Department for Work & Pensions

CONTRACT

For

The provision of Wellbeing and Work Trials - Group Work Trial

CPA 4 –Merseyside

Between

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

And

PeoplePlus Group Limited

CONTRACT REFERENCE NUMBER: UI_DWP_101686/CPA4

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This Contract is made on the	1ST November 2016 ("**Commencement Date**")
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	PeoplePlus Group Limited
with registered number	**[REDACTED]**
having the main or registered office at	19-20 The Triangle NG2 Business Park, Nottingham, NG2 1AE ("**the Contractor**") and hereinafter called "**the Parties**"

INTRODUCTION

(A) The Authority (The Department for Work and Pensions) wishes to run a pilot to test whether the JOBS ll model, which is a week-long employment intervention that aims to build resilience and inoculate against set-backs experienced while job seeking, improves employment and wellbeing prospects of benefit claimants who are struggling with their job search.

(B) On 1st June 2016 the Authority advertised in the Official Journal of the European Union (reference 2016/S104-186322), inviting prospective Contractors to submit proposals for the Wellbeing and Work Trials – Group Work for 5 contracts delivering over 5 Work Service Districts in England.

(C) The Contractor is a Welfare to Work Provider and has experience in delivering welfare to work provision for the Department for Work and Pension.

(D) On the basis of the Contractor's response to the advertisement and a subsequent tender process, the Authority selected the Contractor as its preferred Contractor.

(E) Following procurement process, the Parties have agreed to contract with each other in accordance with the terms and conditions set out below.

A. GENERAL PROVISIONS

A1 Definitions and Interpretation

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

"**Administration**" means a rescue mechanism under the Insolvency Act 1986 where a company may be rescued or reorganised or its assets realised under the protection of a statutory moratorium. The company is put into Administration and an Administrator is appointed.

"**Affected Party**" means the Party seeking to claim relief in respect of a Force Majeure Event.

"**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.

"**Approval**" means the prior written consent of the Authority. For the avoidance of doubt "written" for this purpose may include email.

"**Audit Agents**" 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) the European Commission;

(f) the European Court of Auditors;

(g) any party formally appointed by the Authority and/or by the European Commission and/or by the European Court of Auditors to carry out audit or similar review functions; and

(h) successors or assigns of any of the above.

"**Authority**" means the Secretary of State for Work and Pensions.

"**Authority Data**" means:

(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, 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; and/or

(b) any Personal Data for which the Authority is the sole Data Controller.

"**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 System or which is necessary for the Authority to receive the Services.

"**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.

"**Authority's Representative**" means the individual named at Clause A10.1 or such other individual as the Authority may notify in writing to the Contractor from time to time and the Authority's Representative is authorised to act on behalf of the Authority on all matters relating to the Contract. For the avoidance of doubt "in writing" for this purpose may include email.

"**Breach of Security**" means the occurrence of unauthorised access to or use of the Premises, the Services, the Contractor system or any ICT or data (including the Authority's 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 as directed in Clause H5.6, as may be amended from time to time.

"**CEDR**" the Centre for Effective Dispute Resolution of International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU.

"**Claim**" means a claim for payment submitted by the Contractor in respect of the relevant Delivered Course.

"**Change Control Procedure**" means the procedure for changing this Contract, as set out in Schedule 14.

"**Change of Control**" has the meaning set out in Clause H1.2.

"**Change Request**" means a written request for a Contract Change which shall be substantially in the form of Appendix 1 of Schedule 14.

"**Change Communication**" means 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.

"**Commencement Date**" means the date from when this Contract becomes legally binding. The Contract will be deemed to take effect (is awarded or made) on the date of the second party's signature.

"**Commercially Sensitive Information**" means the Information:

(a) listed in the Commercially Sensitive Information Schedule;

(b) notified to the Authority in writing (prior to the commencement of this Contract) which has been clearly marked as Commercially Sensitive Information which is provided by the Contractor to the Authority in confidence; or

(c) which constitutes a trade secret.

"**Commercially Sensitive Information Schedule**" means Schedule 5.

"**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 but 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 the written agreement between the Authority and the Contractor consisting of these Clauses and any attached Schedules, and any document referred to in Schedule 1 (The Services), including the Specification, the Tender and the Provider Guidance.

"**Contract Change**" means any change, amendment, variation, restatement or supplement to this Contract other than an Operational Change.

"**Contract Performance Reviews**" or "**CPRs**" shall have the meaning as set out in paragraph 3 of Schedule 2 (Minimum Performance Level and Customer Service Standards).

"**Contract Period**" means the period from the Commencement Date to:

(a) the date of expiry of the Payment Tail Period; or

(b) such earlier date of termination or partial termination of the Contract in accordance with the Law or the provisions of the Contract.

"**Contracting Body**" means any contracting authority as defined in Regulation 2 of the Public Contract Regulations 2015.

"**Contractor**" means the person, firm, partnership or company with whom the Authority enters into the Contract.

"**Contractor Performance Manager**" means the Contractor's representative who will monitor and review the Contractor's performance of the Services.

"**Contractor System**" means all documentation and files (regardless of whether in paper or electronic form), Equipment and (if applicable) the IT system of the Contractor used in the provision of the Services (including any Contractor Software and Third Party Software) (but excluding the Authority ICT System).

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

"**Contractor's Group**" means the Contractor, its ultimate holding company and all subsidiaries of its ultimate holding company, the definitions of holding company and subsidiary being those set out in Section 1159 of the Companies Act 2006.

"**Contractor's Representative**" means the individual named at Clause A10.3 or such other individual as the Contractor may notify in writing to the Authority from time to time and the Contractor's Representative is authorised to act on behalf of the Contractor on all matters relating to the Contract. For the avoidance of doubt "in writing" for this purpose may include email.

"**Course**" means each course provided by the Contractor to Participants in accordance with the Specification.

"**Course Delivery Fee**" means the fee payable by the Authority to the Contractor as set out in Schedule 4 (Payment and Course Delivery Fee) and which shall be payable in accordance with the requirements of the Contract.

"**Customer Service Standards**" means the service levels to which the Services are to be supplied by the Contractor as set out in Schedule 2 (Minimum Performance Level and Customer Service Standards).

"**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.

"**Data Controller**" shall have the same meaning as set out in the DPA.

"**Data Subject**" shall have the same meaning as set out in the DPA.

"**Data Protection Change**" shall have the meaning given to it in Clause E2.9.

"**Data Protection Legislation**" means DPA and all applicable laws and regulations relating to the processing of personal data and privacy to which a Party is subject, including where applicable the guidance and codes of practice issued by the UK Information Commissioner (or any replacement or successor) or any relevant Government department as updated from time to time.

"**Data Protection Principle**" means the eight data protection principles, as set out in Schedule 1 of the DPA.

"**Data Subject**" shall have the same meaning as set out in the DPA.

"**Data Processing**" shall have the same meaning as set out in the DPA.

"**Default**" means any breach (including any anticipatory breach) of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term), any failure to supply the Services in accordance with the Contract (including any Service Failure) 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.

"**Delivered Course**" means a Course which the Contractor has delivered in accordance with the Specification.

"**Delivered Course Aggregate Error Amount**" shall have the meaning set out in Clause C4.5(c).

"**Delivered Course Error Rate**" means, in respect of each Payment Validation Period, the percentage of failures, errors and/or over-claims of Delivered Courses that have been monitored by the Performance Manager which the Authority shall be entitled to assume have been made in respect of all Delivered Courses in that Payment Validation Period and which shall be calculated as follows:

(A/B) x 100 where:

A = total Delivered Course failures for that Payment Validation Period (as determined by the Authority); and

B = the number of Course Delivery Fee payments comprised in the relevant sample,

expressed as a percentage.

"**Directive**" means EC Council Directive 2001/23/EC.

"**Document Retention End Date**" means [31 December 2026]. "**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 1998 and any subordinate legislation made under such Act from time to time.

"**Due Diligence Information**" means any information supplied to the Contractor by or on behalf of the Authority prior to the Commencement Date.

"**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.

"**Employee Liabilities**" means all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation related to employment including in relation to the following:

(a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;

(b) unfair, wrongful or constructive dismissal compensation;

(c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;

(d) compensation for less favourable treatment of part-time workers or fixed term employees;

(e) outstanding employment debts and unlawful deduction of wages including any PAYE and national insurance contributions;

(f) employment claims whether in tort, contract or statute or otherwise; or

(g) any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation.

"**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.

"**ESF Co-financing Organisation**" means designated bodies including the Authority which channel both ESF and match funding to meet ESF priorities.

"**ESF Requirements**" means the requirements set out or referred to in Schedule 13 for contracts which are, or may become during their term, funded using ESF monies and/or for contracts which are used as a match for contracts funded using ESF monies including but not limited to:

(a) the common principles, rules and standards for the European Social Fund as defined by Regulation (EU) No 1303/2013 of 17 December 2013;

(b) the European Commission's requirements;

(c) the Managing Authority's requirements; and

(d) the Authority's requirements.

"**European Community State Aid Rules**" means those rules embodied in Articles 107-109 of Section 2, Title VII, of the 'Common Rules on Competition, Taxation and Approximation of Laws- Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union' (2008/C 115/01).

"**European Social Fund**" or "**ESF**" means one of the five European Structural and Investment Funds for which common principles, rules and standards are defined by Regulation (EU) No 1303/2013 of 17 December 2013.

"**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 the 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**" means 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.

"**Formal Warning Notice**" means notice issued by the Authority under Clause F7 in respect of a Non Service Failure Default.

"**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.

"**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, efficiency, foresight and timeliness 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.

"**Government Apprenticeship Programme**" means training which is funded by the Government via the National Apprenticeship Service.

"**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 and has entered into the Guarantee in the form set out in Schedule 11 (Parent Company Guarantee).

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

"**HMRC**" means HM Revenue and Customs.

"**ICT**" means information and communications technology.

"**ICT Environment**" means the Authority ICT System and the Contractor System.

"**Impact Assessment**" means an assessment of a Change Request in accordance with Paragraph 5 of Schedule 14.

"**Implementation Commencement Date**" means [the date specified at Clause 2 of Schedule 1.]

"**Implementation Plan**" means the plan (which is set out at Schedule 1A (Implementation Plan)) prepared by the Contractor and agreed with the Authority detailing the arrangements and activities which the Contractor must implement and carry out in advance of commencement of supply of the Services, or such amended version as agreed with the Authority.

"**Independent Case Examiner**" or "**ICE**" means the independent case examiner who reviews complaints from Participants about certain government organisations, including Jobcentre Plus, that deal with benefits and financial support, details of which are set out at: https://www.gov.uk/government/organisations/independent-case-examiner

"**Information**" has the meaning given under section 84 of the FOIA.

"**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, methodologies, 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.

"**ISAE 3402**" means the International Standard on Assurance Engagements No. 3402, Assurance Reports on Controls at a Service Organisation, issued in December 2009 by the International Auditing and Assurance Standards Board, part of the International Federation of Accountants.

"**ITT**" means the invitation to tender issued by the Authority in respect of the procurement for the Contract which for the avoidance of doubt shall include all the procurement documents as defined in the Public Contracts Regulations 2015.

"**Jobs II Manual and Addendum**" means the "Jobs II Manual" and "Jobs II Addendum" set out as Annex A and Annex B of the Specification respectively.

"**Key Personnel**" means those persons named in Schedule 15 (Key Personnel).

"**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.

"**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.

"**Live Running Memos**" means the updates to the Provider Guidance and the instructions, requirements and practices including, but not limited to, any instructions of an operational nature, issued by the Authority to the Contractor from time to time.

"**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**" or "**MI**" means:

(a) the information provided by the Contractor to the Authority pursuant to the requirements set out in Schedule 3 (Monitoring and Information Requirements);

(b) any information arising out of or in connection with the supply of the Services; and

(c) any other information which the Authority may require or which may come into the Authority's possession or otherwise comes to the Authority's attention in connection with the Contract and/or which the Authority considers may be beneficial to and/or assist the Authority.

"**Managing Authority**" means the Authority's managing authority (within the Authority's European Social Fund Division) operating on behalf of the Secretary of State which is the managing authority responsible for administering European Social Fund funds by means of which this Contract is funded (where applicable).

"**Merlin Standard**" means the standard and accreditation process in respect of supply chain management as detailed in the Specification and which is an Authority-wide requirement.

"**Minimum Performance Level**" or "**MPL**" means the performance level to which the Services are to be supplied by the Contractor as set out as Schedule 2 (Minimum Performance Level and Customer Service Standards).

"**Month**" means a calendar month.

"**Non Service Failure Default**" means Default other than a Service Failure.

"**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:

(a) 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

(b) 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

(c) 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 at the Commencement Date or to a penalty for civil fraud or evasion.

"**OJEU Notice**" means the contract notice published in the Official Journal of the European Union.

"**Open Book Data**" means complete and accurate financial and non-financial information which is sufficient to enable the Authority to verify the Course Delivery Fee already paid or payable and the Course Delivery Fee 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:

(a) will not affect the Course Delivery Fee and will not result in any other costs to the Authority;

(b) 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; and

(c) will not adversely affect the interfaces or interoperability of the Services with any of the Authority ICT System.

"**Operational Change Confirmation**" means a written response to an Operational Change Request in which the Party that received an Operational Change Request confirms its agreement to the Operational Change that is the subject of that Operational Change Request and which may be sent by electronic mail or by letter in accordance with Clause A5.

"**Operational Change Request**" means a written request for an Operational Change which may be sent by electronic mail or by letter in accordance with Clause A5.

"**Participant**" means the person(s) directly receiving the Services provided by the Contractor as specified in this Contract.

"**Participant Personal Data**" means the Personal Data of each Participant, where such Personal Data is Processed by either Party under, or in connection with, this Contract.

"**Participant's records**" means the records prepared and maintained by the Contractor (in whatever form or storage media) concerning an individual Participant, which shall include a Participant's Personal Data.

"**Party**" means a party to the Contract and "**Parties**" shall mean both parties together.

"**Payment Tail Period**" means the period of twelve (12) weeks starting immediately after the Referral End Date.

"**Payment Validation Period**" means such period as the Authority notifies the Contractor of from time to time.

"**Performance Improvement Plan**" means the plan agreed in accordance with Clause B17.

"**Performance Improvement Notice**" means a written notice given by the Authority to the Contractor pursuant to Clause B17.

"**Performance Improvement End Date**" means the period provided for as set out in the Performance Improvement Plan;

"**Performance Improvement Period**" means the period provided for as set out in the Performance Improvement Plan;

"**Performance Improvement Process**" means the process set out in Clause B17.

"**Performance Manager**" means the Authority's representative (including psychologists from the Authority's Policy Psychology Division and trial management officers) who will monitor and review the Contractor's supply of the Services in accordance with the Minimum Performance Level and the Customer Service Standards.

"**Personal Data**" shall have the same meaning as set out in the DPA.

"**Processing**" shall have the same meaning as set out in the DPA and "**Process**" and "**Processed**" shall be construed accordingly.

"**Provider Referrals and Payments System**" or "**PRaP**" means the Authority prescribed ICT system which will be used to refer Participants and pay providers and, for the avoidance of doubt, where PRaP is not available, a clerical system will be adopted by the Authority in its place.

"**Project Specific Intellectual Property Rights**" means:

(a) Intellectual Property Rights in items created by the Contractor specifically for the purposes of this Contract and updates and amendments of these items; and/or

(b) Intellectual Property Rights arising as a result of the performance of the Contractor's obligations under this Contract,

but shall not include the Contractor's pre-existing Intellectual Property Rights.

"**Premises**" means the location where the Services are to be supplied, as set out in the Tender or as otherwise agreed in writing by the Authority from time to time.

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

"**Provider Guidance**" means the instructions and recommended practices, including any instructions of an operational nature, and/or relating to Sustainable Development and promotion of race equality and non-discrimination, copies of which have been provided by the Authority to the

Contractor prior to the Commencement Date, and any other instructions and recommended practices notified by the Authority to the Contractor from time to time.

"**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**" means eligible Participants identified by the Authority whose details are entered into PRaP by the Authority to be referred to the Contractor as described in the Specification.

"**Referral End Date**" means:

(a) 8 January 2018; or

(b) if later, the expiry of the last extended period granted pursuant to Clause F11 (Extension of Contract Period).

"**Referral Start Date**" means the earlier of:

(a) the date of the first Referral; or

(b) 9 January 2017.

"**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 who are wholly or mainly assigned to work in the provision of the Services and who are/will be the subject of a Relevant Transfer by virtue of the application of the TUPE Regulations.

"**Relevant Tax Authority**" means HMRC 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 Employment Regulations applies.

"**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.

"**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.

"**Security Plan**" means the Contractor's security plan prepared as directed in paragraph 3 of Schedule 6 (Security Requirements and 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.

"**Serious Breach**" means:

(a) a material breach; or

(b) a Default that is serious in the widest sense of having a serious effect on the benefit which the party against whom the Default is committed would otherwise derive from:

(i) the Contract; or

(ii) any of the obligations set out in Clauses A, B, C, D, E, F, G, H, I and/or the Schedules; and

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

"**Service Failure**" means a failure by the Contractor to supply any part of the Services in accordance with:

(a) the Minimum Performance Level; and/or

(b) any of the Customer Service Standards.

"**Services**" means any and all of the services to be supplied by the Contractor under this Contract, including those described in Schedule 1 (The Services).

"**Specification**" means the Authority's specification for the Services set out in the Appendix 1 to Schedule 1 (The Services) (including all amendments to, variations of, or supplements to such specification).

"**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 as detailed in Schedule 1 (The Services), the Provider Guidance, the Security Plan and/or as advised to the Contractor by the Authority.

"**Step-In Trigger Event**" means:

(a) any event which gives the Authority the right to terminate the Contract in accordance with Clause H;

(b) a Default by the Contractor that is materially preventing or materially delaying the supply of the Services or any material part of the Services;

(c) the Authority considers that the circumstances constitute an emergency despite the Contractor not being in breach of its obligations under the Contract;

(d) the Authority being advised by a regulatory body that the exercise by the Authority or its rights under Clause F5 is necessary;

(e) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Services; and/or

(f) a need by the Authority to take action to discharge a statutory duty.

"**Structural Funds Regulations**" means the relevant European Union (EU) Structural Fund Regulations as issued and updated from time to time by the EU, as well as any relevant guidance or requirements (including National Eligibility Rules) issued by the Managing Authority. The following Regulations are particularly relevant: Regulation (EU) No 1303/2013; Regulation (EU) No 1304/2013; Commission Delegated Regulation (EU) No 480/2014; Directive 2014/24/EU on public procurement, implemented in England, Wales and Northern Ireland by the Public Contracts Regulations 2015 (2015 No. 102) and any amendments or replacements; and European Community State Aid Rules applicable at the date that the Aid is granted to the recipients of the Aid. The Managing Authority will publish information and guidance on the England ESF Operational Programme 2014-2020 via the GOV.UK website (ESF pages).

"**Sub-contract**" means any contract or agreement (or proposed contract or agreement) between the Contractor (or a Sub-contractor) and any third party whereby that third party agrees to provide to the Contractor (or the Sub-contractor) all or any part of the Services.

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

"**Subject Access Request**" means a request made by a Data Subject to access his Personal Data pursuant to section 7 of the DPA;

"**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 which, for the avoidance of doubt, includes any post-tender

clarifications made by the Contractor to the Authority prior to the Commencement Date.

"**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.

"**TUPE Regulations**" means the Transfer of Undertakings (Protection of Employment) Regulations 2006, as amended.

