and signed by both the Supplier's Representative and the Customer's Representative at each meeting.
- 9.3 The Customer shall be entitled to raise any additional questions and/or request any further information regarding any failure to achieve Service Levels.
- 9.4 The Supplier shall provide to the Customer such supporting documentation as the Customer may reasonably require in order to verify the level of the performance by the Supplier and the calculations of the amount of Service Credits for any specified Service Period.

10. SATISFACTION SURVEYS

- 10.1 In order to assess the level of performance of the Supplier, the Customer may undertake satisfaction surveys in respect of the Supplier's provision of the Services.
- 10.2 The Customer shall be entitled to notify the Supplier of any aspects of their performance of the provision of the Services which the responses to the Satisfaction Surveys reasonably suggest are not in accordance with this Agreement.
- 10.3 All other suggestions for improvements to the provision of Services shall be dealt with as part of the continuous improvement programme pursuant to Clause **Error! Reference source not found.** of this Agreement (Continuous Improvement).

SCHEDULE TWO: COLLABORATIVE WORKING PRINCIPLES FOR THE CONTRACT

1. Purpose of Collaboration

1.1 The purpose of this Schedule is to:

- (i) document how the Supplier will collaborate and co-operate with the other suppliers in providing learning and development services to the Customer;
- (ii) promote collaboration and co-operation among the collaborating suppliers and the Customer, to enable and facilitate:
 - (A) the achievement of the contract delivery; and
 - (B) delivery by each of the collaborating suppliers of learning and development services in accordance with the terms of their respective contracts.

1.2 The Supplier shall collaborate with the other suppliers and with the Customer to:

- (i) ensure the smooth and effective delivery of an end-to-end service to the Customer;
- (ii) ensure continuity of services in respect of collaborating suppliers' obligations under their respective contracts;
- (iii) deliver continuous improvement of, and better value for money from the end-to-end service; and
- (iv) minimise any disruption as a result of the learning and development programme or otherwise.

1.3 The Supplier shall individually, and collectively with other suppliers, work to ensure that the Services shall deliver, and not conflict with, the customer's contract delivery.

2. Required Behaviours

2.1 In order to ensure the effective delivery of the customer contract delivery the Supplier shall, and shall procure that its relevant personnel and sub-contractors shall (where it is necessary and/or desirable to do so), demonstrate the following behaviours in working with the other suppliers:

- (i) **Collaborative intention:** the Supplier shall maintain a genuine non-defensive presence and make a commitment to mutual success in its relationships with the customer and the other suppliers;
- (ii) **Openness:** the Supplier shall commit to both telling the truth and listening to the truth, and to contributing to a culture of openness that allows all the collaborating suppliers and the Customer to feel safe enough to discuss concerns, resolve incidents, solve problems and deal directly with difficult issues;
- (iii) **Self accountability:** the Supplier shall take responsibility for its circumstances and the choices it makes either through its action or failing to act as well as the intended and unforeseen consequences of these actions.

The Supplier shall focus on the solution to an incident, problem or issue rather than seeking to blame the Customer or any of the other suppliers;

- (iv) **Self-awareness and awareness of others:** the Supplier shall commit to understanding its own organisation and issues within its own organisation as well as understanding concerns, intentions and motivations of the Customer and the other suppliers as well as the culture and context of the Customer and the other suppliers' circumstances; and
- (v) **Problem solving and negotiating:** the Supplier shall use problem-solving methods that promote a co-operative atmosphere and avoid fostering covert, overt, conscious or unconscious enmity, conflicts or point-scoring.

3. Collaboration Obligations

3.1 The Supplier shall, and shall procure that its relevant personnel and Sub-contractors shall (where it is necessary and/or desirable to do so), co-operate fully with each of the other suppliers and with the Customer and provide such co-operation, support, assistance and information to each of the other suppliers and to the Customer as is necessary in order to:

- (i) ensure the orderly provision of a seamless end-to-end service to the Customer in accordance with all policies and procedures and technical interface standards that are specified by the Supplier (in accordance with any delegated Customer given to them by the Authority) and by the Customer as such may be amended or replaced from time to time in accordance with the Change Control Procedure;
- (ii) avoid hindering the provision of learning and development services to the Customer under the contracts entered into by any of the other suppliers;
- (iii) facilitate the delivery of the learning and development services by the other Suppliers in accordance with the terms of their respective contract;
- (iv) avoid any unnecessary duplication of effort;
- (v) avoid undue disturbance to the Authority; and
- (vi) undertake all such tasks and activities as may be necessary to integrate the Supplier's systems and the services with all other relevant systems and services of Other Suppliers under this agreement.

