



Department for Education

Career Changer Programme 2022 and 2023 Cohorts

DATED: 12 OCTOBER 2021

**Contract
For
The Provision of the Career Changer Programme
Between
THE SECRETARY OF STATE FOR EDUCATION
and
NOW TEACH**

CONTRACT REFERENCE NUMBER: con_11852

between the Parties

- It is agreed that:**

- The Contract has been executed on the date stated at the beginning of this page.**

[illegible]

EMBEDDED FILES

This Contract contains the files set out in the Table below, in embedded format. The Parties confirm that they have reviewed the content of the files and agree that that they are correct. The Parties therefore agree that the versions as set out in the Table form part of this Contract and are binding on each Party.

Contract Reference	Document	Attachment Name	Date and Timestamp
Schedule 3: Financials Annex 1 - Pricing Model v1.0	Pricing Model	Pricing Model v1.0 Final	Response submitted through Jaggaer itt_703 on 23/07/2021 at 19:46:06 by [Redacted] named "Career Changers Pricing Model Doc 3b (Now Teach).xlsx".
Schedule 5: Implementation Plan Annex 1 - Implementation Plan v1.0	Implementation Plan	Implementation Plan v1.0	Response submitted through Jaggaer itt_703 on 23/07/2021 at 19:46:06 by [Redacted] named "Career Changers Annex E (Now Teach).xlsx".
Schedule 15: Contractors Solution Annex D - Service Continuity Plan v1.0	Service Continuity Plan	Annex D - Service Continuity Plan v1.0	Response submitted through Jaggaer itt_703 on 23/07/2021 at 19:46:06 by [Redacted] named "Career Changers Annex D (Now Teach).pdf".
Schedule 15: Contractors Solution Annex E - Implementation Plan v1.0	Implementation Plan	Annex E - Implementation Plan v1.0	Response submitted through Jaggaer itt_703 on 23/07/2021 at 19:46:06 by [Redacted] named "Career Changers Annex E (Now Teach).xlsx".
Schedule 15: Contractors Solution Annex F - Risk & Assumptions Log v1.0	Risk & Assumptions Log	Annex F - Risk & Assumptions Log v1.0	Response submitted through Jaggaer itt_703 on 23/07/2021 at 19:46:06 by [Redacted] named "Career Changers Annex F (Now Teach).xlsx".
Schedule 15: Contractors Solution Annex G - Leadership Team v1.0	Now Teach Leadership Team	Annex G - Leadership Team v1.0	Response submitted through Jaggaer itt_703 on 23/07/2021 at 19:46:06 by [Redacted] named "Career Changers Annex G (Now Teach).pdf".
Schedule 15: Contractors Solution Annex H - Organisation Chart v1.0	Now Teach Organisation Chart	Annex H - Organisation Chart v1.0	Response submitted through Jaggaer itt_703 on 23/07/2021 at 19:46:06 by [Redacted] named "Career Changers Annex H (Now Teach).pdf".
Schedule 15: Contractors Solution Annex I - Project Plan v1.0	Social Value Project Plan - Workplace Conditions	Annex I - Project Plan v1.0	Response submitted through Jaggaer itt_703 on 23/07/2021 at 19:46:06 by [Redacted] named "Career Changers Annex I (Now Teach).xlsx".
Schedule 15: Contractors Solution Annex J - Project Plan v1.0	Social Value Project Plan - Health and Reduced Demand on Public services	Annex J - Project Plan v1.0	Response submitted through Jaggaer itt_703 on 23/07/2021 at 19:46:06 by [Redacted] named "Career Changers Annex J (Now Teach).xlsx".

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SCHEDULE 1 THE SPECIFICATION

A. INTRODUCTION

1. Policy Background

- 1.1. The Government believes that all pupils, regardless of birth or background, should receive an excellent education wherever they are. Central to this is ensuring all schools throughout England have access to high-quality teachers.
- 1.2. The Career Changer Programme will secure a stream of highly experienced Career Changers into teaching and contribute to the age diversity of new entrants to Initial Teacher Training (ITT). Those aged 25 years or over represent a large proportion of new entrants to ITT each year; in 2020/21 this group represented around half (49%) of all new postgraduate entrants, and around a quarter were aged 30 or over¹. The Career Changer Programme will attract and support those who have a substantial career and industry experience and might not otherwise have considered teaching. These Career Changers have the potential to add value by using their significant employment and industry experience to inspire young people and influence teaching practice and wider school policies.
- 1.3. Experienced Career Changers may face challenges compared to other trainees such as living with a changed income, the need to retrain in a new career and how to best to transfer their expertise into a new profession. Moving into teaching after a long and successful career in another sector can be daunting but offers a rewarding opportunity to continue to grow professionally while making a real difference for young people and adding value to schools and in the classroom.
- 1.4. The Contractor will design and develop a national (England) programme that will support Participants to transition into teaching and provide added value in the schools where they are placed, drawing on their prior experience and expertise.
- 1.5. The Contractor will work with the Authority to support the evaluation of the programme and gather evidence around the added value of this particular market segment.

2. Purpose

- 2.1. The Programme will attract, recruit and support experienced Career Changers with significant previous employment and industry experience to make a successful transition into teaching, deliver added value in schools from their previous careers and retain them once trained.
- 2.2. The Contract will cover two cohorts with an option to extend for a third cohort solely at the Authority's discretion. The first cohort will begin ITT by September 2022 and the second cohort by September 2023. Each Participant will be on the Programme for two years, a year training on an ITT programme followed by support as an Early Career Teacher in year two.
- 2.3. The service offer should utilise candidates' previous career experience to benefit pupils and schools. The proposal should put the Career Changers at the centre of the programme, in terms of the design, development and delivery of the programme. It should also shape successful candidates' early career development whilst ensuring there is no overlap with Authority support available through the [Early Career Framework \(ECF\)](#), but supporting them to make the most of the offer.
- 2.4. The key objectives of the Programme are to:
 - 2.4.1. Attract, recruit, support and retain experienced Career Changers who would not otherwise have joined the profession, into priority subject vacancies in secondary schools throughout England.
 - 2.4.2. Support experienced career changers to realise their potential in regard to the added value they can bring into schools.

¹ DfE ITT census data, 2020

- 2.5. The Contractor shall not be expected to deliver ITT. Any potential solution would need to 'wrap around' an existing ITT course leading to Qualified Teacher Status delivered by an accredited ITT provider. This exercise is not establishing new ITT, nor is it accrediting new ITT provision.

B. THE SERVICES

3. Overview

- 3.1. The Contractor shall design, develop, and deliver across England, a high quality and bespoke Programme. In addition, the Contractor should also look to develop effective and efficient service delivery that is value for money.
- 3.2. The Contractor shall deliver the following Services:
- 3.2.1. Attraction of Candidates
 - 3.2.2. Candidate Recruitment and Selection
 - 3.2.3. Participant Placement
 - 3.2.4. Participant Retention and Ongoing Support
 - 3.2.5. Contractor Management Information
 - 3.2.6. Programme Evaluation
 - 3.2.7. Continuous Improvement
 - 3.2.8. Data Management and Security
 - 3.2.9. Contractor Performance Management
 - 3.2.10. Contractor Assurance
 - 3.2.11. Implementation and Resourcing
 - 3.2.12. Demobilisation and Exit Planning
- 3.3. The Contractor shall deliver the required Services to the following timescales:
- 3.3.1. Attraction of Candidates and Candidate Recruitment and Selection to commence on the Service Commencement Date;
 - 3.3.2. 2022 cohort to start ITT in September 2022 and to be employed as newly qualified teacher by September 2023; and
 - 3.3.3. 2023 cohort to start ITT in September 2023 and to be employed as newly qualified teacher by September 2024;

4. Attraction of Candidates

- 4.1. Marketing/Branding: The Contractor shall:
- 4.1.1. develop and implement a communications and marketing strategy with a clear explanation of how it will promote the Programme nationally to attract applications from Career Changers with significant previous employment and industry experience and who might not otherwise consider teaching;
 - 4.1.2. ensure the marketing of the Programme complements and does not compete with the Authority's wider marketing campaign to attract trainee teachers;
 - 4.1.3. positively contribute towards the Authority's wider aim of increasing the overall appeal of the teaching so that it is viewed as a more attractive profession;
 - 4.1.4. Subject to the Candidates informed consent, ensure that the contact details of Candidates in the Programme's pipeline are passed to the Authority's ["Get Into Teaching"](#) service ("Get Into Teaching" is the Authority's information line for, and database of, prospective Candidates to teacher training) on a monthly basis as set out in Table 1 of Schedule 16 (Records Provision and Management Information).