"**Universal Credit**" means the Government initiative of that name which is more particularly described in the Specification.

"**Variation**" means any change to this Contract other than an Operational Change.

"**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"; and

(f) headings are included in this Contract for ease of reference only and shall not affect the interpretation or construction of the Contract.

A2 Contract Period

A2.1 This Contract shall commence on the Commencement Date and shall expire at the end of the Payment Tail Period unless the Contract is otherwise:

(a) terminated in accordance with the provisions of this Contract or otherwise lawfully terminated; or

(b) extended under Clause F11 (Extension of Contract Period),

and the Contractor shall continue to supply the Services in all respects in accordance with the requirements of the Contract until the end of the Payment Tail Period.

A2.2 Without prejudice to Clause A2.1, the Contractor shall cease delivering the Services to Participants no later than the date one (1) Month following the Referral End Date.

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 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 Any notice or other communication which is to be given by either Party to the other shall be given by electronic mail (confirmed in either case by letter) or by letter (sent by hand, post, registered post or by the recorded delivery service). 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 sooner where the other Party acknowledges receipt of such letters or item of electronic mail. Such letters shall be addressed to the other Party in the manner referred to in Clause A5.3.

A5.3 For the purposes of Clause A5.2, the address of each Party shall be:

(a) For the Authority:

Address: 1 Hartshead Square,
Sheffield
S1 2FD

For the attention of:**[REDACTED]**

Tel: **[REDACTED]**

Email:**[REDACTED]**

(b) For the Contractor:

Address: Queens House
105 Queen Street
Sheffield
S1 1GN

For the attention of: **[REDACTED]**

Tel: **[REDACTED]**

Email: **[REDACTED]**

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 are 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 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 Authority places the utmost importance on the need to prevent Fraud and irregularity in the delivery of this Contract. The Contractor and its Sub-contractors are required to:

(a) have an established system that enables Contractor and Sub-contractor staff to report inappropriate behaviour by colleagues in respect of contract performance claims;

(b) ensure that their performance management systems do not encourage individual staff to make false claims regarding achievement of contract performance targets;

(c) ensure a segregation of duties within the Contractor's or Sub-contractors operation between those employees directly involved in delivering the service/goods performance and those reporting achievement of contract performance to the Authority; and

(d) ensure that an audit system is implemented to provide periodic checks, as a minimum at six (6) Monthly intervals, to ensure effective and accurate recording and reporting of contract performance.

A8.2 The Contractor shall use its best endeavours to safeguard the Authority's funding of the Contract against Fraud generally and, in particular, Fraud on the part of the Contractor's directors, employees or Sub-contractors. The Contractor shall pay the utmost regard to safeguarding public funds against misleading claims for payment and shall notify the Authority immediately if it has reason to suspect that any serious irregularity or Fraud has occurred or is occurring.

A8.3 If the Contractor, its Staff or its Sub-contractors commits Fraud in relation to this or any other contract with the Crown (including the Authority) the Authority may:

(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; or

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

A8.4 Any act of Fraud committed by the Contractor or its Sub-contractors (whether under this Contract or any other contract with any other Contracting Body) shall

entitle the Authority to terminate this Contract, and any other contract the Authority has with the Contractor, by serving written notice on the Contractor and shall be considered a Serious Breach for the purposes of Clause H2 (Termination on Default) entitling the Authority (at its absolute discretion) to exercise its rights under the corresponding provisions of Clause H2 (Termination on Default).

A8.5 If the Authority finds that the Contractor has deliberately or recklessly submitted false claims for the Course Delivery Fee with the knowledge of its senior officers the Authority will be entitled to terminate this Contract, or any other contract the Authority has with the Contractor, with immediate effect and shall be considered a Serious Breach for the purposes of Clause H2 (Termination on Default) entitling the Authority (at its absolute discretion) to exercise its rights under the corresponding provisions of Clause H2 (Termination on Default).

A8.6 The Contractor shall co-operate fully with the Authority and assist it in the identification of Participants who may be unlawfully claiming state benefits. The Authority may from time to time brief the Contractor as to the co-operation and assistance it reasonably requires including the provision of information regarding Fraud by Participants. On receipt of the information, further evidence may be collected by the Authority or other department, office or agency of Her Majesty's Government with a view to prosecution.

A9 ESF Funding

A9.1 The Contractor acknowledges that the Authority may at its absolute discretion, whether from the Commencement Date or from any later date during the term of this Contract, either fund the delivery of this Contract using ESF monies or use this Contract as match for contracts funded using ESF monies.

A9.2 The Contractor and any Sub-contractors appointed by it shall be bound by the ESF Requirements including but not limited to those set out in Schedule 13 (ESF Requirements).

A10 Representatives of the Parties

A10.1 The following person is the Authority's Representative:

Name **[REDACTED]**

Title: Senior Category Manager

A10.2 The Authority's Representative may approve deputy Authority's Representatives to exercise the Authority's Representative's powers on his/her behalf. The Authority's Representative may notify the Contractor of any such deputy in accordance with Clause A5.

A10.3 The following person is the Contractor's Representative:

Name **[REDACTED]**

Title: Commercial Director

A10.4 The Contractor's Representative may approve deputy Contractor's Representatives to exercise the Contractor's Representative's powers on his/her behalf. The Contractor's Representative may notify the Authority of any such deputy in accordance with Clause A5.

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 the Contract (including for the avoidance of doubt in accordance with the Specification, the ESF Requirements and the Provider Guidance) in consideration of the payment of the Course Delivery Fee.

B1.2 The Contractor acknowledges that it has made its own enquiries to satisfy itself as to the accuracy and adequacy of the Due Diligence Information.

B1.3 The Contractor shall not be excused from the performance of any of its obligations under this Contract as a result of any misinterpretation of the Authority's requirements; and/or any failure by the Contractor to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information.

B1.4 The Contractor shall implement the Implementation Plan to the satisfaction of the Authority and satisfy the requirement of Clause C8.6 with effect from the Implementation Commencement Date in accordance with the terms of the Implementation Plan and in accordance with the timescales set out in the Implementation Plan and failure to do so shall be considered a Serious Breach.

B1.5 Timely supply of the Services shall be of the essence of the Contract, including in relation to commencing the supply of the Services within the time agreed or on a specified date including the dates specified in the Specification and Implementation Plan. The Authority may also inspect and examine the manner in which the Contractor supplies the Services at the Premises during normal business hours on reasonable notice.

B1.6 The Contractor shall not be excused from its obligation to deliver the remainder of a Course should it become aware during the delivery of such a Course that the Authority considers that the Contractor has not delivered it in accordance with the requirements of the Addendum to the Jobs II Manual.

B2 No Guarantee of Volumes or Exclusivity

B2.1 Subject to B2.2 and B2.3, the Authority will refer prospective Participants to the Contractor in accordance with the provisions of the Contract (in particular the Specification).

B2.2 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.

B2.3 The Contractor acknowledges that, in entering the Contract, no form of exclusivity has been granted by the Authority for 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.

B3 Not Used

B4 Provision and Removal of Equipment

B4.1 The Contractor shall provide all the Equipment necessary for the supply of the Services.

B4.2 The Contractor shall not deliver any Equipment nor provide any work on the Authority's Premises without obtaining Approval.

B4.3 All Equipment brought onto the Premises shall be at the Contractor's own risk and the Authority shall have no liability for any loss of or damage to any Equipment unless the Contractor is able to demonstrate that such loss or damage was caused or contributed to by the Authority's Default. The Contractor shall provide for the haulage or carriage to the Premises and the removal of Equipment when no longer required at its sole cost. Unless otherwise agreed, Equipment brought onto the Premises will remain the property of the Contractor.

B4.4 The Contractor shall maintain all items of Equipment within the Premises in a safe, serviceable and clean condition.

B4.5 The Contractor shall, at the Authority's written request, at its own expense and as soon as reasonably practicable:

(a) remove from the Premises any Equipment which in the reasonable opinion of the Authority is hazardous, noxious or not in accordance with the Contract; and

(b) replace such item with a suitable substitute item of Equipment.

B4.6 On completion of the Services the Contractor shall remove the Equipment together with any other materials used by the Contractor to supply the Services and shall leave the Premises in a clean, safe and tidy condition. The Contractor is solely responsible for making good any damage to the Premises or any objects contained thereon, other than fair wear and tear, which is caused by the Contractor or any Staff.

B4.7 The Authority may at its option purchase any item of Equipment from the Contractor at any time, if the Authority considers that the item is likely to be required in the provision of the Services following the expiry or termination of the Contract. The purchase price to be paid by the Authority shall be the higher of the fair market value and the net book value.

B5 Manner of Carrying Out the Services

B5.1 The Contractor shall at all times comply with the Quality Standards, and where applicable shall maintain accreditation with the relevant Quality Standards authorisation body. To the extent that the standard of Services has not been specified in the Contract, the Contractor shall agree the relevant standard of the Services with the Authority prior to the supply of the Services and in any event, the Contractor shall perform its obligations under the Contract in accordance with the Law and Good Industry Practice.

B5.2 While not in any way limiting any other provision of this Contract, in delivering the Services, the Contractor and any of its Sub-contractors, shall comply with the DWP Offshoring Policy. The DWP Offshoring Policy shall apply to Landed Resources.

B5.3 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.

B5.4 To the extent required by the Authority, the Contractor shall comply with the provisions of Schedule 9 (Welsh Language Scheme) in providing the Services in the Welsh language.

B6 Participant Complaints

B6.1 The Contractor shall have an internal dispute resolution procedure for dealing with complaints from Participants about the Contractor (and/or any of its Sub-contractors) including any of the Services.

B6.2 If the dispute between any Participant and the Contractor (and/or any Sub-contractor) cannot be resolved the dispute shall be referred to the ICE for mediation.

B6.3 If the dispute cannot be resolved by mediation, ICE will conduct a full investigation. In accordance with ICE's usual procedures, the Contractor shall have the opportunity to present its case and any evidence during the investigation and ICE shall share its draft report with the Contractor for comment before issuing a final version. The decision of ICE shall be final and binding upon the parties to the dispute. The ICE investigation shall carry a £5,000 fee paid by the Contractor or the Sub-contractor, who will also be liable for any financial redress recommended by ICE. In the event that the complaint against the Contractor or Sub-contractor is dismissed, no fee shall be payable. Any fees in respect of complaints that have been upheld against the Contractor (and/or any Sub-contractor) and any financial redress due to the Participant shall be paid within four (4) weeks of the date of the ICE final investigation report.

B6.4 Without prejudice to Clauses B6.1 to B6.3, the Authority shall 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 materials or procedures the Contractor uses; or

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

B6.5 Without prejudice to its other rights and remedies under the Contract, the Authority may, in its sole discretion, uphold any complaint and take further action in accordance with Clause F or Clause H (Termination on Default) of the Contract.

B7 The Merlin Standard

B7.1 The Contractor shall, with effect from the Commencement Date and throughout the Contract Period, comply with the principles of the Merlin Standard and key values and principles of behaviour essential for creating healthy, high performing supply chains.

B7.2 Where the Authority has approved the appointment of a Sub-contractor, the Contractor shall, at its own expense, ensure that all Sub-contractors shall at all times comply with the principles of 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.

B7.3 Any breach by the Contractor of this Clause B7 shall be a deemed Serious Breach for the purpose of this Contract.

B8 Key Personnel

B8.1 The Contractor acknowledges that the Key Personnel are essential to the proper supply of the Services.

B8.2. The Contractor shall give notice to the Authority of any proposed changes to the Key Personnel in accordance with the provisions of Clause A5.

B8.3 The Contractor shall not remove or replace any Key Personnel unless:

(a) requested to do so by the Authority;

(b) the person concerned resigns, retires or dies or is on maternity or long-term sick leave;

(c) the person's employment or contractual arrangement with the Contractor or a Sub-contractor is terminated for material breach of contract by the employee; or

(d) the Contractor obtains Approval.

B8.4 The Contractor shall:

(a) notify the Authority promptly of the absence of any Key Personnel (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Contractor shall ensure appropriate temporary cover for that Key Role);

(b) ensure that any Key Role is not vacant for any longer than ten (10) Working Days;

(c) give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Personnel and, except in the cases of death, unexpected ill health or a material breach of the Key Personnel's employment contract, this will mean at least sixty (60) Working Days' notice; and

(d) ensure that all arrangements for planned changes in Key Personnel provide adequate periods during which incoming and outgoing personnel work together to transfer responsibilities and ensure that such change does not have an adverse impact on the performance of the Services.

B8.5 Any replacements to the Key Personnel shall be subject to Approval. 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.

B8.6 The Authority shall not unreasonably withhold its Approval under Clauses B8.3, B8.4 or B8B8.5. Such Approval 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.

B9 Contractor's Staff

B9.1 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.

B9.2 To the extent relevant and 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 date of request, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Authority may reasonably request.

B9.3 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 B9.2 shall be final and conclusive.

B9.4 To the extent relevant, Staff engaged within the boundaries of the Authority's Premises shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when at or outside the Authority's Premises.

B9.5 The Contractor shall comply with all applicable Laws 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.

B9.6 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.

B9.7 The Contractor shall provide training on a continuing basis for all Contractor Staff employed or engaged in the provision of the Services in compliance with the Security Policy and Security Plan.

B9.8 The Contractor shall further use all reasonable endeavours to ensure that Staff who are not EC nationals are legally entitled to be resident 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.

B9.9 If the Contractor, in the reasonable opinion of the Authority, fails to comply with Clauses B9.4, B9.5, B9.6, B9.7 and B9.8 the Authority shall be entitled to consider that failure a Serious Breach for the purposes of Clause H2 (Termination on Default) entitling the Authority (at its absolute discretion) to exercise its rights under the corresponding provisions of Clause H2 (Termination on Default).

B9.10 The Parties agree that:

(a) the Contractor shall both during and after the Contract Period indemnify the Authority against all Employee Liabilities that may arise as a result of any claims brought against the Authority by any person where such claim arises from any act or omission of the Contractor or any Contractor's Staff; and

(b) the Authority shall both during and after the Contract Period indemnify the Contractor against all Employee Liabilities that may arise as a result of any claims brought against the Contractor by any person where such claim arises from any act or omission of the Authority or any of the Authority's employees, agents, consultants and contractors.

B10 Inspection of Premises

The Authority shall be entitled to inspect the Contractor's Premises prior to the Referral Start Date and to have made appropriate enquiries so as to be

satisfied in relation to all matters connected with the performance of its obligations under this Contract.

B11 Licence to Occupy Premises

B11.1 To the extent that any land or Premises is made available from time to time to the Contractor by the Authority in connection with this Contract this shall, subject to the provisions of any additional agreement entered into by the Parties as may be required by the Authority, be made available to the Contractor on a non-exclusive licence basis, free of charge and shall be used by the Contractor solely for the purpose of performing its obligations under this Contract. The Contractor shall have the use of such land or Premises as licensee and shall vacate the same on completion, termination or abandonment of the Contract.

B11.2 Subject to B11.1, the Contractor shall limit access to the land or Premises to such Staff as is necessary to enable it to perform its obligations under this Contract and the Contractor shall co-operate (and ensure that its Staff co-operate) with such other persons working concurrently on such land or Premises as the Authority may reasonably request.

B11.3 Subject to B11.1, the Contractor shall (and shall ensure that its Staff shall) observe and comply with such rules and regulations as may be in force at any time for the use of such Premises as determined by the Authority, and the Contractor shall pay for the cost of making good any damage caused by the Contractor or its Staff other than fair wear and tear. For the avoidance of doubt, damage includes damage to the fabric of the buildings, plant, fixed equipment or fittings therein.

B11.4 Subject to B11.1, the Parties agree that there is no intention on the part of the Authority to create a tenancy of any nature whatsoever in favour of the Contractor or its Staff and that no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to this Contract, the Authority retains the right at any time to use any premises owned or occupied by it in any manner it sees fit.

B11.5 Subject to B11.1, should the Contractor request modifications to the Authority's Premises, such modifications shall be subject to Approval and if Approved shall be carried out by the Authority at the Contractor's expense. Ownership of such modifications shall rest with the Authority.

B12 Property

B12.1 Where the Authority provides Property to the Contractor, such Property is provided free of charge to the Contractor and such Property shall be and remain the property of the Authority. The Contractor irrevocably licences the Authority and its agents to enter upon any premises of the Contractor during normal business hours on reasonable notice to recover any such Property. The Contractor shall not in any circumstances have a lien or any other interest on the Property and the Contractor shall at all times possess the Property as fiduciary agent and bailee of the Authority. The Contractor shall take all reasonable steps to ensure that the title of the Authority to the Property and the exclusion of any such lien or other interest are brought to the notice of all Sub-

contractors and other appropriate persons and shall, at the Authority's request, store the Property separately and ensure that it is clearly identifiable as belonging to the Authority.

B12.2 The Property shall be deemed to be in good condition when received by or on behalf of the Contractor unless the Contractor notifies the Authority otherwise in writing within five (5) Working Days of receipt.

B12.3 The Contractor shall maintain the Property in good order and condition (excluding fair wear and tear), and shall use the Property solely in connection with the Contract and for no other purpose without Approval.

B12.4 The Contractor shall ensure all the Property whilst in its possession, either on the Premises or elsewhere during the supply of the Services, is secured in accordance with the Authority's reasonable security requirements as published from time to time.

B12.5 The Contractor shall be liable for all loss of, or damage to, the Property (excluding fair wear and tear), unless such loss or damage was caused by the Authority's Default. The Contractor shall inform the Authority in writing within two (2) Working Days of becoming aware of any defects appearing in, or losses or damage occurring to, the Property.

B13 Offers of Employment

B13.1 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.

B14 Transfer of Undertakings (Protection of Employment) (TUPE)

B14.1 Following the Commencement Date, when any Relevant Transfer occurs during the Contract Period (but excluding for the avoidance of doubt a Relevant Transfer upon termination of this Contract), the Contractor shall (and shall ensure that any new Contractor (including any new Sub-contractor) of the relevant Services) complies with all of its obligations under the TUPE Regulations and the Directive in respect of the Relevant Employees.

Sub-contractors

B14.2 In the event that the Contractor enters into any sub-contract in connection with this Contract, it shall impose obligations on its Sub-contractor in the same terms as those imposed on it pursuant to this Clause B14 and B15 and shall ensure that each Sub-contractor complies with such terms. The Contractor shall indemnify the Authority and keep the Authority indemnified in full from and against all direct, indirect or consequential liability or Loss awarded against or incurred or paid by the Authority as a result of or in connection with any failure on the part of a Sub-contractor to comply with such terms.

Indemnities

B14.3 The Contractor shall indemnify the Authority from and against all Loss in connection with, or as a result of:

(a) any failure by the Contractor to comply with its obligations under Regulations 13 or 14 of TUPE or any award of compensation under Regulation 15 of TUPE save if that failure arises from the failure of the Authority to comply with any of its obligations under Regulation 13 of TUPE; and

(b) any claim (including any individual employees entitlement under or consequent on such a claim) by any trade union or other body or person representing any Relevant Employees arising from or connected with any failure by the Contractor to comply with any legal obligations to such trade union, body or person.