3.2 The Supplier's obligations set out under paragraph 4.1 shall include, but not be limited to ;

- (i) working with other suppliers in good faith to ensure integration and interfacing where services are subject to inter-party dependencies, including identifying inter-party dependencies, establishing protocols for ways of working and ensuring that its own system and service management tools are able to feed service information directly into the supplier's system and service management tools;
- (ii) operating and maintaining all software, hardware or technology in accordance with Good Industry Practice where there is interoperation with any of the other suppliers;

- (iii) assisting with any testing and/or any quality assurance analysis to be undertaken by the Customer, the Supplier or any of the other suppliers;
- (iv) providing prompt access to any of its resources, systems, software and materials that may be reasonably required by the other suppliers and the relevant members of their groups to enable them to provide learning and development services to the Customer in accordance with the terms of their respective contracts, and to deal with security and/or compliance issues, assessments and actions;
- (v) promptly providing other suppliers and the relevant members of their groups with all relevant information that may be reasonably required by the other suppliers to provide learning and development services to the Customer in accordance with the terms of their respective contracts;
- (vi) promptly escalating any issues, incidents or perceived problems; and
- (vii) where the Supplier anticipates or discovers a potential or actual non-compliance with its obligations under this agreement, and it is aware that such non-compliance may have an impact on the performance of learning and development services to the Customer by any of the other suppliers, notifying such other supplier and the Customer as soon as reasonably practicable.

4. Principles of Co-operation

4.1 The Supplier shall, and shall procure that its relevant personnel and sub-contractors shall (where it is necessary and/or desirable to do so), provide co-operation, support, information and assistance (as required under Paragraphs 4.1 and 4.2) in accordance with the following principles:

- (i) the principle that each collaborating supplier shall provide its co-operation, support, information and assistance in a proactive, transparent and open way and in a spirit of trust and mutual confidence;
- (ii) the principle of "fix first, discuss later", requiring that each collaborating supplier shall concentrate on solving an incident or problem as expeditiously and cost-effectively as possible and leave any disputes as to which collaborating supplier is responsible, which collaborating supplier should bear the cost of fixing the incident or problem and any associated legal issues until resolution of the relevant incident or problem;
- (iii) the principle that co-operative behaviour and overall cost efficiency should be promoted. Accordingly, if the contract or a, allows for the collaborating supplier shall in good faith:
 - (A) take the cost impact of its choice on the other collaborating suppliers into consideration when making such choice; and
 - (B) refrain from knowingly choosing an option which would significantly and without justification increase the costs of any of the other collaborating suppliers or of the Customer and;
- (iv) the principle that, in setting up cross-supplier teams for delivery of projects and/or services for the Customer, the Collaborating Suppliers shall work on a



matrix system and choose the best resource for each role rather than duplicating roles for more than one Collaborating Supplier.

5. Performance Management

5.1 The Supplier's demonstration of the Required Behaviours (set out in Paragraph 3 above), its performance of the Collaboration Obligations (set out in Paragraph 4 above) and its compliance with the Principles of Co-operation (set out in Paragraph 5 above) will be measured in accordance with the performance management scheme.

6. Collaboration Charges

6.1 The Supplier acknowledges that the charges will be its sole remuneration for the performance of its collaboration obligations under this schedule, and that neither it nor any of its personnel will vis-à-vis the Customer be entitled to any fees or any other remuneration for the performance of its obligations under this schedule.

6.2 The Supplier acknowledges that neither it, nor any of its personnel will vis-à-vis the other suppliers or their personnel, be entitled to any fees or any other remuneration for the performance of its obligations under this schedule, except if otherwise agreed between the relevant suppliers.