This should include details of unsuccessful Candidates, those that withdraw their applications, those who register interest but don't apply, and any individuals for whom mainstream ITT may be a more suitable option – for example individuals who are interested in teaching, but don't wish/aren't suitable for an employment-based route. This means that ALL Candidates need to be asked to agree at the outset to such data sharing as necessary to support this requirement;

- 4.1.5. work with the Authority to maximise the likelihood that any Candidate with the potential to teach but who is not successful in their application for this Programme or who registers interest but does not apply for the Programme applies for a mainstream training route; and
- 4.1.6. signpost any potential Candidate that has an initial engagement with the Contractor and is interested in teaching but not the Career Changers Programme to Get Into Teaching.

4.2. PASS process and reporting: The Contractor shall:

- 4.2.1. as set out in Clause 15.6 of the Contract, follow the [Cabinet Office approvals process](#) for the approval of all marketing spend under the contract. The spend will form part of the overarching Teacher Recruitment Campaign PASS that the Authority submits, the Career Changer section will be jointly written by the Authority and the Contractor. As part of this process the Contractor shall consult with the Authority's recruitment marketing team during the development of its marketing proposals and submit them to the Authority in an [OASIS plan](#) on an annual basis for how the budget requested is to be spent – this should include a proposed budget profile for the year. Contractors should be aware that marketing spend is approved via PASS on a Financial Year basis and therefore will likely span recruitment cycles, this will need to be taken into account in the Contractor's planning. The Contractor shall not commit any marketing budget for the next financial year, for example booking media without PASS approval for the new financial year being in place.
- 4.2.2. note that the total maximum marketing spend available under PASS for this contract for the financial year 21-22 is £50k and this is the maximum amount that the Authority can contribute between the start of the contract and April 2022. The PASS process is subject to change and there is no guarantee that levels of marketing spend approved under the contract will remain the same year to year;
- 4.2.3. adhere to [Cabinet Office guidance on procuring communications services](#) for approved spending including but not limited to paid for media. The Authority encourages that all new contracts for the supply of any communications services are procured through government frameworks approved by the Cabinet Office. For guidance on procurement through approved frameworks please refer to the Crown Commercial Service website; and
- 4.2.4. report to the Authority regularly against the performance indicators included in the PASS submission for submission to Cabinet Office. The Contractor shall also submit to the Authority a quarterly update on marketing spend against budget as set out in Table 1 of Schedule 16 (Records Provision and Management Information). The cycle of approvals and reporting will be agreed before the contract commences based on the phases of the proposed campaign activity.

5. Candidate Recruitment and Selection

5.1. The Contractor shall:

- 5.1.1. have a robust recruitment and selection process, for Career Changers, which is undertaken in a way that is fair, open and transparent, promotes equality of opportunity and avoids discrimination as per the [ITT Criteria and Supporting Advice](#);
- 5.1.2. assess and select Candidates to ensure those entering the Programme have significant previous employment and industry experience and have the potential to

‘add value’ by inspiring young people and influencing teaching practice and wider school policies;

- 5.1.3. ensure all successful Candidates meet the entry requirements for initial teacher training as per the [ITT Criteria and Supporting Advice](#);
 - 5.1.4. have a strategy for maximising the conversion from initial registrations/expressions of interest to applications, to selection and Programme starts;
 - 5.1.5. recruit a 450 Participants over two cohorts: with the first cohort of 200 Participants beginning the Programme by 30 September 2022 and a larger second cohort of 250 Participants beginning the Programme by 30 September 2023 once programme awareness has been established;
 - 5.1.6. meet annually determined subject specific recruitment targets which align with the Authority’s teacher recruitment priorities. The overall target for shortage subjects will be provided to the Contractor by August 2021 for the 2022 cohort and by August 2022 for the 2023 cohort.
- 5.2. Subject to the prior written approval of the Authority and available funding, the Contractor may recruit more than 450 Participants, but this option is solely at the discretion of the Authority.

6. Participant Placement

- 6.1. The Contractor shall:
- 6.1.1. form partnerships with a sufficient number of accredited ITT providers and delivery schools across all English Regions, to ensure that all successful Participants can start ITT Training by 30 September 2022 (2022 cohort) or 30 September 2023 (2023 cohort);
 - 6.1.2. have robust mechanisms in place to ensure partnership working with accredited ITT providers and delivery schools is effective and provides suitable employment placements, ITT and mentoring support to Participants in line with the training, management and quality assurance, and employment-based criteria in the ITT Criteria and Supporting Advice;
 - 6.1.3. have processes in place approved by the Authority to gather and action feedback and satisfaction rates and ensure that KPIs are met as detailed in Schedule 4.

Ofsted ratings

- 6.2. The Contractor shall ensure all accredited ITT providers engaged in delivering the programme are not rated less than ‘Good’ by Ofsted in their latest Initial Teacher Education inspection across the phases in which they are training. The Contractor may engage newly accredited ITT providers in delivering the Programme pending their receipt of a first Ofsted inspection.
- 6.3. Should the rating of an accredited Initial Teacher Training provider fall below an Ofsted rating of ‘Good’, then the Contractor shall work with the accredited Initial Teacher Training Provider to reallocate trainees in order to maintain ‘Good’ provision. Should the accredited ITT provider receive a less than ‘Good’ rating on re-inspection, the Contractor shall remove them as a partner at the earliest opportunity, whilst protecting the interest of current trainees and future candidates.

7. Participant Retention and Ongoing Support

- 7.1. The Contractor shall:
- 7.1.1. have a retention strategy to maximise the number of participants who achieve QTS, complete the programme and remain in teaching beyond the end of the programme;
 - 7.1.2. develop a programme to support participants to provide added value in the schools where they are placed drawing on their prior experience and subject expertise;

- 7.1.3. ensure that the design of the Programme sits alongside and complements the ITT Core Content Framework and Early Career Framework.
- 7.1.4. ensure that Participants are given a balanced and sustainable workload during their ITT and school placements;
- 7.1.5. develop and supply peer support sessions for all Participants;
- 7.1.6. ensure all Participants have a positive experience of the Programme by providing ongoing support which includes but is not limited to:
 - 7.1.6.1. measures to support Participants in light of their past experience to benefit their school community;
 - 7.1.6.2. support and advice on future employment opportunities in the education sector;
 - 7.1.6.3. assistance with dispute resolution and problem solving between Participants and other stakeholders (for example with schools or Programme Sub-Contractors);
 - 7.1.6.4. a formal complaints procedure with arrangements for reporting complaints to the Authority in line with Table 1 of Schedule 16 (Records Provision and Management Information); and
 - 7.1.6.5. opportunities for Participants to share learning and best practice from the Programme with their school and beyond;
- 7.1.7. maximise the number of Participants who successfully complete the programme by:
 - 7.1.7.1. monitoring Participant progress;
 - 7.1.7.2. implementing measures to identify and remedy the causes of non-completion;
 - 7.1.7.3. managing a deferral and withdrawal process (deferrals are Participants that take a break from the Programme with the intention of returning to complete the Programme);
 - 7.1.7.4. managing the under-performance of Participants and implementing an appropriate process for removing under-performing Participants where required; and
 - 7.1.7.5. undertake a Participant Satisfaction Survey with all active Participants at the end of Year 1 and Participant Exit Reviews with all Participants on completing/leaving the Programme;
- 7.1.8. ensure that all KPIs in relation to participant support and retention are met as detailed in Schedule 4.