B15 Employee Provisions on Expiry or Termination

Handover on Termination

B15.1 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 any and all information in relation to all personnel engaged in providing the Services, (whether engaged by the Contractor or any Sub-contractor). This shall include all Relevant Employees who are to transfer as a consequence of a Relevant Transfer as the Authority may request, in particular but not necessarily restricted to any of the following:

(a) a list of employees employed by the Contractor, or any Sub-contractor;

(b) a list of agency workers, agents and independent contractors engaged by the Contractor;

(c) the total payroll bill (i.e. total taxable pay and allowances including employer's contributions to pension schemes) of those personnel;

(d) the terms and conditions of employment of the Relevant Employees, their age, salary, date continuous employment commenced and (if different) the Commencement Date, accrued holiday entitlement, pension details, location, retirement age, enhancement rates, any other factors affecting their redundancy entitlement and any outstanding claims arising from employment;

(e) details of any current disciplinary or grievance proceedings ongoing or circumstances likely to give rise to such proceedings and details of any claims current or threatened; or

(f) details of all collective agreements with a brief summary of the current state of negotiations with such bodies and with details of any current industrial disputes and claims for recognition by any trade union.

B15.2 Where the Contractor provides information in accordance with Clause B15.1 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) days of any such change or discovery.

B15.3 The Contractor warrants that all of the information provided to the Authority pursuant to Clause B15.1 and B15.2 shall be accurate and complete. 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).

B15.4 During the six (6) Months preceding the expiry of this Contract or where notice to terminate this Contract for whatever reason has been given, the Contractor shall allow the Authority or persons authorised by the Authority to communicate with and meet the Relevant Employees and their trade union or employee representatives as the Authority may reasonably request.

B15.5 During the six (6) Months preceding the expiry of this Contract or where notice to terminate this Contract for whatever reason has been given, the Contractor shall not without the prior written consent of the Authority unless genuinely in the ordinary course of business:

(a) vary, purport or promise to vary the terms and conditions of employment of any employee employed in connection with the Services;

(b) increase or decrease the number of employees employed in connection with the Services; or

(c) assign or redeploy any employee employed in connection with the Services to other duties unconnected with the Services.

B15.6 The Contractor confirms that it will comply fully with its obligations under the TUPE Regulations in respect of providing information to any subsequent Contractor. The Contractor warrants that any information provided in accordance with Regulation 11 shall be accurate and complete.

Indemnity

B15.7 The Contractor shall indemnify the Authority and any Replacement Contractor and keep the Authority and any Replacement Contractor indemnified in full from and against all direct, indirect or consequential liability or Loss awarded against or incurred or paid by the Authority or any Replacement Contractor as a result of or in connection with:

(a) the employment or termination of employment of any Relevant Employee or employee of any Sub-contractor during any period prior to and including the date of expiry or termination of this Contract; and

b) any claim brought against the Authority or any Replacement Contractor as a result of the Contractors failure to comply with any of its obligations under the TUPE Regulations.

B15.8 Notwithstanding any other provisions of this Contract for the purposes of Clauses B14 and B15 and in accordance with the Contracts (Rights of Third Parties) Act 1999, the Parties accept that any Replacement Contractor shall be entitled to enforce the benefits conferred by it in this Contract. 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 Replacement Contractor shall not be required for such rescission, variation of termination.

B15.9 Clause B14 and this Clause B15 shall apply during the Contract Period and indefinitely thereafter.

B16 Minimum Performance Level and Customer Service Standards

B16.1 The Contractor shall ensure that the Services are supplied in such a manner as to meet or exceed the Minimum Performance Level and the Customer Service Standards at all times from the Commencement Date.

B16.2 The Authority shall monitor the Contractor's performance in respect of each of the Minimum Performance Level and the Customer Service Standards in accordance with the provisions of this Clause B.16, the Specification, Schedule 2 (Minimum Performance Level and Customer Service Standards) and any other requirements as notified by the Authority to the Contractor from time to time.

B16.3 Not used.

B16.4 The Authority shall review the Minimum Performance Level and/or the Customer Service Standards throughout the Contract Period. The Authority may, at its sole discretion, elect to make changes to the Minimum Performance Level and/or the Customer Service Standards from time to time. If the Authority elects to make changes to the Minimum Performance Level and/or the Customer Service Standards, the Authority shall propose such changes by serving a Change Control Notice on the Contractor, and the Contractor shall promptly comply with the Change Control procedure as detailed at Clause F3 (Changes to the Contract) and Schedule 14 (Change Control Procedure).

B17 Performance Improvement Process

B17.1 Where the Authority believes that a Service Failure has occurred, the Authority may at any time (in its absolute discretion) elect to give a Performance Improvement Notice to the Contractor in respect of such Service Failure and thereby initiate the Performance Improvement Process in accordance with this Clause B17.

B17.2 A Performance Improvement Notice given in accordance with this Clause B17 shall indicate:

(a) that it is a Performance Improvement Notice;

(b) the Service Failure;

(c) the actions the Authority in its absolute discretion requires the Contractor to take to satisfy the Authority that the Contractor can ensure compliance with its contractual obligations in relation to the subject matter of the Service Failure, which, for the avoidance of doubt, may include the requirement to remedy the Service Failure where it is capable of remedy; and

(d) the Performance Improvement Period which will start on the date of issue of the Performance Improvement Notice and will end on the Performance Improvement End Date specified in the Performance Improvement Notice.

B17.3 For the avoidance of doubt, the Authority may issue a Performance Improvement Notice and initiate the Performance Improvement Process at any time after the occurrence of a Service Failure and any delay in exercising its right to issue a Performance Improvement Notice and/or initiate the Performance Improvement Process shall not constitute a waiver or cause of diminution of the Authority's right to do so.

B17.4 For the avoidance of doubt, the Authority shall be under no obligation to initiate the Performance Improvement Process including, without limitation, if it serves notice to terminate the Contract pursuant to any other termination rights under the Contract.

B17.5 Within such timescales as notified by the Authority to the Contractor (taking into account all relevant circumstances in relation to the subject matter and nature of the Service Failure) but in any event no more than ten (10) Working Days following receipt of a Performance Improvement Notice the Contractor shall either:

(a) submit a draft Performance Improvement Plan; or

(b) inform the Authority that it does not intend to submit a Performance Improvement Plan, in which event the Authority shall be entitled to consider this a Serious Breach for the purposes of Clause H2 (Termination on Default) entitling the Authority (at its absolute discretion) to exercise its rights under the corresponding provisions of Clause H2 (Termination on Default).

B17.6 The Authority shall either approve the draft 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 Clause B17.5 (a), or it shall inform the Contractor why it cannot accept the draft Performance Improvement Plan. In such circumstances, the Contractor shall address all such concerns in a revised Performance Improvement Plan, which it shall submit to the Authority within a period of ten (10) Working Days (or such other period as notified by the Authority to the Contractor) of its receipt of the Authority's comments. If no such notice is given, the Contractor's draft Performance Improvement Plan shall be deemed to be agreed.

B17.7 Once agreed the Contractor shall immediately start work on the actions set out in the Performance Improvement Plan.

B17.8 If, despite the measures taken under Clause B17.6 a revised Performance Improvement Plan cannot be agreed within the 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 comments in respect of the Contractor's draft Performance Improvement Plan then the Authority may elect to end the Performance Improvement Process and refer the matter for resolution by the dispute resolution procedure set out in Clause I.2 (Dispute Resolution) or shall be considered a Serious Breach for the purposes of Clause H2 (Termination on Default) entitling the Authority (at its absolute discretion) to exercise its rights under the corresponding provisions of Clause H2 (Termination on Default).

B17.9 If a Performance Improvement Plan is agreed between the Parties, but the Contractor fails to implement the Performance Improvement Plan in accordance with its terms and by the Performance Improvement End Date as specified in the Performance Improvement Notice such that the Contractor fails to rectify the Service Failure and/or undertake all the actions specified by the Authority in the Performance Improvement Notice by the Performance Improvement End Date, the Authority may:

(a) consider this a Serious Breach for the purposes of Clause H2 (Termination on Default) entitling the Authority (at its absolute discretion) to exercise its rights under the corresponding provisions of Clause H2 (Termination on Default); or

(b) give a new Performance Improvement Notice to the Contractor in respect of the Service Failure and thereby initiate a new Performance Improvement Process in accordance with this Clause B17; or

(c) escalate any issues arising out of the failure to implement the Performance Improvement Plan to the Contractor's commercial director (or equivalent) under the dispute resolution procedure set out in Clause I.2 (Dispute Resolution).

B17.10 Any subsequent Service Failure which the Authority regards, at its sole discretion, as being substantially the same in character to a Service Failure in respect of which a Performance Improvement Notice has been issued in accordance with this Clause B17 which occurs within six (6) Months of the Performance Improvement End Date shall be a Serious Breach for the purposes of Clause H2 (Termination on Default) and shall entitle the Authority (at its absolute discretion) to exercise its rights under the corresponding provisions of Clause H2 (Termination on Default).

B18 Universal Credit

B18.1 The Contractor acknowledges that the Authority is intending to alter the benefit system such that Universal Credit will replace a number of existing benefits.

B18.2 The Contractor is required to support the implementation of the Universal Credit insofar as it may impact on the Services, including (without limitation):

(a) assisting in notifying Participants for which it is responsible how the change to Universal Credit will impact the Services as applicable to those Participants; and/or

(b) notification to the Authority of the data relevant to the impact of Universal Credit on the Services.

B18.3 At any time, as a consequence of, or in connection with the implementation of Universal Credit, the Authority reserves the right to:

(a) review all systems and processes used and implemented by the Contractor in connection with delivery of the Services, to ensure that such systems and processes are aligned and compatible with any legislative changes, any changes to the Authority's systems and processes and any other changes arising out of or in connection with, the introduction or implementation of Universal Credit; and/or

(b) require the Contractor to make such changes to the Contractor's systems and processes as the Authority may determine.

C. PAYMENT AND COURSE DELIVERY FEE

C1 Course Delivery Fee

C1.1 In consideration of the Contractor carrying out its obligations under this Contract, including the provision of the Services, the Authority shall pay the Course Delivery Fee to the Contractor in accordance with the provisions of this Clause C and Schedule 4 (Payment and Course Delivery Fee) (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 Without prejudice to the provisions of Clause B17, C1.1 and any other provisions of this Contract, the Authority shall not be liable to pay the Course Delivery Fee to the Contractor in respect of any Course which has not been delivered in strict compliance with the Addendum to the Jobs II Manual.

C1.3 If the Authority fails to pay any undisputed Course Delivery Fee properly invoiced under this Contract, the Contractor shall have the right to charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

C2 Not Used

C3 Payment

C3.1 The Authority shall pay the Course Delivery Fee for each Delivered Course validated by the Authority in accordance with the provisions of this Clause C3 and Schedule 4 (Payment and Course Delivery Fee).

C3.2 In order for the Authority to assess eligibility for a claim the Contractor shall, in respect of each Delivered Course, input such information as specified by the Authority in the Specification and/or the Provider Guidance onto the Authority ICT System in the format also specified by the Authority in the Specification and/or the Provider Guidance.

C3.3 Without prejudice to anything else in this Clause C, the Authority shall have no obligation to make any Course Delivery Fee payable to the Contractor in respect of Claims submitted to the Authority by the Contractor after the Payment Tail Period.

C3.4 The Contractor shall only submit a Claim in respect of a Delivered Course where it has carried out sufficient checks that such Delivered Course meets all of the relevant criteria and requirements as detailed in the Specification.

C3.5 Subject always to Clause C4, the Authority shall pay the Course Delivery Fee within thirty (30) calendar days of the Claim being established as eligible by the Authority. The Authority shall not unreasonably delay its processing of a Claim. The Authority may at its discretion require the Contractor to provide any appropriate supporting information it considers necessary before making any payment to the Contractor.

C3.6 For the avoidance of doubt, payment of the Course Delivery Fee by the Authority in respect of a Claim shall not constitute confirmation that the Authority has established that any such Claim is eligible for payment.

C3.7 The Contractor shall notify details of the Contractor's bank account and address to the Authority via the Authority ICT System. The Authority shall send notifications of payments to that address.

C3.8 At any time during the Contract Period (including, for the avoidance of doubt, at any time before and/or after payment by the Authority to the Contractor) the Authority shall be entitled to validate any Claim.

C3.9 When the Authority has made a Course Delivery Fee payment to the Contractor, the Authority shall refuse any requests of the Contractor to remove the Claim for such Course Delivery Fee from the Authority ICT System, except in exceptional cases where the Authority determines, in its sole discretion, are appropriate circumstances to permit such a request.

C3.10 The Authority reserves the right, at its absolute discretion, to require the Contractor to consolidate Claims for payment of any Course Delivery Fee under this Contract with other contracts for similar services between the Parties procured under the same procurement as set out in Recital (B).

C4 Validation and Extrapolation

C4.1 The Contractor shall, in accordance with the Specification (in particular paragraphs 76 to 68), keep adequate information to evidence all Claims submitted. Before payment of any Course Delivery Fee by the Authority to the Contractor, the Authority may undertake such check(s) at it may require to establish the eligibility of such Claim. At all times the Contractor shall provide

all necessary assistance as requested by the Authority to enable the Authority to validate any Claim.

C4.2 The Authority shall be entitled to reject any Claims made by the Contractor which fail any check(s) undertaken by the Authority pursuant to Clause C4.1 without undertaking any further check(s).

C4.3 The Authority reserves the right to review any historic Claims, samples of Claims or payments at any time.

C4.4 In undertaking such review, the Authority or its representative may:

(a) carry out checks that the relevant Delivered Course was delivered in compliance with the Specification;

(b) carry out checks of data (including pertaining to the Participants) arising out of or in connection with the Contract; and/or

(c) contact the Participant if required.

C4.5 In any Payment Validation Period, where any error or over-claim has been identified by the Authority, the Authority shall be entitled to:

(a) determine (in its sole discretion) the Delivered Course Error Rate;

(c) extrapolate the Delivered Course Error Rate across all of the Course Delivery Fee payments 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 "**Delivered Course Aggregate Error Amount**"); and

(d) recover in full from the Contractor a sum or sums equal to the Delivered Course Aggregate Error Amount together with the cost of carrying out such validation.

C4.6 For the avoidance of doubt, the Authority's rights in this Clause C4 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 C5 (Recovery of Sums Due)).

C5 Recovery of Sums Due

C5.1 If any Claim for payment by the Contractor is paid by the Authority but such Claim or any part of such Claim is determined by the Authority not to have been eligible for payment (an "**Ineligible Amount**") then the Contractor shall forthwith repay such Ineligible Amount to the Authority.

C5.2 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 default 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.

C5.2 Any overpayment by either Party, whether of the Course Delivery Fee 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.

C5.3 The Contractor shall make any 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.

C5.4 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.

C6 Euro

C6.1 Any requirement of Law to account for the Services in Euro (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.

C6.2 The Authority shall provide all reasonable assistance to facilitate compliance with Clause C6.1 by the Contractor.

C7 Third Party Revenue

C7.1 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 Approval of the Authority.

C7.2 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 the Approval which may be granted or refused at the Authority's sole discretion.

C8 VAT

C8.1 The Contractor shall add VAT to the Course Delivery Fee at the prevailing rate as applicable and the Authority shall pay the VAT to the Contractor following an eligible claim for VAT payment being notified by the Contractor.

C8.2 The Contractor shall indemnify the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred which is levied, demanded or assessed on the Authority at any time in respect of the Contractor's failure to account for or to pay any VAT relating to payments made to the Contractor under the Contract. Any amounts due under this Clause C8.2 shall be paid by the Contractor to the Authority not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Authority.

C8.3 Without prejudice to Clause C8.2, for the avoidance of doubt, it shall at all times remain the sole responsibility of the Contractor to:

(a) assess the VAT rate(s) and tax liability arising out of or in connection with the Contract; and

(b) account for or pay any VAT (and any other tax liability) relating to payments made to the Contractor under the Contract to HMRC.

C8.4 The Authority shall not be liable to the Contractor in any way whatsoever for any error or failure made by the Contractor (or the Authority) in relation to VAT, including without limit:

(a) where the Contractor is subject to a VAT ruling(s) by HMRC (or such other relevant authority) in connection with the Contract;

(b) where the Contractor has assumed that it can recover input VAT and (for whatever reason) this assumption is subsequently held by HMRC (or such other relevant authority) to be incorrect or invalid;

(c) where the Contractor's treatment of VAT in respect of any claim for payment made under the Contract is subsequently held by HMRC (or such other relevant authority) for whatever reason to be incorrect or invalid; and/or

(d) where the Contractor does not provide accurate information to the Authority for it to calculate the VAT on an invoice produced by the self-billing process, the Authority will not be liable to pay any VAT for that invoice either when it falls due, or at any later date. Further, in this Clause 8.4 (d), the Contractor shall be obliged to repay any overpayment by the Authority on demand.

C8.5 The Contractor acknowledges that the Authority has advised the Contractor that the Contractor should seek specialist VAT advice in relation to the Contract and, in the event of any uncertainty following specialist advice, the Contractor should seek clarification of the Contract's VAT status with HMRC.

C8.6 Without prejudice to Clause C8.2 and C8.3, the Contractor shall comply with the Law governing self-billing contracts including, without limitation, as more particularly described in HMRC Notice 700/62 it shall:

(a) prior to the Referral Start Date, confirm the rate(s) of VAT that the Authority should apply to each part of the funding model used in the Contract on the Commencement Date and on each anniversary thereof;

(b) enter into an annual self-billing agreement with the Authority on or around the Commencement Date and (if applicable) on each anniversary thereof, for the duration of the Contract (a template of the current version of which is set out in Appendix 2 to Schedule 4 (Payment and Course Delivery Fee); and

(c) complete the VAT confirmation documentation as required by the Authority (a template of the current version of which is set out in Appendix 2 to Schedule 4 (Payment and Course Delivery Fee).

C9 Methods of Payment

C9.1 The Authority reserves the right to set and/or alter, at its absolute discretion, the method of payment. All payments of the Course Delivery Fee are conditional upon the Contractor providing the Services in accordance with the terms of the Contract.

C9.2 Without prejudice to Clause B2 and the rest of this Clause C, Course Delivery Fees are made on the condition that the Contractor's entitlement to such payments can be verified on request by the production of the records required under this Contract (including as specified in the Specification and/or Provider Guidance). The Authority shall, acting reasonably, be entitled to assume, in the absence of such records, or of any evidence which the Authority may reasonably decide to accept in substitution, that no delivery of Services has taken place and that any such purported delivery of Services constitutes "Unsupported Services". The Authority shall be entitled to recover any and all sums paid in respect of such Unsupported Services from the Contractor and the Contractor shall repay such sums on demand.

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 Contact;

(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 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 in Clauses D1.1 or D1.2; 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 Clauses 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 Clauses D1.1 or D1.2, the Authority may;

(a) consider this a Serious Breach for the purposes of Clause H2 (Termination on Default) entitling the Authority (at its absolute discretion) to exercise its rights under the corresponding provisions of Clause H2 (Termination on Default) 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 Despite 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.

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

D3.1 Subject to Clauses B14.10 to B14.14, B15.8 and E4.13, 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. 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.

D3.1 Notwithstanding Clause D3.1, the Parties to this Contract may, without the consent of any third party vary, terminate or rescind this Contract or waive any rights under it, notwithstanding that this may extinguish or alter the benefits or rights conferred by Clause D3.1.

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 D4.3(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.

D4.4 The Contractor shall (when designing, procuring, implementing and delivering the Services) ensure compliance with Article 6 and Annex III of the Energy Efficiency Directive 2012/27/EU and subsequent replacements.

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 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 Laws relating to health and safety, which may apply to Staff and other persons working on the 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 etc Act 1974) is made available to the Authority on request.

D6 Tax Compliance

D6.1 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.

D6.2 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.

D7 Termination Rights due to any Occasion of Tax Non-Compliance

D7.1 The Authority shall be entitled to terminate the Contract in the event that:

(a) the warranty given by the Contractor pursuant to Clause D6.1 is false;

(b) the Contractor commits a Serious Breach of its obligations to notify the Authority of any Occasion of Tax Non-Compliance as required by Clause D6.2; or

(c) the Contractor fails to provide details of proposed mitigating factors which in the reasonable opinion of the Authority are acceptable.

D8 Equality and Diversity

In delivering the Services, the Contractor shall, and shall ensure that its Sub-contractors, assist and cooperate with the Authority in satisfying equality duties by fully complying with the requirements of Schedule 8.

D9 Apprenticeships and Skill Requirements

The Contractor shall comply with the provisions of Schedule 10 in respect of apprenticeships and skills.

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 Contractor's 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.

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 or Personal Data and the Contractor shall do so as soon as practicable but not later than ten (10) calendar days; and/or

(b) itself restore or provide for the restoration of the Authority Data or Personal 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 or Personal 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 offshore 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 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 Serious Breach for the purposes of Clause H2 (Termination on Default) and shall entitle the Authority (at its absolute discretion) to exercise its rights under the corresponding provisions of Clause H2 (Termination on Default).

E1.12 In the event the Contractor and/or the Guarantor is put into Liquidation in any of the ways outlined in Clause H1.1(b) and H1.1(c) or otherwise or the Contract is terminated by the Authority pursuant to the provisions of the Contract relating to termination on insolvency in accordance with Clause H1.1, 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 and Participant Personal Data/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 paragraph have been completed.

E1.13 In the event of a Sub-contractor of the 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 in any of the ways as outlined in Clause H1.1(a) or otherwise the Authority will work closely with the Administrator to ensure the Contractor is able to maintain Authority, Participant and other records they have created and held in accordance with Clause E1 of this Contract 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 up the Contractor. 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 Approval obtained. Where the Contract is assigned or novated with the Authority's Approval, the Contractor must provide the Authority with all the relevant information and records necessary for the assigned or novated contract to continue to be performed.

E1.16 In the event that through any Default of the Contractor, data transmitted or processed in connection with the Contract is either lost or sufficiently degraded as to be unusable, the Contractor shall be liable for the cost of reconstitution of that data. The Contractor shall reimburse the Authority in respect of any charge levied for its transmission and any other costs charged in connection with such Default.

E2 Protection of Personal Data

E2.1 The Parties shall each Process Personal Data. The Parties acknowledge that the factual arrangement between them dictates the role of each Party in respect of the Data Protection Legislation. Notwithstanding the foregoing, the Parties anticipate that each Party shall act as a Data Controller in respect of the Processing of the Personal Data, as follows:

(a) the Authority shall be a Data Controller of the Personal Data relating to the Participants where such data is being Processed for purposes not directly connected with the Services and/or this Contract;

(b) the Contractor shall be a Data Controller of the Personal Data relating to the Contractor's Staff whether or not such Personal Data is Processed pursuant to this Contract;

(c) the Authority and the Contractor shall each be a joint Data Controller where they Process (or procure the Processing of) the Personal Data in relation to the Services and/or otherwise perform their respective obligations and/or receive the benefit of their respective rights under this

Contract. Such Personal Data provided by the Authority, and collected and held by the Contractor in performing the Services, shall form part of the Authority's Data.

(d) the Contractor shall have no right or authority to Process the Personal Data other than under, or in connection with, this Contract, save in respect of Personal Data relating to the Contractor's Staff; and

(e) the Parties do not anticipate that the Contractor will Process Personal Data as Data Processor on behalf of the Authority. Notwithstanding the foregoing, if and to the extent that the Contractor is Processing Personal Data on behalf of the Authority, Clause E2.6 shall apply to such Processing.

E2.2 Where the Parties are Processing (or procuring the Processing of) the Personal data as joint Data Controllers, the Parties agree that they shall each be responsible for the compliance obligations imposed on a Data Controller by the Data Protection Legislation, as follows:

(a) in respect of any Personal Data Processed prior to the Commencement Date, the Authority shall be responsible for compliance with Data Protection Principles 1, 2 and 3;

(b) in respect of any Personal Data Processed by either Party on and from the Commencement Date, the Contractor shall be responsible for compliance with Data Protection Principles 1, 2, 3, 4, 5, 6 and 8 (where applicable), including, in particular, responding to Subject Access Requests pursuant to Clauses E2.5(b) and (c); and

(c) each Party shall be responsible for compliance with Data Protection Principle 7 where the Participant Personal Data has been transmitted by it, or while Participant Personal Data is in its possession or control.

E2.3 The Parties shall at all times comply with their respective obligations under Data Protection Legislation.

E2.4 Each Party shall:

(a) ensure it is not subject to any prohibition or restriction which would:

(i) prevent or restrict it from disclosing or transferring the Participant Personal Data to the other Party, as required under this Contract;

(ii) prevent or restrict it from granting the other Party access to the Participant Personal Data, as required under this Contract; or

(iii) prevent or restrict either party from Processing the Participant Personal Data, as envisaged under this Contract;

(c) ensure that all fair processing notices have been given (and/or, as applicable, explicit consents obtained) and are sufficient in scope to enable each party to Process the Participant Personal Data as required in

order to obtain the benefit of its rights and to fulfill its obligations under this Contract in accordance with the Data Protection Legislation, which shall include notification to the Participants that Participant Personal Data may be shared with the Authority and with any other third party organisations envisaged within the Contract; and

(d) ensure that all Participant Personal Data disclosed or transferred to, or accessed by, the other Party is accurate and up-to-date, as well as adequate. relevant and not excessive to enable either Party to Process the Participant Personal Data, as envisaged under this Contract.

E2.5 The Contractor shall:

(a) maintain technical and organisational measures sufficient to comply at least with the obligations imposed on a Data Controller by Data Protection Principle 7, and shall take reasonable steps to ensure the reliability of its personnel who shall have access to the Participant Personal Data;

(b) notify the Authority (within two (2) Working Days) if it receives:

(i) a request from a Participant making a Subject Access Request; and/ or

(ii) a complaint or request relating to the Authority's obligations under the Data Protection Legislation;

(c) provide the Authority with full cooperation and assistance in relation to any complaint or Subject Access Request or other Data Subject request made, including by:

(i) providing the Authority with full details of the complaint or request;

(ii) complying with a Subject Access Request within the relevant timescales set out in the DPA and in accordance with the Authority's instructions;

(iii) providing the Authority with any Participant Personal Data it holds in relation to the requesting Participant within the timescales required by the Authority; and

(iv) providing the Authority with any information requested by the Authority;

(d) immediately, and in any event within twenty-four (24) hours, notify the Authority where it believes that any instruction given under this Contract is contrary to the Data Protection Legislation;

(e) permit the Authority or the Authority’s representative (subject to reasonable and appropriate confidentiality undertakings) to inspect and audit the Contractor's Processing activities (and/or those of its agents, subsidiaries and sub-contractors) and comply with all reasonable requests or directions by the Authority to enable the Authority to verify and/or

procure that the Contractor is in full compliance with its obligations under this Clause E2;

(f) provide a written description of the technical and organisational methods employed by the Contractor for processing Personal Data within the timescales required by the Authority;

(g) without prejudice to the generality of Clause E1, without undue delay, and in any event within twenty-four (24) hours, notify the Authority about any actual or suspected breach of Clause E2.5(a) and shall, within such timescale to be agreed by the parties (acting reasonably and good faith):

(i) implement any measures necessary to restore the security of compromised Participant Personal Data; and

(ii) support the Authority to make any required notifications to the UK Information Commissioner and affected Participants.

E2.6 Notwithstanding Clause E2.1(e), if and to the extent that the Contractor is acting as Data Processor for and on behalf of the Authority, then, in addition to meeting its obligations set out in Clause E2.5, it shall:

a) Process the Personal Data only in accordance with instructions from the Authority (which may be specific instructions or instructions of a general nature as set out in this Contract as otherwise notified by the Authority to the Contractor during the Contract Period);

b) Process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by Law (including the Data Protection Legislation) or any Regulatory Body (including the UK Information Commissioner);

c) take reasonable steps to ensure the competence of any Staff who have access to the Personal Data and restrict the disclosure of the Participant Personal Data to those of its Staff who may be required by it to assist it in meeting its obligations under this Contract, and shall ensure that no other Staff shall have access to such Participant Personal Data. Such Staff used by the Contractor to Process the Participant Personal Data to provide the Services as they relate to Participant Personal Data shall have: (i) undergone reasonable levels of training in Data Protection Legislation and in the care and handling of Personal Data; and (ii) are informed of the confidential nature of, and have entered into appropriate contractually binding confidentiality undertakings in relation to, the Processing of Personal Data;

(d) not transfer any Participant Personal Data outside the European Economic Area without the Authority's prior written consent and procuring compliance with Data Protection Principle 8;

(e) hold the Participant Personal Data in such a manner that it is capable of being distinguished from other data or information processed by the Contractor;

(f) obtain prior written consent from the Authority in order to transfer the Participant Personal Data to any Sub-contractors or agents for the provision of the Services. Such consent shall be conditional upon the Contractor undertaking thorough due diligence on the proposed sub-contractor, including a risk assessment of the information governance related practices and processes of the sub-contractor, which shall be used by the Contractor to inform any decision on appointing the proposed sub-contractor. Where requested, the Contractor shall provide to the Authority the results of any such due diligence;

(g) ensure that none of the Staff publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Authority; and

(h) without prejudice to the generality of Clause H4.2(b) (Consequences of Expiry or Termination), on expiry or termination of this Contract, howsoever caused, the Contractor shall immediately cease Processing the Participant Personal Data and, at the Authority's option or direction, arrange for the prompt and safe return and/or secure and permanent destruction of all Participant Personal Data, together with all copies in its possession or control and, where requested by the Authority, certify that such destruction has taken place. The provisions of this Clause E2 shall survive termination of this Contract.

E2.7 The Contractor shall indemnify on demand and keep indemnified the Authority in full from and against all claims, proceedings, actions, damages, losses, 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, which the Authority may suffer or incur arising out of, in respect of, or in connection with, any breach by the Contractor (or any Sub-contractor) of this Clause E2.

E2.8 The Parties acknowledge and agree that Schedule 1 (The Services) is an accurate statement of:

(a) the subject matter and duration of the Processing;

(b) the nature and purpose of the Processing;

(c) the type of Personal Data being Processed; and

(d) categories of Data Subjects.

E2.9 The Contractor shall be responsible for, and bear the risk and cost of, compliance with any change in any Data Protection Legislation affecting this Contract (a "**Data Protection Change**"), and shall seek to implement all necessary changes required to this Contract to address a Data Protection

Change, as shall be agreed between the Parties in accordance with the Change Control Procedure (for the purposes of which, a Data Protection Change shall constitute a Contract Change).

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 a Serious Breach for the purposes of Clause H2 (Termination on Default) and shall entitle the Authority (at its absolute discretion) to exercise its rights under the corresponding provisions of Clause H2 (Termination on Default).

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 Body. 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 Body;

(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 this 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 reasonable endeavours to ensure that any government department, part of the Crown, Contracting Body, 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 to E4.4 shall be a Serious Breach for the purposes of Clause H2 (Termination on Default) and shall entitle the Authority (at its absolute discretion) to exercise its rights under the corresponding provisions of Clause H2 (Termination on Default).

E4.10 Clauses E4.1 to 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. The Contractor shall assist and cooperate with the Authority to enable the Authority to publish the Contract.

E4.13 The Contractor waives any contractual right or other confidentiality obligation in connection with the customers mentioned in the list of contracts provided by the Contractor as set out in the Invitation to Tender to demonstrate evidence of past performance. The Contractor agrees that these customers may provide information to the Authority in the form of certificates of performance and answer any clarifications that the Authority or anyone acting on behalf of the Authority in connection with this procurement may have. The Contractor confirms that save for any deceitful or maliciously false statements of fact or purported fact included in a certificate or subsequent clarification from the Authority the customer will not owe the Contractor any duty of care for or otherwise have any legal liability to the Contractor in respect of any factual inaccuracies, whether innocent or negligent, and/or in respect of any expressions of opinion by the customer. This provision is for the benefit of each customer and may be relied on with the express authority of the Authority by them for the purposes of the Contracts (Rights of Third Parties) Act 1999.

E4.14 The Authority confirms that it will keep confidential and will not disclose to any third parties other than the Cabinet Office and other government departments, for the purposes of verification, the content of any certificates of performance from a customer.

E4.15 If in breach of Clause E4.13 the Contractor commences legal proceedings against a customer in relation to any certificate of performance or subsequent clarification provided by it to the Authority the Contractor agrees that the customer shall be entitled to bring proceedings against the Contractor in the English Courts to enforce the terms of this provision (regardless of whether it is enforceable in the jurisdiction where the proceedings are brought) and to be indemnified in full for any legal costs incurred in defending such proceedings and indemnified in respect of any compensation that the customer is ordered to pay to the Contractor as a result of such proceedings. This provision will not

relate to any proceedings commenced in good faith for any liability that falls outside the scope of this provision.

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 E5.5 (a) applies the Authority shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advanced 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 the Commercially Sensitive Information Schedule is of indicative value only and that the Authority may be obliged to disclose it in accordance with Clause E5.5.

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 Approval of the Authority, which shall not be unreasonably withheld or delayed.

E6.2 The Authority shall be entitled to publicise the Contract in accordance with any legal obligation upon the Authority including any examination of the Contract by Audit Agents or otherwise.

E6.3 The Contractor shall ensure that their employees, agents, Sub-contractors, suppliers, professional advisors and consultants comply with Clause E6.1.

E6.3 The Contractor shall pay the utmost regard to the standing and reputation of the Authority and shall ensure that neither it, nor any of its Affiliates or Staff 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.

E6.4 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.

E6.5 Where applicable, each Party shall give the other advance notice of proposed visits to the Contractor's premises or any premises of its Sub-contractors (including Members of Parliament, members of the press and media) to observe the delivery of the Service(s) by the Contractor or its Sub-contractors.

E6.6 If so requested by the Authority the notepaper and other written material of the Contractor and Sub-contractors relating to the delivery of the Services(s) shall carry only logos and markings approved by the Authority. This may include, but shall not be limited to, such banner or logo as the Authority shall use to identify the Service(s) from time to time. All publicity and marketing material produced by the Contractor (or its Sub-contractors) in relation to this Contract shall be

submitted to the Authority for Approval, and no such items shall be printed (other than for Approval purposes) until such Approval is received.

E6.7 Without prejudice to its obligations under Clause A9, the Contractor shall observe the European Commission's and the Authority's publicity requirements and regulations regarding ESF projects, as amended from time to time. The Contractor shall ensure that sufficient publicity is given to all ESF supported activity so that Participants and the general public are made aware of ESF and what it has achieved. This requirement applies to both domestic provision funded by ESF and to provision used as a match for ESF purposes. Upon request by the Authority, the Contractor shall provide a copy of its formal marketing and publicity plan clearly setting out the publicity arrangements used by the Contractor and its Sub-contractors (if any). Whether or not a copy of the foregoing plan is requested by the Authority, the Contractor shall retain copies of its plan (as revised from time to time) as part of the Contractor's record keeping obligations under this Contract.

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 must be agreed in accordance with the procedure in Clause F3.

E7.5 Until and/or unless a change to the Course Delivery Fee 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 any Sub-contractor ceases 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 The Parties agree that:

(a) all Intellectual Property Rights in any guidance, specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material furnished to or made available to the Contractor by or on behalf of the Authority shall remain the property of the Authority; or

(b) any Project Specific Intellectual Property Rights arising shall belong to the Authority and in such regard, the Contractor hereby assigns, with full title guarantee and free from all third party rights, any Project Specific Intellectual Property Rights;

and the Contractor shall not, and shall ensure that the Staff shall not, (except when necessary for the performance of the Contract) without Approval, use or disclose any such Authority Intellectual Property Rights (including any Project Specific 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 grant to the Authority (or procure the grant to the Authority) of those rights a non-exclusive licence to use, reproduce, modify, develop and maintain the material. Such licence shall be non-exclusive, perpetual, royalty-free and irrevocable. That licence shall also include the right for the Authority to sub-license, transfer, novate or assign to other Contracting Bodies, 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. Such costs and expenses shall not be repaid where they are incurred in relation to a claim, demand or action which relates to the matters in Clause E8.4 (a) or (b).

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 Services 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 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 and the National Audit Office and Open Book Data

E9.1 The Contractor shall at all times keep and maintain until the date specified in Clause E9.2, the Open Book Data.

E9.2 Without prejudice to Clauses A9 and E9.1, as the delivery of this Contract may be funded by, and / or may be used as match for contracts funded by the Authority using European Social Fund (ESF) monies the Contractor and any Sub-contractors appointed by it shall be bound by the additional ESF Requirements, including but not limited to the requirement to maintain the Open Book Data until at least the Document Retention End Date.

E9.3 Without prejudice to the generality of Clauses E9.1 and E9.2, 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.

E9.4 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.

E9.5 Duly authorised staff or agents of the Authority shall have the right to visit sites controlled by the Contractor and to be given free access to the Staff and to Participants 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.

E9.6 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 end of the Payment Tail Period, and shall provide such records and accounts on request until the Document Retention End Date, to the Authority and the Audit Agents.

E9.7 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.

E9.8 The Contractor shall ensure that all of its contracts with Sub-contractors include obligations reflecting the requirements of the Contracting Body under this Clause E9.

E9.9 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 European Court of Auditors, the European Commission, the Audit Agents and any third parties as notified by the Authority to the Contractor from time to time.

E9.10 Without prejudice to the foregoing, in the event of an investigation into 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.

E9.11 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 and/or the Guarantor 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 Subject to the provisions of Clause E10.3, 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 Clause E9.7 as soon as reasonably practicable after such request and in any event within forty eight (48) hours.

E10.3 Without prejudice to Clause E10.2, if the Authority notifies the Contractor of an Exceptional Circumstance to which the provisions of Clause E9.10 also apply and that it wishes to conduct an Exceptional Audit, the Contractor shall provide immediate access in accordance with Clause E9.10.

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 and E10 unless an audit identifies a material Default by the Contractor in which case:

(a) the Contractor shall reimburse 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 Audit Agents appoint another a Contracting Body identified in the OJEU Notice to conduct an audit under Clauses E9 and E10, 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 Body.

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, Third Party Software licenced to the Contractor (and/or any Sub-contractor) 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, Third Party Software licenced to the Authority or the Authority Data (whilst the Authority Data was under the control of the Authority).

E13 Provision of Management Information

E13.1 Throughout the Contract Period, the Contractor shall promptly make full disclosure to the Authority of any and all Management Information within the timescales set out in Schedule 3 (Monitoring and Information Requirements).

E13.2 The Authority may share the Management Information (together with any analysis or statistics produced using the Management Information) with:

(a) any Crown Body;

(b) any other Contracting Body;

(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; and/or

(d) any other third party as may be agreed by the Authority and the Contractor from time to time.

E13.3 The Authority may use (and permit others to use) the Management Information to produce official statistics and the Contractor hereby gives its consent to such use of the Management Information (together with any associated publication or release).

E13.4 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.

E13.5 The 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 Management Information to any third party until the date of publication of the official statistics (save that the Contractor may disclose the 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 Management Information).