8. Contractor Management Information

- 8.1. The Contractor shall be required to provide a Monthly Performance Return (MPR) as part of the suite of Management Information (MI) , as set out in Schedule 16 (Records Provision and Management Information). The content and format of the MPR will be determined by the Authority, informed by dialogue with the Contractor. The MPR shall include, but is not limited to:
 - 8.1.1. the forecast and actual number of applications, unsuccessful applications, offers, acceptances, withdrawals and deferrals by region and subject for each cohort;
 - 8.1.2. the forecast and actual number of starts on Programme per cohort by region and subject;
 - 8.1.3. the forecast and actual number of Programme retentions, deferrals and withdrawals per cohort by region and subject;

- 8.1.4. the forecast and actual number of Participants achieving QTS by region, subject;
- 8.1.5. the number and type of complaints; and
- 8.1.6. the performance and management of any Sub-Contractors, including SMEs.
- 8.2. The Contractor shall:
 - 8.2.1. provide an Annual Review Report (ARP) to support the Annual Contract Review process (ACR);
 - 8.2.2. provide information to the Authority, as reasonably required, to assist the Authority in the monitoring and evaluation of the likely effect of any proposed policy development on the Services and to support business continuity and contingency planning;
 - 8.2.3. ensure that the Authority's [Database of Trainee Teachers and Providers \(DTTP\)](#) or any future service is kept up to date and data is validated in a timely fashion to meet requirements to be agreed with the Authority;
 - 8.2.4. supply to the Authority any additional ad hoc data and reports to satisfy particular business and legislative requirements ((including, but not limited to, The Freedom of Information Act (2000), The Data Protection Act (1998) and parliamentary questions). The Contractor will be required to act in a flexible and timely manner to provide the requested data within reasonable timescales specified by the Authority, without additional cost to the Authority;
 - 8.2.5. capture and use their own MI and retain evidence for contractual and performance purposes (e.g. participant eligibility for the Programme); and
 - 8.2.6. Ensure that 100% of MI returns, including invoices, for the purposes of contract management and audit, are submitted on time and in full. Measured annually in September each year.
- 8.3. The Authority may amend/supplement the information it requires in the MPR, QPR and ARP at any time including but not limited to amendments to cover the Contractor's organisational structures/mechanisms for delivery of the Services.
- 8.4. The Authority reserves the right to validate MI, reports or claims made in reports, in whole or in part, independently or directly with schools and/or Participants and/or partners.

9. Programme Evaluation

- 9.1. The Contractor shall:
 - 9.1.1. as set out in Paragraph 7 of Schedule 14 (Contract Management Provisions) co-operate fully with any evaluation of the Programme that is undertaken by the Authority or a third party acting on behalf of the Authority. As such, the Authority may require access to identifying records for schools/individuals so that the Authority may contact them for evaluation purposes. The Authority has identified the following criteria against which evaluation may be conducted, including but not limited to:
 - 9.1.1.1. take-up and completion, e.g. rates of application, participation and completion and the characteristics of Participants; and
 - 9.1.1.2. engagement i.e. Participants' satisfaction with programme structure and content.
- 9.2. The purpose of this evaluation work is to assess whether the programme is meeting its aims and objectives.

10. Continuous Improvement

- 10.1. The Authority is committed to the continuous improvement of the Services.
- 10.2. The Contactor shall:

- 10.2.1. undertake regular reviews of each element of the Service and record and act on lessons learned;
- 10.2.2. have processes in place to gather and action feedback and satisfaction rates from Participants, schools and partners;
- 10.2.3. identify and capture best practice, emerging trends and insights from key partners and stakeholders during the contract term; and
- 10.2.4. collect data on the equality and diversity of programme participants, including records of any reasonable adjustments implemented.
- 10.3. The Contractor shall, as set out in Schedule 17 (Continuous Improvement) of the Contract, abide by the requirement to identify new or potential improvements to the Services with a view to:
 - 10.3.1. reducing the cost to the Authority; and
 - 10.3.2. improving the quality and efficiency of the Services.
- 10.4. The Contractor shall submit, within three (3) months of the Service Commencement Date, a Continuous Improvement Plan (CIP) that is to be agreed with the Authority. The Contractor shall update the CIP on a quarterly basis.

11. Data Management and Security

- 11.1. The Contractor shall:
 - 11.1.1. comply with the Data, Systems Handling and Security Requirements set out in Schedule 8 (Data, Systems Handling and Security) of the Contract; and
 - 11.1.2. provide evidence of Cyber Essentials certification “or equivalent” prior to entering into the Contract and on an annual basis as set out in Annex 1 of Schedule 8 (Data, Systems Handling and Security).

12. Contract Performance Management

- 12.1. The Authority’s Performance Management Regime (PMR) will centre on monthly Contract Performance Review meetings (CPRs) as set out Schedule 14 (Contract Management Provisions). These will be the key vehicles through which the Authority will manage the delivery of the Service. CPRs will focus on reviewing the Contractor’s MPR and their delivery of services against the contractual KPIs and SPIs and obligations.
- 12.2. The Contractor shall:
 - 12.2.1. fully participate in CPRs in accordance with the requirements set out in the Contract.

13. Contractor Assurance

- 13.1. The Contractor shall use robust governance and contract management arrangements to:
 - 13.1.1. monitor and manage its own and its Sub-Contractor’s performance to ensure successful achievement of the KPIs and SPIs set out in Schedule 4 (Performance Levels) of the Contract and to fulfil its contractual obligations;
 - 13.1.2. maintain the quality of delivery of all Services provided by the Contractor and all of its Sub-Contractors; and
 - 13.1.3. have financial management processes and governance arrangements in place to ensure that costs and financial transactions:
 - 13.1.3.1. are managed and distributed appropriately (including those transferred to Sub-Contractors); and
 - 13.1.3.2. secure best value for money, with particular reference to the Open Book Data requirements as set out in Schedule 13 (Financial Reports and Audit Rights) of the Contract.

14. Implementation and Resourcing

14.1. The Contractor shall:

- 14.1.1. plan and execute all activity through rigorous and robust contract management across the set-up and delivery of the Programme to secure the best value for money. This shall include but is not limited to:
 - 14.1.1.1. Developing an Implementation Plan (IP) covering the entire Initial Contract Period including the Mobilisation Period. The IP shall show key milestones, a critical path and critical dependencies and contingency arrangements. The plan will be updated weekly during the Mobilisation Period and at least quarterly from the Service Commencement Date.
 - 14.1.1.2. Risk Management Plan: the Contractor shall identify and monitor the key risks to these Services, their impact and proposed mitigations via a risks and issues log. Risks and issues logs will be shared with the Authority on a regular and agreed basis as set out in Table 1 of Schedule 16 (Records Provision and Management Information); and
 - 14.1.1.3. Resource Plan: the Contractor will maintain an organisation chart detailing the personnel to be deployed to ensure sound governance, strong leadership and effective operational management of the Services. The plan will be updated at least quarterly and submitted to the Authority upon request.