E13.6 At all times prior to the publication of the official statistics, the Contractor shall treat the Management Information as confidential.

E.13.7 The Authority may make changes to the Management Information which the Contractor is required to disclose to the Authority in accordance with Clause E13.1. The Authority will make any such changes in accordance with Clause F3.

E14 Records Relating to the Provision of the Services

Notwithstanding the provisions of Clauses E9 in respect of Open Book Data, the Contractor shall, during the Contract Period and a 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 F1.4 and F1.5 applies, the Contractor shall not assign, sub-contract or in any other way dispose of the Contract or any part of it without 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 Contractor entering into a sub-contract, a copy of each sub-contract shall, at the request of the Authority, be sent by the Contractor to the Authority within ten (10) Working Days of the Authority's request.

F1.4 The Contractor shall ensure that each Sub-contract shall include:

(a) provisions which will enable the Contractor to discharge its obligations under the Contract, including but not limited to adherence to the Minimum Performance Level and the Customer Service Standards;

(b) a right under the Contracts (Rights of Third Parties) Act 1999 for the Authority to enforce any provisions under each Sub-contract which are capable of conferring a benefit on the Authority;

(c) a provision enabling the Contractor to assign, novate or otherwise transfer any of its rights and/or obligations under each Sub-contract to the Authority or any Replacement Contractor without restriction (which for the avoidance of doubt shall mean without any need to obtain any consent or approval from any Sub-contractor) or payment by the Authority;

(d) obligations no less onerous on each Sub-contractor than those imposed on the Contractor under this Contract in respect of:

(i) data protection requirements set out in Clause E;

(ii) FOIA requirements set out in Clause E;

(iii) the obligation not to cause material adverse publicity or damage the reputation of the Authority set out in Clause E;

(iv) the keeping of records in respect of the services being provided under the Sub-contract; and

(v) the conduct of audits set out in Clause E;

(e) provisions enabling the Contractor to terminate each Sub-contract on terms no more onerous on the Contractor than those imposed on the Authority under Clause H of the Contract;

(f) a provision restricting the ability of the Sub-contractor to sub-contract all or any part of the services supplied under each Sub-contract without first seeking Approval;

(g) a provision enabling the Contractor, the Authority or any other person on behalf of the Authority to itself supply or procure the supply or all or part of the services being supplied under each Sub-contract on substantially the same terms as are set out in Clause F5.3; and

(h) all such other provisions as may be required to be set out elsewhere in this Contract.

F1.5 The Contractor shall not terminate or materially amend the terms of any Sub-contract without Approval.

F1.6 The Authority may require the Contractor to terminate a Sub-contract where:

(a) the acts or omissions of the relevant Sub-contractor have caused or materially contributed to the Authority's right of termination pursuant to Clause H; and/or

(b) the relevant Sub-contractor or any of its Affiliates have embarrassed the Authority or otherwise brought the Authority into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Authority, regardless of whether or not such act or omission is related to the Sub-contractor's obligations in relation to the Services or otherwise.

F1.7 Notwithstanding Clause F1.1, the Contractor may assign to a third party ("**the Assignee**") the right to receive payment of the Course Delivery Fee or any part thereof due to the Contractor under this Contract. Any assignment under this Clause F1 shall be subject to:

(a) reduction of any sums in respect of which the Authority exercises its right of recovery under Clause C5;

(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 F1.9 and F1.10.

F1.8 In the event that the Contractor assigns the right to receive the Course Delivery Fee under Clause F1.7, the Contractor or the Assignee shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.

F1.9 The Contractor shall ensure that the Assignee notifies the Authority, at least five (5) Working Days prior to submission of any invoice, of the Assignee's contact

information and bank account details to which the Authority is requested to make payment.

F1.10 The provisions of Clause C3 shall continue to apply in all other respects after any such assignment and shall not be amended without Approval.

F1.11 Subject to Clause F1.12, the Authority may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:

(a) any Contracting Body;

(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.

F1.12 Any change in the legal status of the Authority such that it ceases to be a Contracting Body shall not, subject to Clause F1.11, 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.

F1.13 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to Clause F1.11 to a body which is not a Contracting Body or if there is a change in the legal status of the Authority such that it ceases to be a Contracting Body (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 on Insolvency and Change of Control) and H2 (Termination on Default) 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.

F1.14 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.

F1.15 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.

F1.16 The Contractor shall:

(a) pay any undisputed sums which are due from it to a Sub-contractor within thirty (30) days from the receipt of a valid invoice; and

(b) include within the Management Information, a summary of its compliance with Clause F1.16(a), such data to be certified each quarter by a director of the Contractor as being accurate and not misleading.

F1.17 The Contractor shall ensure that all Sub-contracts contain a provision:

(a) requiring the Contractor to pay any undisputed sums which are due from it to the Sub-contractor within a specified period not exceeding thirty (30) days from receipt of a valid invoice; and

(b) a right for the Authority to publish the Contractor's compliance with its obligation to pay undisputed invoices within the specified payment period.

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 or 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 Changes to the Contract

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 and signed on behalf of the Parties.

F3.2 Save as provided in Clause F3.3 below, 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

(c) extending the scope of this Contract considerably.

F3.3 The Parties may agree to make a Contract Change or Operational Change to this Contract where such change is provided for in the Contract and/or in the ITT.

F4 Severability

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 Step-In Rights

F5.1 On the occurrence of a Step-In Trigger Event, the Authority may serve notice on the Contractor (a "**Step-In Notice**") that it will be taking action under this Clause F5, either itself or with the assistance of a third party (provided that the Contractor may require any third parties to comply with a confidentiality undertaking equivalent to Clause E4). The Step-In Notice shall set out the following:

(a) the action the Authority wishes to take and in particular the Services that it wishes to control (the "**Required Action**");

(b) the Step-In Trigger Event that has occurred and whether the Authority believes that the Required Action is due to the Contractor's Default;

(c) the date on which it wishes to commence the Required Action;

(d) the time period which it believes will be necessary for the Required Action;

(e) whether the Authority will require access to the Contractor's premises and/or the Premises; and

(f) to the extent practicable, the impact that the Authority anticipates the Required Action will have on the Contractor’s obligations to supply the Services during the period that the Required Action is being taken.

F5.2 Following service of a Step-In Notice, the Authority:

(a) may take the Required Action set out in the Step-In Notice and any consequential additional action as it reasonably believes is necessary to achieve the Required Action;

(b) shall keep records of the Required Action taken and provide information about the Required Action to the Contractor;

(c) shall co-operate wherever reasonable with the Contractor in order to enable the Contractor to continue to supply the Services in relation to which the Authority is not assuming control; and

(d) shall act reasonably in mitigating the cost that the Contractor will incur as a result of the exercise of the Authority's rights under this Clause F5.

F5.3 For so long as and to the extent that the Required Action is continuing, then:

(a) the Contractor shall not be obliged to supply the Services to the extent that they are the subject of the Required Action;

(b) the Authority shall pay to the Contractor the Course Delivery Fee after subtracting the Authority's costs of taking the Required Action.

F5.4 If the Contractor demonstrates to the reasonable satisfaction of the Authority that the Required Action has resulted in:

(a) the degradation of any Services not subject to the Required Action; or

(b) the non-achievement of the Minimum Performance Level or a Customer Service Standard that which would have been achieved had the Authority not taken the Required Action, then the Contractor shall be entitled to an agreed adjustment of the Course Delivery Fee.

F5.5 Before ceasing to exercise its step in rights under this Clause F5 the Authority shall deliver a written notice to the Contractor (a "**Step-Out Notice**"), specifying:

(a) the Required Action it has actually taken; and

(b) the date on which the Authority plans to end the Required Action (the "Step-Out Date") subject to the Authority being satisfied with the Contractor's ability to resume the provision of the Services and the Contractor's plan developed in accordance with Clause F5.6.

F5.6 The Contractor shall, following receipt of a Step-Out Notice and not less than twenty (20) Working Days prior to the Step-Out Date, develop for the Authority's approval a draft plan (a "**Step-Out Plan**") relating to the resumption by the Contractor of the Services, including any action the Contractor proposes to take to ensure that the affected Services satisfy the requirements of this Contract.

F5.7 If the Authority does not approve the draft Step-Out Plan, the Authority shall inform the Contractor of its reasons for not approving it. The Contractor shall then revise the draft Step-Out Plan taking those reasons into account and shall re-submit the revised plan to the Authority for the Authority’s approval. The Authority shall not withhold or delay its approval of the draft Step-Out Plan unnecessarily.

F5.8 The Contractor shall bear its own costs in connection with any step-in by the Authority under this Clause F5, provided that the Authority shall reimburse the Contractor's reasonable additional expenses incurred directly as a result of any step-in action taken by the Authority under:

(a) limbs (c) or (d) of the definition of a Step-In Trigger Event; or

(b) limbs (e), (f) and (g) of the definition of a Step-in Trigger Event (insofar as the primary cause of the Authority serving the Step-In Notice is identified as not being the result of the Contractor's Default).

F6 Partial Termination

In the event that the Authority considers that there has been a Default by the Contractor, then the Authority may, at its sole discretion, and without prejudice to its other rights and remedies under the Contract, including under Clause H2 (Termination on Default), without terminating the whole of the Contract, terminate the Contract in respect of part of the Services only (whereupon a corresponding reduction in the Course Delivery Fee shall be made) and thereafter itself supply or procure a third party to supply such part of the Services.

F7 Formal Warning Notice

Where the Authority considers that there has been Non Service Failure Default by the Contractor and that such Non Service Failure Default is capable of remedy by the Contractor, then the Authority may issue a Formal Warning Notice to the Contractor specifying the Non Service Failure Default and requiring that it be remedied by the Contractor at the Contractor's cost within ten (10) Working Days or such other period of time as the Authority may specify in the Formal Warning Notice. In the event that the Contractor fails to remedy the Non Service Failure Default in accordance with the Formal Warning Notice, the Authority may terminate the Contract consider this a Serious Breach for the purposes of Clause H2 (Termination on Default) entitling the Authority (at its absolute discretion) to exercise its rights under the corresponding provisions of Clause H2 (Termination on Default).

F8 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 and do not exclude any rights or remedies provided by Law, in equity or otherwise. The exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

F9 Monitoring of Contract Performance

F9.1 The Authority (including any representative of the Authority) shall monitor the Contractor's performance in supplying the Services in accordance with the provisions of Schedule 3 (Monitoring and Information Requirements) and the Provider Guidance or such other requirements as notified by the Authority to the Contractor from time to time.

F9.2 The Performance Managers shall have regular meetings to monitor and review:

(a) the performance of the Contract;

(b) the achievement of the Minimum Performance Level;

(c) the achievement of the Customer Service Standards;

(d) the supply of the Services; and

(e) any other matter the Parties consider appropriate,

and the Contractor shall comply with the provisions of Schedule 3 (Monitoring and Information Requirements) in relation to the monitoring and reporting of its performance. The Authority may organise regular monitoring and spot checks of the Premises at any time to ensure the Contractor is complying with its obligations under the 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.

F9.3 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 the Change Control Procedure.

F9.4 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 Clause F7.1 including putting in place arrangements to permit legal access to information as may be required.

F9.5 With effect from the Commencement Date, the Authority and the Contractor shall meet at the times and with such frequency as specified in Schedule 2 (Minimum Performance Level and Customer Service Standards), Schedule 3 (Monitoring and Information Requirements) or as notified by the Authority to the Contractor from time to time. Such meetings shall be convened by the Authority upon the Authority giving written notice to the Contractor.

F9.6 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 this as a Serious Breach for the purposes of Clause H2 (Termination on Default) entitling the Authority (at its absolute discretion) to exercise its rights under the corresponding provisions of Clause H2 (Termination on Default).

F9.7 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.

F10 Financial Assurance

F10.1 The Contractor is required to disclose immediately to the Authority any material changes to the organisation that impacts on its ongoing financial viability including details of the revenue replacement strategy and impact awareness on the organisation's profitability and stability where significant contracts are due to end.

F10.2 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.

F10.3 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 its Annual Accounts, Annual Returns, management accounts, evidence to the Authority's satisfaction of its assets, liabilities and funding position, and copies of its board papers and board minutes.

F10.4 If requested by the Authority, where a Guarantee has been provided in accordance with Clause G4, the Contractor is required to provide the documents detailed in Clause F10.3 for the Guarantor, including a translation and conversion (Profit and Loss, Balance Sheet and key Balance Sheet Notes) into £GB, stating the conversion rate used.

F11 Extension of Contract

F11.1 The Authority may, by giving written notice to the Contractor not less than one (1) Month's (or on such shorter notice period as may be agreed by the Parties) prior to relevant Referral End Date, extend the period by which Referrals of Participants can be made by the Authority by one (1) or more extensions up to a maximum of twelve (12) Months in total. The provisions of this Contract shall continue to apply (subject to any Variation or adjustment to the Course Delivery Fee pursuant to Clause F3) throughout any such extended period.

F12 Entire Agreement

F12.1 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.

F12.2 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.

F12.3 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 Contract;

(b) the Schedules and any Appendices or Annexes;

(c) the Specification;

(d) the Tender;

(e) the Provider Guidance; and

(e) any other document referred to in the Clauses of the Contract including, but not limited to Live Running Memos.

F12.4 In the event that the Contractor becomes aware of any inconsistency between the requirements contained in the above documents, the Contractor shall immediately notify the Authority's Representative in writing of such inconsistency and the Authority's Representative shall, as soon as practicable, notify the Contractor which requirement the Contractor's shall comply with.

F13 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.

F14 Further Assurances

Each Party undertakes at the request of the other, and at the cost of the requesting Party to do all acts and execute all documents which may be reasonably necessary to give effect to the meaning of this Contract.

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.

G1.2 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, its employees, agents or Sub-contractors 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 Participant; 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 Staff on the 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 to Clause G1.3 responsibility for the control, management and supervision of all Participants shall rest entirely with the Contractor subject to the Participant complying with all reasonable instructions and directions which the Contractor may issue to the Participant from time to time. The Authority shall not be liable for any personal injury, disease or death, or loss or damage whatsoever caused, by any act or omission of a Participant.

G1.5 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 limits:

(a) the aggregate liability of either Party for Defaults that result in direct loss of or damage to the property of the other (including the Authority Premises

unless a higher limit has been agreed in a separate document) shall in no event exceed [three hundred and fifty thousand pounds sterling (£350,000)]; and

(b) the annual aggregate liability under the Contract of either Party for all Defaults (including any liability incurred under G1.5(a) but excluding any liability under G1.5(c) shall in no event the greater of three hundred and fifty thousand pounds sterling (£350,000) or one hundred and fifty per cent (150%) of the Course Delivery Fee paid and payable by the Authority to the Contractor in the year in which the liability arises,

provided that:

(c) the liability of the Contractor under Clause E8.3 (Intellectual Property Rights), Clause E1 (Authority Data) or Clause E2 (Protection of Personal Data) shall not be limited or capped.

G1.6 Subject always to Clauses E2.4**,** G1.1, G1.13 and G2 and other than as expressly set out in this Contract, 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.

G1.7 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.

G1.8 The Contractor shall hold employer's liability insurance in respect of Staff in accordance with any legal requirement from time to time in force.

G1.9 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.

G1.10 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.

G1.11 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.

G1.12 The Contractor shall effect and maintain with a reputable insurance company a fidelity insurance policy or policies in respect of the loss, theft or misappropriation of moneys which is appropriate and as would be considered reasonable for a supplier similar to the Contractor providing services similar to or the same as the Services whilst in the custody or possession of the Contractor, or its Staff.

G1.13 The Contractor shall indemnify and keep indemnified the Authority against all claims, demands, actions, costs (including legal costs and disbursements) and losses howsoever incurred resulting from any Default by the Contractor of Clause A9 which, for the avoidance of doubt, include any claims, demands, actions, costs (including legal costs and disbursements) and losses which relate to the Authority's obligations as on an ESF Co-Financing Organisation or connected with the ESF Requirements. The Contractor's liability under this indemnity is not limited under Clauses G1.5 and G1.6.

G1.14 Each Party shall use all reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with this Contract, including any Loss for which the relevant Party is entitled to bring a claim against the other Party pursuant to the indemnities in this Contract.

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 that which would be expected of a supplier similar to the Contractor providing services similar to or the same as the Services 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 ongoing business concern or its ability to fulfil its obligations under the Contract.

G4 Deed of Guarantee

G4.1 Unless otherwise agreed by the Authority in writing, 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 in accordance with the provisions of Schedule 3 (Monitoring and Information Requirements).

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 Subject to Clause G4.5, and for the avoidance of doubt, if Clause G4.1 has not been satisfied on or before the Contract Commencement Date this Contract shall not take effect.

G4.5 Nothwithstanding Clauses G4.1 to G4.4, the Authority reserves the right (in its absolute discretion) to waive the requirement for a Guarantee in its entirety.

H. DEFAULT, DISRUPTION AND TERMINATION

H1 Termination on Insolvency and Change of Control

H1.1 The Authority may terminate the Contract with immediate effect (or with effect from the date specified by the Authority in the termination notice) and without liability (including for the avoidance of doubt, without liability for any payment in respect of termination as referred to in Clause H4.2) by notice in writing where the Contractor and Guarantor is a company and in respect of the Contractor or Guarantor:

(a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors;

(b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation);

(c) a petition is presented for its winding up (which is not dismissed within fourteen (14) days of its service) or an application is made for the

appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986;

(d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;

(e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given;

(f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;

(g) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or

(h) any event similar to those listed in H1.1 (a)-(g) occurs under the law of any other jurisdiction.

H1.2 The Contractor shall notify the Authority immediately if the Contractor and/or Guarantor undergoes a change of control within the meaning of section 1124 of the Corporation Tax Act 2010 ("**Change of Control**"). The Authority may terminate the Contract by notice in writing with immediate effect (or with the effect from the date specified by the Authority in the termination notice) and without liability (including for the avoidance of doubt, without liability for any payment in respect of termination as referred to in Clause H4.2) within six (6) Months of:

(a) being notified that a Change of Control has occurred; or

(b) where no notification has been made, the date that the Authority becomes aware of the Change of Control,

but shall not be permitted to terminate where an Approval was granted prior to the Change of Control.

H1.3 Not Used

H1.4 The Authority may terminate the Contract with immediate effect (or with effect from the date specified by the Authority in the termination notice) and without liability (including for the avoidance of doubt, without liability for any payment in respect of termination, as referred to in Clause H4.2) by notice in writing where the Contractor or Guarantor is a partnership and in respect of the Contractor and/or Guarantor:

(a) a proposal is made for a voluntary arrangement within Article 4 of the Insolvent Partnerships Order 1994 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors;

(b) it is for any reason dissolved;

(c) a petition is presented for its winding up or for the making of any administration order, or an application is made for the appointment of a provisional liquidator;

(d) a receiver, or similar officer, is appointed over the whole or any part of its assets;

(e) the partnership is deemed unable to pay its debts within the meaning of section 222 or 223 of the Insolvency Act 1986 as applied and modified by the Insolvent Partnerships Order 1994; or

(f) any of the following occurs in relation to any of its partners:

(i) an application for an interim order is made pursuant to Section 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, his creditors;

(ii) a petition is presented for his bankruptcy; or

(iii) a receiver, or similar officer, is appointed over the whole or any part of his assets.