15. Demobilisation and Exit Plan

15.1. The Contractor shall:

- 15.1.1. submit an Exit Plan that is to be agreed with the Authority within three months of the Effective Date; and will be reviewed regularly thereafter to ensure it remains fit for purpose. The Exit Plan must include, but is not limited to, the following areas:
 - 15.1.1.1. Exit management structures and processes
 - 15.1.1.2. Assets
 - 15.1.1.3. Systems and Software
 - 15.1.1.4. Data
 - 15.1.1.5. Subcontracts
 - 15.1.1.6. Training and knowledge transfer; and
 - 15.1.1.7. Staff matters.
 - 15.1.1.8. Costs of Exit
- 15.1.2. implement their Exit Plan in accordance with Clause 27.5 of the Contract;
- 15.1.3. notify the Authority that the Exit Plan has been implemented and provide a weekly update on progress against the Exit Plan;
- 15.1.4. attend meetings with the Authority relating to the demobilisation of the Contract; and
- 15.1.5. arrange for all data, including as set out in Clause 26 & 27 of the Contract, relevant to the Services to be handed over to the Authority in the format agreed with the Authority.

16. Contractor's Technology Solution

- 16.1. The Contractor may utilise Contractor Technology Solution to deliver the Services. For example, the Contractor may host a website or app which:
 - 16.1.1. allows Candidates to create an account and submit their application online;
 - 16.1.2. allows a Participant to submit details of/record progress against their ITT;

- 16.1.3. is utilised by schools to administer their interactions with the Contractor and/or Participants;
- 16.1.4. is utilised by Sub-Contractors to administer their interactions with the Contractor; and
- 16.1.5. provides the Authority access to the 'real-time' MI Reports required in accordance with Schedule 16.
- 16.2. Where the Contractor utilises a Technology Solution it shall:
 - 16.2.1. Comply with the requirements of Schedule 19 of Volume 3 (Conditions of Contract);
 - 16.2.2. Where applicable, comply with government technology standards and guidance and service standard²
- 16.3. The Authority is implementing its DfE Apply for Teacher Training service in October 2021 to facilitate recruitment and applications related to postgraduate ITT. Any Technology Solution utilised by the Contractor must be capable of integrating with this web-based system. Payment by the Authority, for any reasonable modification work that the Contractor needs to undertake to allow for integration may be made separately to the Charges.
- 16.4. The Contractor shall follow the Cabinet Office spending controls³ relating to the approval of technology or digital spending under the Contract. As part of this process the Contractor shall consult with the Authority during the development of its proposals and submit them to the Authority. The Contractor shall not commit to any technology or digital spending without prior approval by the Authority being in place.

17. Social Value

- 17.1. The Contractor shall commit to delivering Social Value during the Contract Period with a specific focus on helping local communities to manage and recover from the impact of COVID-19. The Authority will monitor the Contractor's success in achieving these social value objectives and measure the Contractor's performance against the Social Value Performance Indicators set out in Schedule 4 (Performance Levels).
- 17.2. The Contractor shall develop, submit, and maintain a Social Value Plan in accordance with clause 42 of the Contract.
- 17.3. The Contractor shall meet the objectives set out in paragraph 17.1 by making commitments in its Social Value Plan to undertake activities, implement policies and develop initiatives that demonstrate:
 - 17.3.1. understanding of the need for improvements to workplace conditions that support the COVID-19 recovery effort including effective social distancing, remote working, and sustainable travel solutions.
 - 17.3.2. plans to engage the contract workforce in deciding the most important workplace conditions to address.
 - 17.3.3. actions to improve contract workplace conditions that support the COVID-19 recovery effort including those worst affected or who are shielding.
 - 17.3.4. methods to measure staff workforce conditions over time and adapt to any changes in the results, with clear processes for acting on issues identified.
 - 17.3.5. plans to engage the contract workforce in deciding the most important health and wellbeing issues to address and how the organisation will respond to and monitor delivery of the agreed actions.

² <https://www.gov.uk/government/publications/technology-code-of-practice/technology-code-of-practice-related-guidance#security> & <https://www.gov.uk/service-manual/service-standard> <https://www.gov.uk/government/publications/technology-code-of-practice/technology-code-of-practice-related-guidance#security> & <https://www.gov.uk/service-manual/service-standard>

³ <https://www.gov.uk/government/collections/cabinet-office-controls>

- 17.3.6. actions to invest in the physical and mental health and wellbeing of the contract workforce, especially in the context of COVID-19, including reducing the demand on health and care services; and
- 17.3.7. methods to measure staff physical and mental health and wellbeing engagement over time and adapt to any changes in the results.

SCHEDULE 2 TERMS AND CONDITIONS

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1 DEFINITIONS AND INTERPRETATION

1.1 In the Contract, the following expressions have the following meanings, unless inconsistent with the context:

Phrase	Meaning
“ABI Model Form of Guarantee Bond”	means the model form of guarantee bond published by the Association of British Insurers;
“Affected Party”	the Party seeking to claim relief in respect of a Force Majeure Event;
“Affiliate”	in relation to a body corporate, any other entity which directly or indirectly controls, is controlled by, or is under direct or indirect common control with, that body corporate from time to time;
“Annual Review”	means the process and meeting set out in clause 23;
“Area”	means the geographical area within England in respect of which the Contractor is appointed to provide the Services;
“Associated Company”	means any company which is, in relation to another company, its holding company or its subsidiary or a subsidiary of its holding company. “Holding company” and “subsidiary” will have the meanings attributed to them in section 736 and 736A of the Companies Act 1985 and section 1159 of the Companies Act 2006;
“Audit”	means any exercise by the Authority of its Audit Rights pursuant to clause 28 (Audit Rights and Financial Reports) and Schedule 13 (Financial Reports and Audit Rights);
“Audit Agents”	means: <ul style="list-style-type: none">(a) the Authority’s internal and external auditors(b) the Authority’s statutory or regulatory auditors;(c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;(d) HM Treasury or the Cabinet Office;(e) any party formally appointed by the Authority to carry out audit or similar review functions; and(f) successors or assigns of any of the above;
“Audit Rights”	means the audit and access rights referred to in clause 28
“Authority Cause”	means any breach of the obligations of the Authority or any other default, act, omission, negligence or statement of the Authority, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Authority is liable to the Contractor;

Phrase	Meaning
“Authority Premises”	means any premises owned by, leased or hired to or otherwise controlled by Authority or which Authority nominates as such by notice in writing to the Contractor.
“Authority Representative”	means the representative appointed by the Authority pursuant to Clauses 29.2 and 29.4 (Representatives);
“Authority Requirements”	means the requirements of the Authority set out in Schedule 1 (Services Description), Schedule 4 (Performance Levels), Schedule 5 (Implementation Plan), Schedule 8 (Data, Systems Handling and Security), Schedule 10 (Staff Transfer), Schedule 11 (Financial Distress), Schedule 14 (Contract Management Provisions), Schedule 16 (Records Provision and Management Information), Schedule 17 (Continuous Improvement) and Schedule 18 Service Continuity Plan);
“Authority Security Standards”	means the security standards as set out in Schedule 8;
“Authority Trade Marks”	means proprietary trade mark rights of Authority including those notified to the Contractor by Authority from time to time;
“Business Days”	means Mondays to Fridays (inclusive) in each week, excluding bank and other public holidays in England;
“Candidate”	a person who has expressed an interest in applying for the Programme or who has applied for the Programme;
“CCN”	means a Change Control Note in the form set out in Schedule 6;
“Change Control Procedure”	has the meaning given to it in Clause 33;
“Change of Control”	means a change of control within the meaning of Section 1124 of the Corporation Tax Act 2010
“Change in Law”	means any change in Law which impacts on the performance of the Services which comes into force after the Effective Date.
“Charges”	means the fees subject to Clause 8 payable to the Contractor for the provision of the Services calculated in accordance with Schedule 3;
“Cohort”	means a period of Programme delivery with each Cohort lasting for a period of two (2) years in line with the academic year (01 September to 31 August).
“Commercially Sensitive Information”	means the information set out in Schedule 9 comprising the information of a commercially sensitive nature relating to: <ul style="list-style-type: none"> (a) the Price; (b) details of the Contractor’s Intellectual Property Rights; and

Phrase	Meaning
	<p>(c) the Contractor's business and investment plans;</p> <p>which the Contractor has indicated to the Authority that, if disclosed by the Authority, would cause the Contractor significant commercial disadvantage or material financial loss;</p>
"Confidential Information"	<p>means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets or Intellectual Property Rights of either Party and all personal data and sensitive personal data within the meaning of the Data Protection Legislation. Confidential Information shall not include information which:</p> <ul style="list-style-type: none"> (a) was public knowledge at the time of disclosure; (b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party; (c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or (d) is independently developed without access to the Confidential Information;
"Consortium"	<p>means an association of 2 or more persons acting together to deliver the Services but excludes Sub-Contractors;</p>
"Consortium Agreement"	<p>means, if the Contractor is a Consortium, an agreement:</p> <ul style="list-style-type: none"> (a) signed by all the Consortium Members as at the Effective Date; and (b) adhered to by Consortium Members who join the Consortium after the Effective Date by signing a Deed of Adherence; <p>which sets out, amongst other things, how the Consortium Members will work together to deliver the Services;</p>
"Consortium Member"	<p>means a member of a Consortium (if any);</p>
"Contracting Authority"	<p>means any contracting authority as defined in Regulation 2 of the Public Contracts Regulations 2015 (as amended), for the avoidance of doubt including the Authority;</p>
"Contractor Equipment"	<p>means the Contractor's ICT equipment;</p>
"Continuous Improvement Plan"	<p>means the Contractor's plan for improving the Services in accordance with Clause 3.10.5 and Schedule 17 (Continuous Improvement);</p>

Phrase	Meaning
“Contract Performance Review” or “CPR”	shall have the meaning as set out in Schedule 14 (Contract Management Provisions);
“Contractor’s SCP”	has the meaning given to it in Paragraph 2.2(c) of Schedule 18 (Service Continuity Plan);
“Contract Date”	the date on which this Contract becomes effective as set out above;
“Contract Management Plans”	means the Implementation Plan, Risk Register and Resource Plan as set out in Schedule 14 (Contract Management Provisions);
“Contract Year”	means: <ul style="list-style-type: none"> (a) a period of twelve (12) months commencing on the Effective Date; or (b) thereafter a period of twelve (12) months commencing on each anniversary of the Effective Date; provided that the final Contract Year shall end on the expiry or termination of the Term;
“Contractor Staff”	means all directors, officers, employees, workers, agents, consultants and contractors of the Contractor or of any Sub-Contractor engaged in the performance of the Contractor’s obligations under this Contract;
“Contractor’s Solution”	means the Contractor’s proposal submitted in response to the Authority’s invitation to tender attached at Schedule 15 (Contractor’s Solution);
“Contractor’s Technology Solution”	means the Contractor’s technology and ICT systems including any portal that will be used to deliver the Services and detailed in the Contractor’s Solution attached at Schedule 15 (Contractor’s Solution);
“Contractor Representative”	means the representative appointed by the Contractor pursuant to Clause 29.3 (Representatives);
“Contracts Finder”	means the Government’s publishing portal for public sector procurement opportunities;
“Copyright”	means as it is defined in s.1 of Part 1 Chapter 1 of the Copyright, Designs and Patents Act 1988;
“Crown”	means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers, government departments, government offices and government agencies and “Crown Body” is an emanation of the foregoing;
“Data Protection Legislation”	means:

Phrase	Meaning
	<ul style="list-style-type: none"> (i) the General Data Protection Regulation 2016/679 ("GDPR"), the Law Enforcement Directive 2016/680 ("LED") and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;
"Database of Trainee Teachers and Providers ("DTTP")	means the Authority's data collection system for initial teacher training providers enabling them to register trainees;
"Database Rights"	means as rights in databases are defined in s.3A of Part 1 Chapter 1 of the Copyright, Designs and Patents Act 1988;
"Deed of Adherence"	means a deed under which a new Consortium Member shall covenant with the other Consortium Members to adhere to the terms of the Consortium Agreement which shall be in a form approved by the Authority in writing;
"Default"	means breach of the obligations of the relevant Party (including abandonment of the Contract in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party or the Contractor Staff in connection with the subject-matter of the Contract and in respect of which such Party is liable to the other;
"Dispute"	means any dispute between the Parties in connection with the Contract;
"Documentation"	<p>means descriptions of the Services and Performance Indicators, details of the Contractor System (including (i) vendors and versions for off-the-shelf components and (ii) source code and build information for proprietary components), relevant design and development information, technical specifications of all functionality including those not included in standard manuals (such as those that modify system performance and access levels), configuration details, test scripts, user manuals, operating manuals, process definitions and procedures, and all such other documentation as:</p> <ul style="list-style-type: none"> (a) is required to be supplied by the Contractor to the Authority under this Contract; (b) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Authority to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide Services; (c) is required by the Contractor in order to provide the Services; and/or

Phrase	Meaning
	(d) has been or shall be generated for the purpose of providing the Services;
“DOTAS”	means the Disclosure of Tax Avoidance Schemes rules which require a promotor of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to national insurance contributions by the National Insurance (Application of Part 7 of the Finance Act 2004) regulations 2012, SI 2012/1868 made under section 132A of the Social Security Administration Act 1992;
“Disaster”	means the occurrence of one or more events which, either separately or cumulatively, mean that the Services, or a material part of the Services will be unavailable or which is reasonably anticipated will mean that the Services or a material part of the Services will be unavailable;
“Due Diligence Information”	means any information supplied to the Contractor by or on behalf of the Authority prior to the Effective Date;
“Effective Date”	means the date written above;
“EIR”	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 them;
“Employment Liabilities”	<p>means all actions, proceedings, costs (including reasonable legal costs), losses, damages, fines, penalties, compensation, awards, demands, orders, expenses and liabilities connected with or arising from all and any laws including, without limitation, directives, statutes, secondary legislation, orders, codes of practice, contractual obligations and other common law rights whether of the European Union, United Kingdom or any other relevant authority relating to or connected with:</p> <ul style="list-style-type: none"> (a) the engagement, employment and dismissal of employees (including their health and safety at work); and (b) the engagement, use and termination of individuals other than employees who provide services (including their health and safety at work); <p>and all wages, holiday pay and employment benefit costs due in respect of (a) or (b) above, including claims for protective awards and PAYE deductions and any other liabilities in respect of income tax or NICs and any penalties, costs or interest payable in respect of any such deductions or liabilities;</p>

Phrase	Meaning
“English Regions”	means the regions of East Midlands, East of England, London, North East, North West, South East, South West, West Midlands, and Yorkshire as defined by the Office for National Statistics;
“Existing IPR”	means any and all IPR that are owned by or licensed to either Party which are or have been developed independently of the Contract prior to the Contract Date;
“Extension Period”	means such period up to a maximum of 12 months, as may be specified by the Authority, that follows on immediately from the Initial Contract Period as set out in Clause 2.2;
“Expiry Date”	means 31 October 2025, being the last day of the Initial Contract Period unless the Term is extended in accordance with Clause 2;
“Financial Distress Event”	means the occurrence of one or more of the events listed in Paragraph 2 of Schedule 11 (Financial Distress);
“Financial Distress Remediation Plan ”	means a plan setting out how the Contractor will ensure the continued performance and delivery of the Services in accordance with this Contract in the event that a Financial Distress Event occurs;
“FOIA”	means the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to it;
“Force Majeure Event”	any event outside the reasonable control of either Party affecting its performance of its obligations under this Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, fire, flood, storm or earthquake, or other natural disaster but excluding any industrial dispute relating to the Contractor or the Contractor Staff or any other failure in the Contractor’s or a Sub-contractor’s supply chain;
“Force Majeure Notice”	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
“General Anti-Abuse Rule”	means: <ul style="list-style-type: none"> (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid NICs;