H1.5 The Authority may terminate the Contract with immediate effect (or with effect from the date specified by the Authority in the termination notice) and without liability (including for the avoidance of doubt, without liability for any payment in respect of termination as referred to in Clause H4.2) by notice in writing where the Contractor and/or Guarantor is a limited liability partnership and in respect of the Contractor and/or Guarantor:

(a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors;

(b) it is for any reason dissolved;

(c) an application is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given within Part II of the Insolvency Act 1986;

(d) any step is taken with a view to it being determined that it be wound up (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation) within Part IV of the Insolvency Act 1986;

(e) a petition is presented for its winding up (which is not dismissed within 14 days or its service) or an application is made for the appointment of a provisional liquidator within Part IV of the Insolvency Act 1986;

(f) a receiver, or similar officer, is appointed over the whole of any part of its assets;

(g) it is or becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or

(h) a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986.

H1.6 References to the Insolvency Act 1986 in Clause H1.5 shall be construed as being references to that Act as applied under the Limited Liability Partnerships Act 2000 subordinate legislation.

H2 Termination on Default

H2.1 The Authority may terminate the Contract by written notice to the Contractor with immediate effect (or with effect from the date specified by the Authority in the termination notice) and without liability if:

(a) the Authority considers that the Contractor has not complied to the satisfaction of the Authority with a Formal Warning Notice issued by the Authority under Clause F7; and/or

(b) the Authority considers that a Default which is not capable of remedy has been committed; and/or

(c) the Authority considers that a Default which constitutes a Serious Breach of the Contract has been committed; and/or

(d) the Authority considers that the Contractor has not complied to the satisfaction of the Authority with Clause B15 (Performance Improvement Process) to the extent that Clause B15 entitles the Authority to terminate the Contract in accordance with this Clause H2; and/or

(e) 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.

H2.2 The Authority may terminate the Contract by written notice to the Contractor with immediate effect if a Force Majeure Event endures for a continuous period of more than ninety (90) days.

H2.3 If the Authority fails to pay the Contractor undisputed sums of money when due, the Contractor shall notify the Authority in writing of such failure to pay. If the Authority fails to pay such undisputed sums within ninety (90) Working Days of the date of such written notice, the Contractor may terminate the Contract in writing with immediate effect, 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.

H2.4 The Contractor may terminate the Contract by written notice to the Authority with immediate effect if a Force Majeure Event endures for a continuous period of more than ninety (90) days.

H3 Termination on Notice

Without affecting any other right or remedy available to it, the Authority may terminate the Contract on giving not less than one (1) Months' notice to the Contractor.

H3A Termination under Regulation 73(1)

Without affecting any other right or remedy available to it the Authority may terminate the Contract with immediate effect on giving written notice if any provisions of Regulation 73(1) of the Public Contracts Regulations 2015 apply.

H4 Consequences of Expiry or Termination

H4.1A Where the Authority is entitled to terminate this Contract (howsoever arising) the Authority shall also be entitled to terminate any other contracts entered into between the Parties procured under the same procurement process as set out in Recital (B).

H4.1B Where the Authority terminates the Contract under Clause H2 (Termination on Default) and then makes other arrangements for the supply of Services, the Authority may recover from the Contractor the cost of making those other arrangements and any expenditure incurred by the Authority throughout the remainder of the Contract Period. The Authority shall take all reasonable steps to mitigate such expenditure. Where the Contract is terminated under Clause H2, no further payments shall be payable by the Authority to the Contractor until the Authority has established the final cost of making those other arrangements.

H4.2 On the expiry or termination of this Contract or any part thereof:

(a) the Contractor shall repay at once to the Authority any monies paid up to and including such date of termination other than moneys in respect of the Service(s) or part thereof properly performed in accordance with this Contract; and

(b) the Contractor shall cease all use of all the Authority's Intellectual Property Rights, generated Intellectual Property Rights, and any trade mark and shall return or destroy as the Authority requires, all documents and materials (including those in electronic format) incorporating or referring to the same.

H4.3 Unless otherwise expressly provided in the Contract:

(a) 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; and

(b) termination of the Contract shall not affect the continuing rights, remedies or obligations of the Authority or the Contractor under Clauses A9 (ESF

Funding), C3 (Payment and Course Delivery Fee), C5 (Recovery of Sums Due), D1 (Prevention of Bribery and Corruption), E1 (Authority Data), E2 (Protection 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 (Consequences of Expiry or Termination), H6 (Recovery upon Termination), I1 (Governing Law and Jurisdiction) and Schedule 12 (Arrangements Leading Up to and Following Expiry or Termination).

H5 Disruption

H5.1 The Contractor shall take 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.

H5.2 The Contractor shall immediately inform 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.

H5.3 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.

H5.4 If the Contractor's proposals referred to in Clause H5.3 are considered insufficient or unacceptable by the Authority (acting reasonably), the Authority may terminate the Contract with immediate effect by notice in writing.

H5.5 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.

H5.6 The Contractor shall have a Business Continuity Plan in place, agreed with the Authority, to ensure that the Service to the Authority will be maintained in the event of disruption (including, but not limited to, disruption to information technology systems) to the Contractor's operations, and those of Sub-contractors to the Contractor, however caused. Such contingency plans shall be available for the Authority to inspect and to practically test at any reasonable time, and shall be subject to regular updating and revision throughout the Contract Period.

H5A Force Majeure

H5A.1 Subject to the remaining provisions of this Clause H5A, an Affected Party may claim relief under this Clause H5A from liability for failure to meet its obligations under this Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event.

H5A.2 The Affected Party shall as soon as reasonably practicable issue a written notice ("**Force Majeure Notice**"), which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.

H5A.3 If the Contractor is the Affected Party, it shall not be entitled to claim relief under this Clause H5A to the extent that consequences of the relevant Force Majeure Event:

(a) are capable of being mitigated by any of the Services, but the Contractor has failed to do so; and/or

(b) should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services, operating to the standards required by this Contract.

H5A.4 Subject to Clause H5A.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.

H5A.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Contractor is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.

H5A.6 Where, as a result of a Force Majeure Event:

(a) an Affected Party fails to perform its obligations in accordance with this Contract, then during the continuance of the Force Majeure Event:

(i) the other Party shall not be entitled to exercise any rights to terminate this Contract in whole or in part as a result of such failure other than pursuant to Clause H2.2 (Termination on Default) or Clause H2.4 (Termination on Default); and

(ii) neither Party shall be liable for any Default arising as a result of such failure;

(b) the Contractor fails to perform its obligations in accordance with this Contract:

(i) the Authority shall not be entitled during the continuance of the Force Majeure Event to exercise its rights under Clause F5 (Step-In Rights) as a result of such failure; and

(ii) the Supplier shall be entitled to receive payment of the Course Delivery Fee) only to the extent that the Services (or part of the

Services) continue to be performed in accordance with the terms of this Contract during the occurrence of the Force Majeure Event.

H5A.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Contract.

H5A.8 Relief from liability for the Affected Party under this Clause H5A shall end as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under this Contract and shall not be dependent on the serving of notice under Clause H5A.7.

H6 Recovery and Obligations upon Termination

H6.1 On the expiry or termination of the Contract for any reason (or in advance if stated as such), the Contractor shall:

(a) if requested by the Authority, immediately return to the Authority all Confidential Information, Personal Data and the Authority's Intellectual Property Rights in its possession or in the possession or under the control of any permitted suppliers or Sub-contractors, which was obtained or produced in the course of supplying the Services;

(b) without prejudice to Clause H6.1(a), if requested by the Authority, transfer to the Authority (or such other person as the Authority may direct) all Participants' records (or specific Participants' records as identified by the Authority). Where ownership of such records is not vested in the Authority, the Contractor shall transfer, or procure the transfer of, all rights, title and interest in and to such records to the Authority (or such other person as the Authority may direct) at no cost to the Authority (or the third person as the case may be);

(c) if requested by the Authority, promptly deliver to the Authority all Property (including materials, documents, information and access keys) provided to the Contractor by the Authority. Such property shall be handed back in good working order (allowance shall be made for reasonable wear and tear);

(d) 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 Schedule 12 (Arrangements Leading Up to and Following Expiry or Termination);

(e) no later than either:

(i) 1 Month in advance of expiry; or

(ii) upon notice termination of this 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 Clause B13 (Employee Provisions on Expiry or Termination) and the provisions of Schedule 12 (Arrangements leading up to Expiry or Termination);

(f) if requested by the Authority, use all reasonable endeavours to 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

(g) repay to the Authority the Course Delivery Fee (or any part(s) thereof) the Contractor has been paid in advance in respect of Services not provided by the Contractor as at the date of expiry or termination.

H6.2 If the Contractor fails to comply with Clauses H6.1 (a) to H6.1 (c), 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.

H6.3 Where the end of the Contract Period arises due to the Contractor's Default, the Contractor shall provide all assistance under Clause H6.3 (d) and H6.3 (e) 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.

H6.4 At the end of the Contract Period (howsoever arising) the licence granted pursuant to Clause E8.2 shall automatically terminate without the need to serve notice.

I. DISPUTES AND LAW

I 1 Governing Law and Jurisdiction

The Contract 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 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within twenty (20) Working Days of either Party notifying the other of the dispute. Such efforts shall involve the escalation of the dispute ultimately to the commercial director (or equivalent) (or such other person as he may direct) of each Party.

I 2.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.

I 2.3 If the dispute cannot be resolved by the Parties pursuant to Clause I 2.1 the Parties shall refer it to mediation pursuant to the procedure set out in Clause I 2.5 unless (a) the Authority considers that the dispute is not suitable for resolution by mediation; or (b) the Contractor does not agree to mediation.

I 2.4 The obligations of the Parties under the Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation (or arbitration) and the Contractor and its Staff shall comply fully with the requirements of the Contract at all times.

I 2.5 The procedure for mediation and consequential provisions relating to mediation are as follows:

(a) a neutral adviser or mediator (the "**Mediator**") shall be chosen by agreement between the Parties, or if they are unable to agree upon a Mediator within ten (10) Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party may apply to CEDR to nominate such a person.

(b) The Parties shall within ten (10) Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from a mediation provider to provide guidance on a suitable procedure.

(c) Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.

(d) If the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives.

(e) Failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative written opinion. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties.

(f) If the Parties fail to reach agreement in the structured negotiations within sixty (60) Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts.

FORM OF AGREEMENT

This Contract has been entered into on the Commencement Date.

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		PeoplePlus Group Limited	
Name	**[REDACTED]**	Name	**[REDACTED]**
Position	**Senior Category Manager Commercial Directorate**	Position	**Commercial Manager**
Signature		Signature	
Date	1st November 2016	Date	1st November 2016

SCHEDULE 1 – THE SERVICES

Description of the Services

1. The Contractor will comply with the detail set out within the following additional documents which shall be deemed to be incorporated into this Contract:

Document	Dated
Specification	Amended Final version Issued on Bravo as part of the ITT on 10th June 2016 at 12:10 a copy of which is attached at the Appendix to this Schedule 1.
Contractors Tender	Received through Bravo on 1st July 2016 at 01.02
Question & Answers Log (Q&A)	Record of the Q&A session undertaken during the ItT Briefing event on 13th June 2016, as posted on Bravo on 21st June 2016 a 10:45 Response to the Q&A Log during the bidding period, as posted on Bravo on 27th June 2016 at 12:01.
Tender Clarification	Financial Clarification information received through Bravo on 19th August 2016 at 14.46 **[REDACTED]** Responses to qualitative Clarification questions received through Bravo on 12th October 2016 at 16.31. Agreements and clarifications reached at the Post Tender Clarification meeting held on Monday 10th October 2016 and recorded in the meeting note sent via bravo on 14th October 2016 at 15.01.
Provider Guidance	Available at https://www.gov.uk/government/collections/dwp-provider-guidance
Baseline personnel security standard	Available at https://www.gov.uk/government/publications/guide-for-dwp-contractors-hmg-baseline-personnel-security-standard

2. The Contractor will implement the Implementation Plan in accordance with Clause B1.4 of the Contract.

Appendix 1 - Specification

Final Published amended specification follows after this page.

Appendix 2 – Jobs II Manual

The UK Edition of the JOBS II Manual is a revised version of the JOBS Manual (see Curran et al, 1999*), for use in the UK labour market.

Edited by: Mick Meehan, Richard Birkin, Karen Ruby & Hayley Moore-Purvis
November 2015
Policy Psychology,

Appendix 3 – Addendum to Jobs II Manual

Providers must adhere to the JOBS ll Manual as attached at Annex A in all circumstances.

However, the department recognises that the UK labour market and Provider local experience in some cases may be more effective. Where Providers judge that some flexibility on the content of the manual may be advantageous, such as the advertising process for Group Leaders or distance participants are expected to travel to the venue; prior agreement may be sought from the department to vary the relevant elements.

Further to the above the following elements of the Jobs II Manual form part of the Terms and Conditions of the contract and must not under any circumstances be altered.

- Personal traits to be exhibited by the trainer as the success of the Programme relies on their interpersonal skills and experience, some of the indicators are (see pages 11 through to 13) of the JOBS ll Manual for more information:
    - Committed to the project;
    - Willing and able to stick to the Programme protocol (the manual);
    - Sociable;
    - Flexible;
    - Empathetic;
    - Nurturing;
    - Likes to work with people.
- Adherence to the audition interview (page 16 of the manual)
- Each course must have two trainers delivering the content – we would expect the Provider to have the necessary multiple teams of trainers, to deliver the required number of courses per district.
- Each trainer must complete a period of up to 7 weeks full time training, including experiencing the JOBS ll Programme themselves.
- Must deliver the daily content set out in each of the sessions
- Must administer the psychometric testing pre and post psychological wellbeing and jobsearch measures;
- Must appoint a supervisor who will monitor the quality of the trainers and will lead the training forums, and review of the previous weeks Programme to support the Group Leaders. to locate and rent a site to deliver the training large enough to hold 20 participant's – if the Providers premises is not available

SCHEDULE 1A – IMPLEMENTATION PLAN

SCHEDULE 2 – MINIMUM PERFORMANCE LEVELS AND CUSTOMER SERVICE STANDARDS

1. Minimum Performance Levels

MINIMUM PERFORMANCE LEVELS
1. Fidelity to the JOBS ll Manual and the Addendum to the Jobs II Manual; 2. 100% of Reception Interviews will be held within 5 working days of the referral date and the outcome (DNA, Start or DNS) will be recorded in PRaP within 7 working days of the referral date; 3. In 100% of cases where a participant starts provision, JOBSII course day 1 will be delivered within 15 working days of the referral date and the outcome (Course Start Outcome or End/Completion for those that DNA) will be recorded in PRaP within 17 working days of the referral date; 4. In 100% of cases where a participant achieves a Course Start Outcome (attends, signs the attendance register and completes the Wellbeing Measures (where consent has been given) and participates in JOBSII course day 1) an End/Completion will be recorded in PRaP within 2 working days of the final course day attended; 5. The Contractor will ensure that each Course starts with a minimum of 10 and a maximum of 20 participants who sign the attendance register and completes the Wellbeing Measures (where consent has been given).

2.Customer Service Standards

CUSTOMER SERVICE STANDARDS
1. The Contractor must collect, collate and supply the required Management Information (except the psychological wellbeing and jobsearch measures) by noon on the 3rd working day of each month. Collection and collation of required Management Information; 2. The Contractor must issue Participants with an induction pack in 100% of cases at the reception interview; 3. The Contractor must keep a daily attendance record on all Participants;

4. The Contractor must facilitate the Participants' completion of the six (6) psychological wellbeing and job search measures on days one (1) and five (5) of the Course (providing the Participant has signed and given consent for their Personal Data to be used); and
5. The Provider must submit the completed psychological and jobsearch measure Management Information within 6 working days of completion to the department.

3. Measuring and Monitoring Performance

The Authority operates a robust performance management regime to hold Providers to account for performance offered within their contracts. Formal Contract performance reviews will be conducted from time to time at the Authority's discretion focussing on achieving the Customer Service Standards and compliance with this Contract ("**Contract Performance Reviews**" or "**CPRs**"). This measure will determine whether the Contractor's performance is meeting the standards committed to by the Contractor in the Specification and any tender response documents. Where the Contractor is not achieving these required levels, without prejudice to its other rights in this Contract, the Authority may take such action as specified in the "Performance Management Intervention Regime" (or "**PMIR**") detailed in the Provider Guidance.

SCHEDULE 3 – MONITORING and INFORMATION REQUIREMENTS

This Schedule sets out the Contract and performance management requirements which are applicable to the delivery of the Services. It also sets out the Management Information requirement for the Contract.

1 Reviewing Contract Performance

1.1 Notwithstanding the Parties' obligations to comply with the Contract, the Contractor shall work with the Authority to establish and maintain an effective and beneficial working relationship to ensure the Contract is delivered in accordance with its terms this Schedule.

1.2 The Contractor shall manage and report on any sub-contractual arrangements. Arrangements shall include mechanisms for the provision of Management Information, including feedback to and from customers, stakeholders and employers, change control procedures and the prompt resolution of any problems.

1.3 The Contractor shall work with the Authority to 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. The Authority will agree with the Contractor day-to-day relationship management, contact points, communication flows and escalation procedures.

1.4 The Contractor shall appoint a named Contractor Performance Manager who will cooperate with the Authority's Performance Manager to ensure that the Contract is delivered as specified in the Contract and that contractual standards and performance levels are met.

1.5 The Contractor shall continuously improve the quality of the provision including that delivered by Sub-contractors. Where quality falls below the contractual obligations, 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.

Performance Monitoring

1.6 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 its contractual obligations.

1.7 The Authority will regularly monitor Contractor performance. The Contract will be managed by both the Authority's Commercial Directorate and Performance Managers.

1.8 The Authority's Commercial Directorate manage the commercial relationship with the Contractor.

1.9 Monitoring of the Contractor's performance shall include the monitoring visits as set out in the Specification.

1.10 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 PMIR to assure delivery of the proposals and standards as set out in the Contract. Performance Managers will also carry out Contract Performance Reviews (as set out in Schedule 2). More details on the PMIR can be found in the Provider Guidance.

Contract Performance Reviews

1.11 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. Where issues cannot be immediately addressed, the Authority and the Contractor may follow the dispute resolution process detailed in Clause I 2 or the Performance Improvement Process as detailed in the Contract.

1.12 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.

1.13 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.

1.14 The Authority may undertake spot checks at any time during the Contract to ensure that the Contractor is complying with its obligations and the Contractor shall co-operate fully, at its own cost, with the Authority.

1.15 There may also be occasions when the Authority may be involved in (whether through its "Rapid Reaction Team" or otherwise) reacting quickly to failing provision and/or areas of risk within provision; to investigate and implement either preventative or reactionary activities to allow for the provision to move back into steady state management quickly.

Contractor Action Plan

1.16 Any improvements or actions agreed between the Parties will form part of the continuous improvement activity recorded in an action plan agreed between the Party's in accordance with this Schedule 3 ("**Contractor Action Plan**") and/or the Performance Improvement Plan. It will be the Contractor's responsibility to develop the Contractor Action Plan and/or a Performance Improvement Plan depending on the level of intervention used as described in the PMIR. This will be discussed and agreed with the Performance Manager.

2 ESF Compliance Monitoring Officers

2.1 The Compliance Monitoring Officer's ("**CMO**") role is to perform regular evidence based checks that all ESF and match funded contractors are adhering to the delivery models set out in their contracts.

2.2 This includes checking samples of Participant records to validate eligibility, activity and payment for these Participants supported by the Lead Contractor and, if appropriate, their supply chain. CMOs will check that the ESF Regulatory Requirements, in terms of Marketing and Publicity; Sustainable Development; Equality and Diversity; Document Retention are being adhered to (electronic versions of all documents are kept; no paper copies will be accepted).