Phrase	Meaning
“General Change in Law”	means a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
“Good Industry Practice”	means the standards, practices, methods and procedures conforming to the law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances;
“Guarantee Criteria”	<p>means that the Contractor or the Guarantor must demonstrate in respect of their latest statutory accounts that it has:</p> <ul style="list-style-type: none"> • a current ratio (being current assets divided by current liabilities) of one or more; and • an acid test ratio (being current assets less stock divided by current liabilities) of one or more; and <p>a tangible net worth (being total assets less total intangible fixed assets less total liabilities) of more than zero.</p>
“Guarantor”	means an Affiliate of the Contractor that fulfils the criteria set out in Paragraph 1.1(a) of Schedule 11 (Financial Distress).
“Halifax Abuse Principle”	means the principle explained in the CJEU Case C-255/02 Halifax and others;
“HMRC”	means Her Majesty’s Revenue and Customs;
“ICT”	means information and communications technology;
“Implementation Plan”	means the plan and time schedule for the completion of the obligations of the Contractor under the Contract as set out in Schedule 5 as the same may be replaced by any subsequent more detailed plan and time schedule as the Parties may agree in writing from time to time;
“Initial Contract Period”	means the period from the Service Commencement Date to 31 October 2025;
“Intellectual Property Rights”	means patents, inventions, trade-marks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade and/or business names, rights in Confidential Information and Know How, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off;
“IP Materials”	shall have the meaning given to it in Clause 13.1;

Phrase	Meaning
“Key Performance Indicators”	means the key performance indicators in relation to the Services set out in Table 1 of Schedule 4 (Performance Levels) which the Contractor shall comply with;
“Key Contractor Staff”	means any of the Contractor Staff identified as such in Schedule 7;
“Key Sub-Contract”	means each Sub-Contract with a Key Sub-contractor;
“Key Sub-Contractor”	<p>means any Subcontractor:</p> <ul style="list-style-type: none"> a) which is relied upon to deliver any work package within the Services in their entirety; and/or b) which, in the opinion of the Authority performs (or would perform if appointed) a critical role in the provision of all or any part of the Services; and/or c) with a Sub-Contract with the Contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under the Contract, <p>and the Contractor shall list all such Key Subcontractors in Schedule 7;</p>
“Law”	means any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Contractor is bound to comply;
“Management Information”	means the management information specified in Schedule 16 (Records Provisions and Management Information);
“Material Breach”	<p>means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Authority would otherwise derive from:</p> <ul style="list-style-type: none"> (a) a substantial portion of the Contract; or (b) any of the obligations set out in Clauses 10, 11, 13, 15, 17 and 365 and in Schedule 8;
“MI Failure”	<p>means when an MI Report:</p> <ul style="list-style-type: none"> (a) Contains any material errors or material omissions or missing mandatory field; or (b) Is submitted using an incorrect MI reporting template; or (c) Is not submitted by the Reporting Date (including where a Nil Return should have been filed);
“MI Report”	means a report containing Management Information submitted to the Authority in accordance with Clause 22.1

Phrase	Meaning
	and Schedule 16 (Records Provisions and Management Information);
“Mobilisation Period”	means the period from the Effective Date to the Service Commencement Date;
“Month”	means calendar month;
“National Archives’ Records Management Code”	means the National Archives records management code as further set out at http://www.nationalarchives.gov.uk/information-management/manage-information/planning/records-management-code/ (as may be amended from time to time);
“New IPR”	means <ul style="list-style-type: none"> a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of the Contract and updates and amendments of these items including (but not limited to) database schema; and/or b) IPR in or arising as a result of the performance of the Supplier’s obligations under the Contract and all updates and amendments to the same; but shall not include the Contractor’s Existing IPR;
“NICs”	means National Insurance Contributions;
“Nil Return”	has the meaning given to it in Schedule 16 (Records Provision and Management Information);
“Object Code”	means software and/or data in machine-readable, compiled object code form;
“Occasion of Tax Non-Compliance”	means: <ul style="list-style-type: none"> (a) any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of: <ul style="list-style-type: none"> (i) a Relevant Tax Authority successfully challenging the Contractor under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; (ii) the failure of an avoidance scheme which the Contractor was involved in, and which was, or should have been, notified to the Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or (b) any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at

Phrase	Meaning
	the Commencement Date or to a civil penalty for fraud or evasion;
“Ofsted”	means the Office for Standards in Education, Children’s Services and Skills. Ofsted inspects services providing education and skills for learners of all ages;
“Operating Environment”	means the Authority System and any premises (including the Authority Premises, the Contractor’s premises or third party premises) from, to or at which: <ul style="list-style-type: none"> (a) the Services are (or are to be) provided; or (b) the Contractor manages, organises or otherwise directs the provision or the use of the Services; or (c) where any part of the Contractor System is situated;
“Partial Termination”	means the partial termination of this Contract (to the extent that it relates to the provision of any part of the Services) as provided for in Clauses 25.1, 25.2, 25.3, 25.4, 25.5, 25.7, 25.8, 25.9, 25.11, 25.13 and 25.18 or otherwise by mutual agreement of the Parties;
“Participant”	means a person who has been accepted to take part in the Programme;
“Performance Improvement End Date”	means the date set out in the Performance Improvement Notice;
“Performance Improvement Notice”	means a written notice given by the Authority to the Contractor pursuant to 29.18;
“Performance Improvement Period”	means the period from the date of issue of the Performance Improvement Notice until the Performance Improvement End Date;
“Performance Improvement Plan” or “PIP”	means the plan agreed in accordance with Clause 29.22;
“Performance Improvement Plan Failure”	has the meaning set out in Clause 29.28;
“Performance Improvement Process”	means the process set out in Clauses 29.17 to 29.29;
“Performance Indicators”	means the Key Performance Indicators and the Subsidiary Performance Indicators;
“Performance Measures/Standards”	means the measures and standards as set out in Schedule 4 (Performance Measures) which the Contractor will be measured against in respect of the delivery of the Services aligned to defined Key Performance Indicators, Subsidiary Performance Indicators and Social Value Performance Indicators ;

Phrase	Meaning
“Pricing Model”	means the spreadsheet populated by the Contractor with its prices and costs as set out in Annex 1 of Schedule 3, as may be amended by the Parties from time to time in accordance with the Change Control Procedure;
“Process Variation”	means a Variation or a proposed Variation in the way in which the Services are delivered;
“Prohibited Act”	<p>means:</p> <ul style="list-style-type: none"> (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to: <ul style="list-style-type: none"> (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract; (c) an offence: <ul style="list-style-type: none"> (i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); (ii) under legislation or common law concerning fraudulent acts; or (iii) the defrauding, attempting to defraud or conspiring to defraud the Authority; (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct has been carried out in the UK;
“Programme”	means the Authority’s two-year Career Changer Programme;
“Qualified Teacher Status” and “QTS”	means the Qualified Teacher Status (QTS) required in England and Wales to work as a teacher of children in state schools under local authority control and in special education schools;
“Quality Standards”	means the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardization 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;

Phrase	Meaning
“Records”	has the meaning set out in Schedule 16 (Records Provision and Management Information);
“Regulations”	means the Public Contract Regulations 2015;
“Regulatory Body”	means a government department 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;
“Relevant Conviction”	means a conviction for an offence involving violence or dishonesty, of a sexual nature or against minors, or for any other offence that is relevant to the nature of the Services;
“Relevant Requirements”	means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;
“Relevant Tax Authority”	means HMRC or, if applicable, a tax Authority in the jurisdiction in which the Contractor is established;
“Replacement Contract”	means a contract entered into by a Replacement Contractor with the Authority for Replacement Services;
“Replacement Contractor”	means any third party provider of Replacement Services appointed by the Authority from time to time (or where the Authority is providing Replacement Services for its own account, the Authority);
“Replacement Services”	means any services which are the same as or substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the expiry or termination or Partial Termination of this Contract, whether those services are provided by the Authority internally or by any third party;
“Reporting Date”	means the tenth Business Day of each Month following the Month to which the relevant Management Information relates, or such other date as may be agreed between the Parties from time to time;
“Request for Information”	means a request for information under the FOIA or the EIR;
“Restricted Country”	means: <ul style="list-style-type: none"> (a) any country outside the United Kingdom; and (b) any country not deemed adequate by the European Commission pursuant to Article 25(6) of Directive 95/46/EC;

Phrase	Meaning
“Returning Employees”	means those persons agreed by the Parties to be employed by the Contractor (and/or any Sub-Contractor) wholly or mainly in the supply of the Services immediately before the end of the Term;
“Risk Premium”	means the premium included in the Contractor’s Pricing Model relating to the risk set out in Paragraph 5.1 of Schedule 3 (Financials);
“Risk Register”	means the register of risks, issues, assumptions and contingencies which is required for the purposes of Schedule 14 (<i>Contract Management</i>);
“SCP Review Report”	has the meaning given to it in Paragraphs 2.2(a) to 2.2(c) of Schedule 18 (Service Continuity);
“Service Continuity Plan”	means any plan prepared pursuant to Schedule 18 detailing the processes and arrangements which the Prime Contractor shall follow to ensure continuity of business processes and operations supported by the Services following any failure or disruption of the Services and the recovery of the Services in the event of a loss of service;
“Service Failure”	means a failure by the Contractor to deliver any part of the Services in accordance with (a) any of the Key Performance Indicators; and/or (b) any of the Subsidiary Performance Indicators;
“Services”	means the services described in the Specification;
“Services Commencement Date”	means the date on which the Contractor begins to deliver the Services or any part of the Services;
“Service Credit Cap”	5% of the Total Contract Value over the Initial Contract Period
“Service Credits”	means the service credits specified in Schedule 4 which shall be payable to the Authority by the Contractor in the event that the Key Performance Indicators are not met in respect of Services;
“Service Levels”	means the levels of Service defined in Table A of Schedule 19 (Contractor’s Technology Solution);
“Service Period”	means the following: <ul style="list-style-type: none"> (a) the first Service Period of the Contract shall begin on the Service Commencement Date and shall expire on 30 September 2021; and (b) each subsequent Service Period shall commence on 1 October in the relevant Contract Year and expire on the following 30 September;
“Service Thresholds”	means the thresholds set out in Schedule 4 which, if reached by the Contractor in its performance of the Service, trigger

Phrase	Meaning
	(without prejudice to its other rights and remedies) the Authority's Step-in rights and right of termination under Clauses 24.1.2 and 25.18;
"Service Users"	means those receiving the Services;
"SME"	means an enterprise falling within the category of micro, small and medium-sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises;
"Social Value Performance Indicator"	means the subsidiary performance indicators set out in Table 3 of Schedule 4;
"Specific Change in Law"	means a Change in Law that relates specifically to the business of the Authority, and which would not affect a Comparable Supply;
"Specification"	means the description of the Services to be supplied under the Contract set out in Schedule 1;
"Sub-Contract"	means a contract between 2 or more suppliers, at any stage of remoteness from the Authority in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of the Contract or any Replacement Contract and "Sub-Contractor" and "Replacement Sub-Contractor" shall be construed accordingly;
"Subsidiary Performance Indicator"	means the subsidiary performance indicators set out in Table 3 of Schedule 4;
"Term"	means the period from the Effective Date until the Expiry Date unless terminated in accordance with the provisions of this Contract in which case such earlier date of termination shall take effect before the Expiry Date and Term shall be interpreted accordingly;
"Termination Date"	means the date set out in a termination notice on which this Contract (or a part of it as the case may be) is to terminate;
"Termination Services"	the services and activities to be performed by the Contractor pursuant to the Exit Plan;
"TFEU"	means the Treaty on the Functioning of the European Union;
"Third Party IPRs"	means Intellectual Property Rights owned by a third party but excluding Intellectual Property Rights owned by the third-party subsisting in any Third Party Software;
"Third Party Software"	means software which is proprietary to any third party (other than an Affiliate of the Contractor) or any Open Source Software which in any case is, will be or is proposed to be

Phrase	Meaning
	used by the Supplier for the purposes of providing the Services
“Total Contract Value”	means the total value of the Services to be delivered under this Contract. The Total Contract Value is stated in cell O132 of the Delivery Costs tab of the Contractor’s Pricing Model in Annex 1 of Schedule 3 (Financials)
“Treaties”	means the TFEU and the Treaty on European Union;
“TUPE”	means the Transfer of Undertakings (Protection of Employment) Regulations 2006;
“Variation”	means any variation to the Contract requiring a Change Control Note to be completed in accordance with Schedule 6;
“VCSE”	means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;

1.2 The following notes of construction and interpretation apply to the Contract:

- 1.2.1 references to a statute or statutory provision shall, unless the context otherwise requires, include a reference to that statute or statutory provision as from time to time amended, modified, extended, re-enacted or consolidated and all statutory instruments or orders made pursuant to it whether replaced before or after the date of the Contract which are in force prior to the date of the Contract;
- 1.2.2 the expression “person” means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture;
- 1.2.3 the words “include”, “includes”, “including” and “included” will be construed without limitation unless inconsistent with the context;
- 1.2.4 the masculine includes the feminine and the neuter, and the singular includes the plural and vice versa as the context shall admit or require;
- 1.2.5 any reference in the Contract to a Schedule is a reference to a Schedule of the Contract;
- 1.2.6 references to “Clause” in any of the Schedules refer to clauses in this Schedule 2;
- 1.2.7 references to “Paragraph” in any of the Schedules refer to paragraphs in any of the schedules excluding this Schedule 2;
- 1.2.8 the Clause headings are included for convenience only and shall not affect the interpretation of the Contract; and
- 1.2.9 the Schedules and appendices form part of the Contract and shall have effect as if set out in full in the body of the Contract and any reference to the Contract includes the Schedules.
- 1.2.10 Schedule 9.1 in v1.09A (England & Wales) of the Model Services Contract; Combined Schedules issued by the Cabinet Office on 12 November 2020 as amended or revised and published online including any replacement version issued by or with the authority of the Cabinet Office from time to time, and modified

as provided for in the definition of MSC Schedule 9.1 in Paragraph 1 of Schedule 10 to this Contract shall be incorporated into this Contract.