2.3 The Authority specifies the location where the checks will take place. All records must be available on the Contractor system for inspection.

2.4 The Contractors is expected to have the necessary remote IT equipment which they can bring to the location to enable the Authority to carry out centralised checks of the Contractors systems; this includes the provision of any necessary electronic evidence that is required by the CMO to undertake the checks effectively. The Authority will carry out these checks at the following locations:

London;
Birmingham;
Sheffield;
Leeds; and
Newcastle.

2.5 All issues arising from CMO checks are reported to the Contractor. Contract review meetings with Authority Supplier Managers and Performance Managers will include discussions around compliance issues identified by CMOs. Further information regarding CMO will be detailed in the ESF Provider Guidance which will be available with the ITT.

2.6 The Authority reserves the right to carry out physical checks on documentation as part of this process.

3 Assuring Contractor's Systems

3.1 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.

3.2 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.

3.3 The Authority's 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 Provider's governance arrangements, systems for tracking and reporting performance and their anti-fraud measures;

(b) Service Delivery – includes the Provider's systems for starting, ending and moving Participants through the Services 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;

(c) Claim Procedures and Payments – looks to ensure that Providers have in place effective systems to support their claims for payment, including appropriate segregation of duties; and

(d) Data Security – looks to ensure that Providers have in place adequate systems to safeguard Authority data whilst it is being stored and/or transmitted around their organisations.

3.4 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.

3.5 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.

3.6 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" Provider Assurance Rating or to prevent the "Weak" or "Limited" Provider Assurance Rating from recurring by a date specified by the Authority.

3.7 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 3.6 of this Schedule 3 (Monitoring and Information Requirements) 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 Clause F7.

3.8 The Authority is entitled to regard the following circumstances, without limitation, to be a Serious Breach of the Contract which shall entitle it to terminate in accordance with Clause H2:

(a) where the Contractor has been awarded a Provider 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 Provider Assurance Reviews for reasons which the Authority regards, at its sole discretion, as similar reasons; or

(b) where the Contractor has been awarded a Provider 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 Provider 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.

3.9 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 Provider 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's Provider Assurance ratings to any person the Authority deems appropriate in accordance with this paragraph.

3.10 The Authority will from time to time publish the Contractor's assurance levels and names and the Contractor hereby consents to such publication.

3.11 Further information as regards to the Provider Assurance processes and reviews can be found in the Provider Guidance: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/446788/pg-chapter-6-v3.pdf

4 Access

4.1 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 Serious Breach for the purposes of Clause H2 (Termination on Default).

5 Health and Safety Responsibilities of the Authority Visiting Officers

5.1 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 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'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.

6 Contractor Management Information Requirements

6.1 The Authority intends, wherever it can, to capture and collate information through its IT 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.

6.2 The Contractor shall supply 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 Schedule.

6.2A The Authority reserves the right, at its absolute discretion, to request the Contractor to consolidate the reporting of Management Information under this Contract with any other contract between the Parties procured under the same procurement set out in Recital (B).

6.3 The Contractor shall also capture and use their own MI and retain evidence for contractual and performance purposes. This should include pipeline data (forward look performance information relating to attainment of Participants) to inform performance discussions with the Contractor's managers and Performance Managers and robust tracking systems to be able to identify and performance manage Participants.

6.4 Subject to paragraphs 6.2A and 6.7, any additional requests for information (which is not covered by other Clauses of this Contract (including without limit paragraph 6.1 of this Schedule)) shall be considered in consultation with the Contractor, as shall the process of defining the methods of collection.

6.5 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.

6.6 The Contractor shall supply Management Information relevant to the delivery of the Services to the Authority. This includes but is not limited to the Management Information listed below at the frequency and in the format specified:

Contractor Management Information Required	Frequency or Date Required by:
Submit copy of Board Minutes for Parent Company where Guarantee is required and has been signed	Date as outlined in Clause G4.
Full and final Security Plan in accordance with Schedule 6	Within twenty (20) Working Days after the Referral Start Date and reviewed at least annually thereafter.
Sustainable Development Policy Statement and Sustainable Development Plan in accordance with Schedule 7	Within three (3) Months of Referral Start Date and at least annually thereafter.
Diversity & Equality Delivery Plan in	Within three (3) Months of Referral

accordance with Schedule 8	Start Date and at least annually thereafter.
Workforce Monitoring Data Template – Appendix 3 of the Diversity and Equality Guidance for Contractors document, in accordance with Schedule 8	As requested by the Authority within three (3) Months of Referral Start Date and at least annually thereafter.
Apprenticeships & Skills Report in accordance with Schedule 10	Within three (3) Months of the Referral Start Date and written updates on a quarterly basis thereafter.
HMG Baseline Personnel Security Standard - Contractor's Declaration see HMG Baseline Personnel Security Standard - A Guide for DWP Contractors	Within four (4) weeks of Referral Start Date and submitted for each calendar year thereafter within one Month of the end of each calendar year (i.e. by 31st January for year ending 31st December)
Supply chain expenditure with SMEs (Quarterly return)	The contractor, and where applicable, its sub-contractors shall identify the volume of expenditure they undertake with SMEs in the delivery of this contract and submit this information to the Authority on a quarterly basis.
Discrimination complaints procedure in accordance with Provider Guidance Chapter 11	Within three (3) Months of Referral Start Date
Equality Opportunity Policy and implementation plan is in place for staff and participants in accordance with Provider Guidance Chapter 11	Within three (3) Months of Referral Start Date
Assurance that building comply with requirements of Equality Act 2010	Within four (4) weeks of the Referral Start Date
Document Retention Policy	Within four (4) weeks of the Referral Start Date
Marketing and Publicity Policy /Communication Plans in accordance with Provider Guidance Chapter 11	Within four (4) weeks of Referral Start Date
Management Information relating to: numbers that attend reception/induction meeting; • numbers who start the "group	The Contractor (and its Sub-contractor, if relevant) shall keep and collate this minimum MI on a monthly basis to inform performance

intervention"; • numbers who complete the "group intervention"; • number of background surveys and psychological state measures completed; • refusal rates for completing surveys; • Participants' satisfaction scores for programme delivery; and • Participants' level of engagement score in the programme	discussions during the Contractor Performance Reviews. The MI shall be reported on in the format specified by the Authority and shall be submitted to the Authority by noon on the third day of each Month.
Management Information relating to: • Psychological measures • Jobsearch measures	The Contractor shall submit these questionnaires via an electronic data file within 6 working days of completion to the department. Each completed set of measure must be identified by the participants PRaP number and annotated whether they were completed on day one or day five of the Programme.
Annual confirmation of the rate(s) of VAT to be applied to the Contract	Within four (4) weeks of Referral Start Date; annually thereafter
Signed annual self-billing agreement	Within four (4) weeks of Referral Start Date; annually thereafter

6.7 The Authority shall be entitled to amend the reporting frequency and format in respect of any or all Management Information or waive the requirement for any aspect of the Management Information to be reported upon by giving the Contractor not less than one (1) Months' notice in writing.

SCHEDULE 4 – PAYMENT AND COURSE DELIVERY FEE

1 Course Delivery Fee Payment

1.1 The Authority shall pay the Contractor the Course Delivery Fee for the Services in accordance with the amounts set out in this Schedule 4 (Payment and Course Delivery Fee). These rates are fixed and not subject to amendment or alteration over the Contract Period except where a formal contract variation is agreed in line with Clause F3.

1.2 All payments will be subject to the provisions of Schedule 4 and Clause C (Payment and Course Delivery Fee). The Authority shall confirm the eligibility for payment of Course Delivery Fees in accordance with the Specification.

1.3 The payment of any Course Delivery Fee shall not constitute acceptance and the Authority reserves the right to validate Claims at any time in accordance with Clause C4 (Validation).

2 Value Added Tax

2.1 Payment from the Authority to the Contractor shall be by an 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 Authority 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

Subject to the provisions of this Contract (including without limitation this Schedule 4 (Payments and Course Delivery Fee)), the Course Delivery Fee is fixed and unless otherwise agreed between the Parties in accordance with Clause F3 (Changes to the Contract) and Schedule 14 (Change Control) any additional or unforeseen costs incurred by the Contractor in delivering the Services shall be borne solely by the Contractor.

4 Methods of payment

4.1 The Authority and the Contractor shall exchange payment using the PRaP system and/or other electronic methods.

4.2 The Authority may issue a purchase order to the Contractor prior to commencement of the Service.

4.3 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

4.4 The Authority reserves the right to set and / or alter, at its absolute discretion, the method of payment.

Appendix 1 – Course Delivery Fee

Course Delivery Fee:

1. The Contractor will be paid a fixed rate for the delivery of each course and on submission of a valid claim. A claim is considered to be valid if it meets the following criteria:

   - A minimum of 10 claimants attend the course on day one.
   - No more than 20 claimants attend the course.
   - All claimants sign an attendance register.
   - All claimants complete the psychological wellbeing and jobsearch measures where they have given their consent.

2. The Contractor must send monthly invoices, covering all valid course deliveries run in each calendar month, to the Authority by the 15th of the month following the invoice month

3. All claims must be accompanied by the verifying evidence in the form of a completed excel spreadsheet which will be supplied by the Authority to the Contractor.

4. The following fixed rate shall apply during the Contract:

Work Service District (Contract Package Area)	**Hub locations where the provision should be delivered**	**Participant numbers based on an average of 15 participants per course**	**Course Delivery Fee**
CPA 4 Merseyside	Liverpool	900	**[REDACTED]**

The Authority will pay the Contractor within 30 days of receipt of a valid claim

Appendix 2 – Template Self-billing Agreement

VAT Confirmation

Company Name: *PeoplePlus Group Limited*

VAT Registration Number: **[REDACTED]**

Registered Office Address: *19-20 the Triangle, NG2 Business Park, Nottingham NG2 1AE*

Company Registration Number: **[REDACTED]**

Please mark an X in the box that identifies the VAT rate to be applied to **each** Payment Type:

Supply	Zero	Reduced	Standard	Exempt Supply	Outside the Scope of VAT
Course Delivery Fee			X		

The Prime 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 Wellbeing and Work Trials – Group Work Contract (Contract Reference Number: UI_DWP_101686/CPA4 dated October 2016.

For and on behalf of the Prime Contractor *PeoplePlus Group Limited*

Signature of Director

Name

Date

Self-Billing Agreement

Customer Name: The Secretary of State for the Department of Work and Pensions

VAT Number:[REDACTED]

and

Supplier Name: PeoplePlus Group Limited

VAT Number:[REDACTED]

The self-biller, The Secretary of State for the Department of Work and Pensions, agrees:

1. To issue self-billed invoices for all supplies made to them by the self-billee, PeoplePlus Group Limited, until March 2018.
2. To complete self-billed invoices showing the supplier'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 their VAT registration number changes; and
4. To inform the supplier if the issue of self-billed invoices will be outsourced to a third party.

The self-billee, PeoplePlus Group Limited agrees:

1. To accept invoices raised by the self-biller The Secretary of State for the Department of Work and Pensions, until March 2018
2. Not to raise sales invoices for the transactions covered by this agreement;
3. To notify the customer immediately if they
   - change their VAT registration number,
   - cease to be VAT registered; or
   - sell their business, or part of their business.

Customer Signature:

On behalf of: The Secretary of State
for the Department of Work and Pensions

Date: October 2016

Supplier Signature:

On behalf of:
PeoplePlus Group Limited

Date: *October 2016*

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.
Tender		Annex S		Pricing proposal in it's entirety is commercially sensitive, and disclosure could be used by a competitor for similar future bids. This applies indefinitely
		Appendix 3 – Key Staff		Names of individual employees and Directors is sensitive information and should not be publicly disclosed
			2.4.6	Staffing resources – FTE staffing levels, staff roles, caseloads and job descriptions is commercially sensitive information. Disclosure of this information would be useful to competitors, which may harm our competitiveness in future bids. This applies indefinitely.
			2.4.9	Details of our Jobseeker Management System is commercially sensitive, as this is a proprietary system developed by PeoplePlus. This applies indefinitely.

2. The Authority will consult with the Contractor on any request for information, identified as Commercially Sensitive, under the FOIA.

3. 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.

4. The Authority will automatically publish all information provided by the Contractor **not** identified in this Schedule as constituting Commercially Sensitive Information provided that it satisfies the requirements of the FOIA.

5. The Authority reserves the right to determine whether any information provided in this Schedule does constitute Commercially Sensitive Information prior to publication.

SCHEDULE 6 – SECURITY REQUIREMENTS AND PLAN

1 Introduction

1.1 This schedule covers:

(a) principles of security for the Contractor 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 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 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 System; and

(d) complies with ISO/IEC27002 and ISO/IEC27001 in accordance with paragraph 5 of this Schedule; and

(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 System or Services by any third party in order to gain unauthorised access to any computer resource or Authority Data;

(f) loss of availability of Authority Data due to any failure or compromise of the Services; and

(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 and after the end of the Contract Period in accordance with the exit plan (agreed in accordance with Schedule 12 (Arrangements Leading Up To and Following Expiry or Termination)), which will be approved by the Authority, tested, periodically updated and audited in accordance with the provisions of this Schedule.

3.2 A draft Security Plan provided by the Contractor as part of its bid 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 twenty (20) 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 I 2 Dispute Resolution. No approval to be given by the Authority pursuant to this paragraph 3.4 of this schedule 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;

(b) this provisions of this Schedule 6 (including the principles set out in paragraph 2);

(c) the provisions of Schedule 1 (The Services) relating to security (in particular the "Baseline personnel security standard for DWP contractors");

(d) ISO/IEC27002 and ISO/IEC27001; and

(e) the data protection compliance guidance produced by the Authority.

3.6 The references to standards, guidance and policies set out in paragraph 3.5 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.

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 System, the Services and/or associated processes;

(c) any new perceived or changed threats to the Contractor System; and

(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 the Schedule 1 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 countermeasures 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 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 agreed Service Levels, 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 above 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, 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 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, the Contractor shall:

(a) immediately take all reasonable steps necessary to:

(i) remedy such breach or protect the Contractor 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 should notify the Authority that a change to the Contract is required in accordance with the provisions of Clause F3 (Changes to the Contract); and

(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 Authority 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 for which the Authority is the Data Controller.

2. In order to protect Authority 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 Authority must comply, and be able to demonstrate compliance, with the Authority'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 Authority for security issues. In addition, all staff working for the contractor and where relevant sub-contractors, with access to Authority IT Systems, services or Authority information must be made aware of these requirements and must comply with them.

4. All contractors must comply with the relevant Authority 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 Authority policies concerning:

   (a) Personnel Security:

   (i) staff recruitment in accordance with government requirements for pre-employment checks;

   (ii) staff training and awareness of Authority security and any specific contract requirements.

   (b) Secure Information Handling and Transfers: physical and electronic handling, processing and transferring of Authority data, including secure access to systems and the use of encryption where appropriate.

   (c) Portable Media: the use of encrypted laptops and encrypted storage devices and other removable media when handling Authority information.

   (d) Offshoring: Authority Data must not be processed outside the United Kingdom without Approval and must at all times comply with the DPA.

   (e) Premises security: security of premises and control of access.

   (f) Security Incidents: includes identification, managing and agreed reporting procedures for actual or suspected security breaches.

6. All Contractors 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. These arrangements will clearly vary according to the size of the organisation.

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

8. Failure to comply with any of these policies or standards could result in termination of the current Contract.

Appendix B – Draft Security Plan

Security plan to follow this page

[REDACTED]

SCHEDULE 7 – SUSTAINABLE DEVELOPMENT REQUIREMENTS

This schedule 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 Sub-contractors assist and cooperate with the Authority, by fully complying with the requirements of this Schedule.

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, within 3 (three) 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 all employees.

(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 – DIVERSITY AND EQUALITY REQUIREMENTS

1 General

The Contractor acknowledges that the Authority has a 'duty to promote' equality and must at all times be seen to be actively promoting equality of opportunity for, and good relations between, all persons from the protected characteristic groups covered by the Equality Act: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. The Contractor must ensure that each of its Sub-contractors involved in delivery of the contract are aware of, and acknowledge, that the Authority has a 'duty to promote' equality.

2 Compliance

2.1 The Contractor acknowledges the provisions of the equality legislation set out in Clause D2 (Discrimination).

2.2 The Contractor shall produce a Diversity and Equality Delivery Plan in accordance with paragraph 2.5 (and sub paragraphs) and paragraph 2.6 (and sub paragraphs) of this Schedule, within three (3) Months of the Commencement Date, and annually thereafter. The Diversity and Equality Delivery Plan must be specific to the Contract and include details for all Sub-contractors involved in delivery of the Contract.

2.3 The Contractor will provide workforce monitoring data in accordance with paragraph 3 (and sub paragraphs) of this Schedule, within three (3) Months of the Commencement Date and annually thereafter.

2.4 The Authority will consider and agree the submissions made by the Contractor when complying with paragraph 2 (and sub paragraphs of paragraph 2) and paragraph 3 (and sub paragraphs of paragraph 3) of this Schedule. 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. Once submissions are agreed by the Authority the Contractor will formally review, revise and resubmit all information required in paragraph 2.2 and paragraph 2.3 on an annual basis. Diversity and Equality aspects will also be discussed jointly by the Authority and the Contractor as an ongoing item at the Contract review meetings.

2.5 In delivering the Services, the Contractor shall prepare the Diversity and Equality Delivery Plan which as a minimum includes:

(a) an overview of Contractor and any Sub-contractor's policy/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 policy/policies and procedures covering:

(i) harassment

(ii) bullying

(iii) victimisation

(iv) recruitment procedures

(v) staff training and development

Full policy documents must be made available to the Authority on request.

(c) details of the way in which the above policy/policies and procedures are, or will be (and by when), communicated to the 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 is already in place, or will be in place (and by when) and what resources are, or will be (and by when), directed towards diversity and equality within the Contractor and any Sub-contractor's organisation; and

(f) details of any diversity and equality cases and tribunals (including volumes and outcomes) relating to the Contractor and any Sub-contractors.

2.6 In delivering the Services, the Contractor shall provide evidence, as required below, within the Diversity and Equality Delivery Plan as detailed at paragraph 2.2 of this Schedule:

(a) where a Contractor is delivering Services to Participants on behalf of the Authority or Services to the Authority's staff, the Contractor must provide written evidence that:

(i) Equality Analysis has been carried out in conjunction with the Authority prior to the Services being delivered and will be carried out

in the event of any changes to the Services, in accordance with equality legislation;

(ii) reasonable adjustments are made, as required by equality legislation to make those Services accessible to disabled people and that in the case of Information Technology services, those services are in accordance with the Authority's standards;

(iii) all Staff have had appropriate training so that they understand the duties required by equality legislation, and where Services are being delivered on behalf of the Authority, the Contractor shall provide evidence that Staff understand the duties not to discriminate and to promote equality, in accordance with equality legislation.

2.7 The Authority may request further information and assurance relating to Diversity and Equality at any point during the duration of the Contract.

3 Monitoring and Reporting

3.1 The Contractor shall provide workforce monitoring data as detailed in Appendix 3 (Workforce Monitoring Data Template) of the Diversity and Equality Guidance for Contractors document which is a supporting document to this ITT, or can be provided by the Authority on request. Completed templates for the Contractor and each Sub-contractor will be submitted by the Contractor with the Diversity and Equality Delivery Plan within three (3) Months of the Commencement Date and annually thereafter. Contractors are required to provide workforce monitoring data for the workforce involved in delivery of the Contract. Data relating to the wider Contractor workforce and wider Sub-contractors workforce would however be well received by the Authority. Contractors and any Sub-contractors are required to submit percentage figures only in response to paragraphs (a), (b) and (c) of the template.

3.2 The Contractor and any Sub-contractors will compare their figures, in all categories listed in paragraphs (a) and (b) of the template, and provide (where possible) comparisons against any official national/regional statistics that are publicly available. (In the Diversity and Equality guidance for contractor's document there are links to a number of data collection sources but it must be stressed this is not a full exhaustive list and other sources will be available). The Department acknowledges that there are regional variations in terms of population demographics and some data categories and coverage may not be complete or fully align, however, it should enable high level analysis and identification of trends.

3.3 The Contractor and any Sub-contractors will provide evidence of activities undertaken, or planned, in order to try and improve their current position in the categories detailed in paragraphs (a) and (b) of the template.

3.4 The Contractor shall, and shall ensure that its Sub-contractors will ensure at all times that they comply with the requirements of the DPA in the collection and reporting of the information to the Authority.

SCHEDULE 9 – WELSH LANGUAGE SCHEME

NOT USED

SCHEDULE 10 – APPRENTICESHIPS AND SKILLS REQUIREMENTS

1 General

1.1 Government is committed to addressing skills issues and promoting training opportunities through procurement, to maximise the potential for improvements provided by its considerable spend.

1.2 Supporting apprenticeships, skills and the fight against youth unemployment will support and drive economic growth.

1.3 The Contractor acknowledges that the Authority is required to support the apprenticeships and skills aims and targets.

1.4 In delivering the Services, the Contractor shall, and shall ensure that its Sub-contractors assist and cooperate with the Authority by fully complying with the requirements of this Schedule.

2 Compliance

During the delivery of the Services:

2.1 The Contractor shall and shall ensure that its Sub-contractors take all reasonable steps to employ apprentices, and report to the Authority the numbers of apprentices employed and wider skills training provided.

2.2 The Contractor shall and shall ensure that its Sub-contractors shall take all reasonable steps to ensure that five percent (5%) of their employees are on a formal apprenticeship programme. This can include administration and support staff.

2.3 The Contractor shall and shall ensure that its Sub-contractors make available to employees information about the Government's Apprenticeship Programme and wider skills opportunities.

2.4 The Contractor shall and shall ensure that its Sub-contractors provide any appropriate further skills training opportunities for employees.

3 Monitoring and reporting

3.1 The Contractor shall provide an Apprenticeships and Skills Report within three (3) Months of the Commencement Date and annually thereafter. The Apprenticeships and Skills Report must be specific to the Contract and include details for all Sub-contractors. The Contractor must obtain the required information from Sub-contractors and collate and submit an Apprenticeships and Skills Report.

3.2 In the delivery of the contract, the Apprenticeships and Skills Report will include:

(a) the number of Staff during the reporting period, including administration and support staff;

(b) the number of existing apprentices involved;

(c) the number of new starts on apprenticeships initiated as a result of delivering the Contract;

(d) if applicable, a robust explanation as to why it is not possible to meet the five percent (5%) target. (It may be that use of apprentices is not possible or appropriate in delivery of the Services);

(e) action being taken to improve the take up of apprenticeships. These could include issuing leaflets on apprenticeships to eligible existing staff, advertising apprenticeship vacancies with local Jobcentre Plus, schools and colleges, offering apprenticeships in administration/support roles or seeking advice from the National Apprenticeship Service; and

(f) other training/skills development being undertaken by staff:

(i) work experience placements for 14 to 16 year olds;

(ii) work experience/work trial placements for other ages;

(iii) student sandwich/gap year placements;

(iv) graduate placements;

(v) vocational training;

(vi) basic skills training; and

(vii) on-site training provision/facilities.

3.2 The Contractor shall, and shall ensure that its Sub-contractors will ensure at all times that they comply with the requirements of the DPA in the collection and reporting of the information to the Authority.

SCHEDULE 11 – PARENT COMPANY GUARANTEE – NOT USED

SCHEDULE 12 – ARRANGEMENTS LEADING UP TO AND FOLLOWING EXPIRY OR TERMINATION

1. 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 (Changes to the Contract) 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 Variation Date 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 2.

2. 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 H3 (Termination on Notice) or a change or variation of the Contract pursuant to F3 (Changes to the Contract) 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 2 of Schedule 12, be required:

   2.1 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 Course Delivery Fee in accordance with the Contract; or

   2.2 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 Body.

3. The Contractor 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 its employees and its Sub-contractors are under a similar obligation.

4. In order to facilitate a smooth and orderly transfer of responsibility on the expiry or termination of the Contract:

4.1 the Contractor undertakes to:

(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 re-tender process so as to enable the Authority to facilitate a fair and open competitive re-tender of the supply of the Services (or their equivalent);

(c) comply with the Authority's reasonable requests in preparing, agreeing and implementing an exit plan setting out the duties and responsibilities of the Contractor, the Authority and any Replacement Contractor, 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);

(d) co-operate and liaise with any Replacement Contractor appointed by the Authority to supply the Services (or their equivalent);

(e) do or perform such other acts and things as may reasonably be required in order to facilitate the re-tender or transition process;

(f) save for any Commercially Sensitive Information deliver any documents, information, manuals 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) subject always to Clause B15 (Employee Provisions on Expiry or Termination), the terms and conditions of employment and the employment records of those of the Contractor's employees who may be affected by the TUPE Regulations upon any transfer of responsibility for the supply of the Services (or their equivalent);

4.2 the Contractor agrees to provide such information and data as is reasonably required by the Authority for the purpose of any re-tender or transition process, such information and data to be provided to such timetable or deadlines as the Authority reasonably requires; and

4.3 the Contractor shall ensure that all information and data provided to the Authority in connection with any re-tender or transition process is accurate and complete in all material respects, to the best of the Contractor's knowledge (having made due enquiry). This requirement shall apply to all

the information that may be requested by the Authority and supplied by the Contractor in connection with the re-tender or transition process.

5. The Contractor undertakes that it shall not knowingly do or omit to do anything which may adversely affect the ability of the Authority to ensure an orderly transfer of responsibility for the supply of the Services (or their equivalent) to any Replacement Contractor.

6. The Contractor is referred to the ESF Requirements in Schedule 13 which may arise on expiry or termination of the Contract.

SCHEDULE 13 - ESF REQUIREMENTS

A. Evaluation Requirements

1 Because the Authority may fund this Contract using ESF monies, or use this Contract as match for contracts funded using ESF monies, the Contractor shall within four (4) weeks of expiry or termination of this Contract provide evaluation information to the Authority which:

(a) summarises the project, focusing on how it has helped to achieve the project objectives set out in the specification;

(b) is concise, being no more than one A4 page in length; and

(c) indicates whether the objectives have been fully achieved or only partly achieved and sets out any other relevant issues in this context.

2 The Contractor acknowledges the obligation the Authority has to evaluate all ESF projects by ESF priorities and to submit, within strict timescales, a final claim to the Managing Authority including an assessment of performance in each of the priorities.

3 The Contractor understands and shall comply with the regular ESF MI reporting obligations set out in Schedule 3 (Monitoring and Information Requirements). The Contractor acknowledges that the Authority depends on timely provision of this information in order to claim and receive ESF funds from the Managing Authority.

B. Records

The Contractor and any Sub-contractors appointed by it shall maintain the Open Book Data and any other records referred to in Clause E9.1, any documents and records referred to in the Specification and such other documents as the Authority may reasonably require throughout the period of this Contract; and the Contractor and any Sub-contractors appointed by it shall maintain such Open Book Data and other records and documents until at least the Document Retention End Date in accordance with Clause F1.

C. EU and National Requirements

1 The Contractor must comply with the relevant European Union (EU) Structural Fund Regulations as issued and updated from time to time by the EU, as well as any relevant guidance or requirements, including without limitation:

(a) the European Social Fund (ESF) Programme for England 2014-2020 National Eligibility Rules;

(b) Selection Criteria: 2014-2020 European Regional Development Fund and European Social Fund; and

(c) issued by the ESF Managing Authority and published on www.gov.uk/european-growth-funding.

2 The following Regulations set out in this section (d) are particularly relevant. Regulation (EU) No 1303/2013 of 17 December 2013 defines common principles, rules and standards for the implementation of the five European Structural and Investment Funds (ESIF): the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund, the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF) and replaces Council Regulation (EC) No 1083/2006.

3 Regulation (EU) No 1304/2013 of 17 December 2013 establishes the missions of the European Social Fund (ESF), including scope of its support, specific provisions and the types of expenditure eligible for assistance and replaces Council regulation (EC) 1081/2006.

4 Commission Delegated Regulation (EU) No 480/2014 of 3 March 2014 supplementing Regulation (EU) No 1303/2013 and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund.

5 Where applicable, Directive 2014/24/EU on public procurement, implemented in England, Wales and Northern Ireland by the Public Contracts Regulations 2015 (2015 No. 102) and any amendments or replacements.

6 European Community State Aid rules applicable at the date that the Aid is granted to the recipients of the Aid.

7 If there are areas of doubt, the interpretation of the Authority shall prevail.

8 The Authority acting in its capacity as ESF Co-Financing Organisation will publish DWP Generic Provider Guidance on ESF requirements via the GOV.UK website.

9 The Authority acting in its capacity as Managing Authority will publish information and guidance on the England ESF Operational Programme 2014-2020 via the GOV.UK website (ESF pages).

10 The Contractor will:

(a) comply with all DWP Generic Provider Guidance on ESF requirements, European Union (EU) Structural Fund Regulations, State Aid requirements, public procurement requirements (where applicable) and ESF guidance and rules produced by the MA in performing its obligations under this Contract.

(b) ensure that the Subcontractors from time to time are fully aware of, and procure that the Subcontractors at all times comply with, all DWP Generic Provider Guidance on ESF requirements, European Union (EU) Structural Fund Regulations, State Aid requirements, public procurement requirements (where applicable) and ESF guidance and rules produced by the MA in performing its obligations under this Contract the requirements of the EU Structural Fund Regulations, procurement and State Aid requirements for ESF and match funding.

(c) repay any ESF expenditure that is deemed ineligible in accordance with EU law or the MA's guidance or National Eligibility Rules.

(d) seek to minimise and recover expenditure which is ineligible by virtue of EU law or the MA's guidance or National Eligibility Rules.

D. Changes to Guidance and Rules

All amendments, variations or additions made to guidance or the National Eligibility Rules by the MA from time to time, for the distribution and / or payment of monies and / or administration of any ESF provision or programme will be notified to the Contractor via the GOV.UK website (ESF pages). Changes will be effective from the date they are placed on the website unless stated otherwise.

E. Financial Accountability

1 The Contractor must ensure compliance with the conditions set out in this Contract in particular they must:

(a) establish effective procurement (if applicable), monitoring and financial systems, so that the cost of activities, and the results, outputs and indicators generated can be clearly identified and the reliability of profiled payments and handling of ESF can be ensured; this includes the establishment of appropriate document retention systems to ensure and evidence the requirements of the EU Structural Funds Regulations, State Aid and public procurement requirements (where applicable). The Contractor must retain and be in a position to provide all appropriate data as required by the regulations governing structural fund support. They must also ensure that such data is both accurate and reliable;

(b) apply appropriate terms and conditions to Sub-contracts to ensure that the Sub-contracts comply with all the terms of this Contract and associated guidance and National Eligibility Rules;

(c) immediately notify the Authority if any financial irregularity in the use of ESF is suspected and indicate the steps being taken in response. (Irregularity means: infringement of a provision of Community law resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the Communities by charging an unjustified item of expenditure to the Community budget); and

(d) make documents available and provide reasonable access for:

(i) inspection visits and scrutiny of files by, but not limited to, representatives of the Authority, the DWP Audit Authority, the MA, the Certifying Authority, Government Departments, the European Commission National Audit Office (NAO), the European Court of Auditors or European Commission;

(ii) external audits and reviews of activity and of financial, appraisal and monitoring systems; and

(iii) the Authority, the European Commission, the European Court of Auditors, NAO, DWP Audit Authority and other regulatory bodies as required by or on behalf of the Authority will have right of access to the Contractor and the Sub-contractors for audit and inspection purposes. Auditors may wish to visit the Contractor and the Sub-contractors to verify that participant results claimed have actually been achieved.

F. Audit Arrangements

1 Without prejudice to any other provision of this Contract, the Contractor will ensure that all documents the relating to the Contract including without limitation its implementation and financing are retained until the Document Retention End Date, in order that these may be made available to the European Commission and European Court of Auditors upon request in accordance with Article 140 of Regulation 1303.

2 Further to Clause F1, the Contractor shall make available all such documents if and when required to do so by the Authority, Secretary of State for Work and Pensions, the European Court of Auditors, the European Commission auditors, the National Audit Office (and also their respective auditors).

3 The Contractor shall keep such documents referred to in Clause F1 and shall make such documents available either in the form of the originals or certified true copies of the originals or on commonly accepted data carriers including electronic versions of original documents or documents existing in electronic version only in accordance with guidance published by the ESF Managing Authority from time to time.

4 Where documents exist in electronic form only, the computer systems used shall meet accepted security standards. These standards will be provided by the Managing Authority. Documents and records must be maintained for the purpose of:

(a) the examination and certification of the accounts of the Organisation referred to in F2;

(b) any examination pursuant to the Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Organisation named at 1.2 above has used its resources; and

(c) any form of investigation or audit by the bodies referred to in paragraph F3.

5 The Authority, the ESF Managing Authority, the Certifying Authority and DWP Audit Authority acting on its own or others behalf and those acting on its behalf may examine such documents connected with European Structural Funds as may reasonably be required which are owned, held or otherwise in the control of the Contractor and the Sub-contractors, and to require the Sub-contractors to produce oral or written explanations as considered necessary for the purposes of that examination or that certification.

6 The Contractor shall provide (and shall require the Sub-contractors to provide) access to premises where the relevant documentation is held and all reasonable assistance (including the provision of onsite, photocopying, facsimile, and telecommunications facilities) at all times during the term of the Contract and for the period until the Document Retention End Date.

G. Marketing and Publicity

The Contractor and the Sub-contractors must comply with the Authority's, the European Commission's and the ESF Managing Authority marketing and publicity requirements specified in the Provider Guidance, the England 2014-2020 European Structural and Investment Funds Growth Programme Branding and Publicity Requirements (for beneficiaries) published on Gov.uk. The Contractor shall publicise EU funding from ESF to the Sub-contractors, the Participants and to the general public.

H. Cross Cutting Themes

The Contractor must comply with the EU and the ESF Managing Authority's requirements on gender equality, equal opportunities and sustainable development as specified in guidance and rules produced by the ESF Managing Authority for the 2014 - 2020 ESF Programme for England.

I. Indemnity

1 The Contractor shall indemnify and keep indemnified the Authority against:

(a) all claims, demands, actions, costs (including legal costs and disbursements) and losses howsoever incurred resulting from any Default by the Contractor in respect of complying with its obligations under this Schedule 13. The Contractor's liability under this indemnity is not limited under Clauses G1.5 and G1.6. of the Contract; and

(b) all claims, demands, actions, costs (including legal costs and disbursements) and losses howsoever incurred resulting from any liabilities imposed on the Authority by the European Court of Auditors, the European Commission auditors or any successor or substitute person which may include any clawback of monies, repayment of funds or fines as a result of or related to verification of the eligibility of Participants by the Contractor and/or failure by the Contractor to comply with or causing the Authority to comply with any of the ESF requirements. The Contractor's liability under this indemnity is not limited under Clauses G1.5 and G1.6.

SCHEDULE 14 – CHANGE CONTROL PROCEDURE

1. General Principles of Change Control Procedure

1.1 This Schedule 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, 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 £4,996.66 only if it can demonstrate in the Impact Assessment that the proposed Contract Change requires additional resources.

2.2 The Contractor shall decrease the Course Delivery Fee 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 Course Delivery Fee resulting from a Contract Change, whether the change will cause an increase or a decrease in the Course Delivery Fee, 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.

3. Operational Change Control

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 Course Delivery Fee 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.

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.

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 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 many include changes to:

(i) the Services and/or the Customer Service Standards and/or the Minimum 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 Course Delivery Fee, any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party.

5.2 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.

5.3 If the Contract Change involves the processing or transfer of any Personal Data outside the European Economic Area, the preparation of the Impact Assessment shall also be subject to Clause E2 (Protection of Personal Data).

5.4 Subject to the provisions of Paragraph 5.5, the Authority shall review the Impact Assessment and respond to the Contractor in accordance with paragraph 6 within fifteen (15) Working Days of receiving the Impact Assessment.

5.5 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.

5.6 At the Authority's discretion, the Parties may repeat the process described in Paragraph 5.5 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.

6. Authority's Right of Approval

6.1 Subject to paragraphs 6.5 and 6.6, within fifteen (15) Working Days 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 6.5; 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 6.5.

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 6.1 and it has not been rejected by the Contractor in accordance with paragraph 7, then the Authority shall prepare two copies of a Change Authorisation Note in the form of Appendix 2 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,

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 4.2.

7.1 The Contractor shall have the right to reject a Change Request solely in the manner set out in paragraph 7.1.

8. Contract Management

8.1 The Parties shall update their contracts to reflect all Contract Changes or Operational Changes agreed in the relevant Change Authorisation Note or Operational Change Letter and annotate with a reference to the Change Authorisation Note or Operational Change Letter pursuant to which the relevant Contract Changes or Operational Changes were agreed.

Appendix 1 – Change Request Form

(For Completion by Party Requesting Change)

C.R. No:	Contract Title & Contract Number:	Contractor Name:
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 Requesting Change Owner:		
Signature of Requesting Change Owner:		
Date of Request:		
(For Completion by Contractor) Disadvantages of Requested Contract Change, if any:		
Details of any proposed alternative scenarios, if any;		
Assigned for Impact Assessment by (Name?):		
Assigned for Impact Assessment to (Name?):		
Assigned for Impact Assessment (Date?):		

Appendix 2 – Change Authorisation Note

(For Completion by DWP)

C.R. No:	Contract Title & Contract No:	Contractor Name:
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 Course Delivery Fee 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 contract was entered into as a Deed this Change Authorisation Note will need to be executed as a Deed – see alternative signatory page below)		

SIGNED ON BEHALF OF THE AUTHORITY:	SIGNED ON BEHALF OF THE CONTRACTOR:
Signature:	Signature:
Name:_	Name:_____
Position:_____	Position:_____
Date:_____	Date:_____

SCHEDULE 15 – KEY PERSONNEL

Contractor Key Staff

Name	Position Held	Period of involvement in the Contract*
Adele Holloway	Director of Operations (North). Key Role: Overall responsibility for the qualitative, contractual and financial performance of all PeoplePlus contracts across the Northern half of England.	Full contract period
Samantha Foy	CPA Contract Manager. Key Role: Overall responsibility all PeoplePlus contracts at a CPA level, with accountability to DWP at a District level	Full contract period
TBC	Group Work Leader Trainer. Key Role: To develop and deliver Group Work Leader induction, training and monitoring	Full contract period
Withheld for confidentiality ~		
(more than 1 employee in-post)	Admin/Claims Officer. Key Role: To update PRAP; to co-ordinate and facilitate data exchange with DWP.	Full contract period

SCHEDULE 16 – SUB-CONTRACTORS

Not applicable