2 TERM

- 2.1 The Contract commences on the Effective Date and, subject to any provision of this Contract for earlier termination, or extension as set out in this Clause 2, will terminate at the end of the Initial Contract Period.
- 2.2 The Authority shall have the right to request that the Term be extended for one Extended Period by giving the Contractor at least twelve (12) months' written notice before the end of the Initial Contract Period;

3 THE SERVICES

- 3.1 The Contractor shall provide the Services in the Area from the Service Commencement Date in accordance with the Specification and undertake and be responsible for all obligations of the Contractor in respect of the Services.
- 3.2 The Authority may appoint other Contractors for the Services in the Area.
- 3.3 The Contractor shall, in performing its obligations under the Contract:
 - 3.3.1 conform to the requirements of the Specification and the Contractor's Solution or as otherwise agreed in writing between the Parties;
 - 3.3.2 carry out and complete the Services in a proper professional manner (taking account of the standards of a reasonably proficient practitioner) and in conformity with all reasonable directions and requirements of the Authority specified by the Authority from time to time;
 - 3.3.3 comply with Good Industry Practice;
 - 3.3.4 ensure that the Services are provided by competent and appropriately trained Staff;
 - 3.3.5 comply with the Quality Standards and where applicable, shall maintain accreditation with the relevant Quality Standards authorisation body;
 - 3.3.6 comply with the Performance Indicators and Service Credit requirements set out in Schedule 4;
 - 3.3.7 comply with the Implementation Plan;
 - 3.3.8 in so far as is reasonably practicable, comply with any policies and procedures adopted by the Authority from time to time within 14 days of the same being brought to the attention of the Contractor by the Authority;
 - 3.3.9 comply with applicable law, any applicable codes of practice or governmental regulation, and monitor compliance with relevant legislation;
 - 3.3.10 comply with all health and safety legislation, adopt and maintain safe operating systems of work and appropriate safety policies in order to protect the health and safety of Contractor Staff, employees of the Authority, the Service Users and all other persons including members of the public; and
 - 3.3.11 comply with all safety, security, acceptable use and other policies of the Authority from time to time notified to it and procure that the Contractor Staff also comply.
- 3.4 The Authority may provide data and materials to the Contractor and access to systems for the purposes of providing the Services that the Contractor may use but only to the extent necessary to enable the Contractor to provide the Services.
- 3.5 All equipment and other property brought onto Authority Premises shall be at the Contractor's own risk and the Authority shall have no liability for any loss of or damage to any such equipment and property unless the Contractor is able to demonstrate that such loss or damage was caused by the negligence of the Authority.

- 3.6 Any land or Authority Premises made available from time to time to the Contractor by the Authority in connection with the Contract shall 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 the Contract. The Contractor shall have the use of such land or Authority Premises as a licensee and shall vacate the same on completion, termination or abandonment of the Contract or the task in respect of which such land or Authority Premises was made available.
- 3.7 The Contract does not create a tenancy of any nature whatsoever in favour of the Contractor or any of the Contractor Staff and no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to the Contract, the Authority retains the right at any time to use any Authority Premises in any manner.
- 3.8 This Contract should in no way be interpreted as granting the Contractor an exclusive right to deliver the Services for the Term. The Authority has the right to procure the same or similar services to the Services outside of this Contract at any time during the Term.

Services Improvement

- 3.9 The Contractor shall have an ongoing obligation throughout the Term to identify new or potential improvements to the Services in accordance with Clauses 3.10 to 3.13 and Schedule 17 (Continuous Improvement).
- 3.10 As part of this obligation the Contractor shall:
- 3.10.1 undertake regular reviews of each element of the Service and record and act on lessons learned;
 - 3.10.2 have processes in place to gather and action feedback and satisfaction rates from Participants, schools and partners;
 - 3.10.3 benchmark and learn from other comparable programmes;
 - 3.10.4 identify and capture best practice, emerging trends and insights from supply chain partners and stakeholders; and
 - 3.10.5 draft and keep updated a Continuous Improvement Plan that includes content that is relevant to each of Clauses 3.10.1 to 3.10.6.
- 3.11 The Contractor shall identify and report to the Authority once every 3 Months on:
- 3.11.1 the emergence of new and evolving relevant technologies which could improve the Services, and those technological advances potentially available to the Contractor and the Authority which the Parties may wish to adopt;
 - 3.11.2 new or potential improvements to the Services including the quality, responsiveness, procedures, performance mechanisms and Participant support services in relation to the Services;
 - 3.11.3 new or potential improvements to the interfaces or integration of the Services with other services provided by third parties or the Authority which might result in efficiency or productivity gains or in reduction of operational risk;
 - 3.11.4 changes in business processes and ways of working that would enable the Services to be delivered at lower cost and/or with greater benefits to the Authority;
 - 3.11.5 changes to the IT, business processes and ways of working that would enable reductions in the total energy consumed in the delivery of the Services; and
 - 3.11.6 a programme of continuous improvement to the Services in accordance with Paragraph 2.4 of Schedule 17 (Continuous Improvement).
- 3.12 The Contractor shall ensure that the information that it provides to the Authority shall be sufficient for the Authority to decide whether any improvement should be implemented. The Contractor shall provide any further information that the Authority requests.

- 3.13 If the Authority wishes to incorporate any improvement identified by the Contractor, the Authority shall send the Contractor a Change Control Note in accordance with the Change Control Procedure.

4 CONSORTIA

- 4.1 If the Contractor is a Consortium it shall comply with the terms of this Clause 4.
- 4.2 The Contractor may appoint additional or replacement Consortium Members to assist it in carrying out its obligations under the Contract subject to compliance with Clause 4.3.
- 4.3 No new person or entity may become a Consortium Member until:
- 4.3.1 the Authority has given its prior written consent to the new Consortium Member;
 - 4.3.2 the new Consortium Member has signed a Deed of Adherence; and
 - 4.3.3 a copy of the Deed of Adherence has been given to the Authority.
- 4.4 The Contractor shall promptly inform the Authority if and how any Consortium Member breaches the terms of the Consortium Agreement.

5 TRANSFER AND SUB-CONTRACTING

- 5.1 Save as set out in this Clause 5 the Contractor may not sub-contract, assign, transfer, charge the benefit and/or delegate the burden of the whole or any part of the Contract (a “**Transfer**”) without the prior written consent of the Authority which shall not be unreasonably withheld.
- 5.2 If the Authority consents to a Transfer the Contractor will evidence the Transfer in writing and provide a copy of the Transfer document on request.
- 5.3 The Contractor may award Sub-Contracts with a cumulative value per annum not exceeding £10,000 without the Authority’s consent.
- 5.4 Where the Authority has consented to a Sub-Contract, copies of each Sub-Contract shall, at the request of the Authority, be sent by the Contractor to the Authority as soon as reasonably practicable.
- 5.5 The Contractor shall not terminate or materially amend the terms of any Key Sub-Contract without the Authority’s prior written consent, which shall not be unreasonably withheld or delayed.
- 5.6 The Authority may require the Supplier to terminate:
- 5.6.1 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 25;
 - (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;
 - (c) the relevant Sub-contractor has failed to comply in the performance of its Sub-contract with legal obligations in the fields of environmental, social or labour law; and/or
 - (d) the Authority has found grounds for exclusion of the Sub-contractor in accordance with Clause 5.8; and
 - 5.6.2 a Key Sub-contract where there is a Change of Control of the relevant Key Sub-contractor, unless:

- (a) the Authority has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or
- (b) the Authority has not served its notice of objection within 6 months of the later of the date the Change of Control took place or the date on which the Authority was given notice of the Change of Control. The Contractor shall remain responsible for all acts and omissions of its Sub-Contractors as if they were its own.

5.7 If the Authority believes there are:

- 5.7.1 compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the Contractor shall replace or not appoint the Sub-Contractor; or
- 5.7.2 non-compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the Authority may require the Contractor to replace or not appoint the Sub-Contractor and the Contractor shall comply with such requirement.

6 TUPE

6.1 The Parties agree that:

- 6.1.1 where the commencement of the provision of the Services or any part of the Services results in one or more Relevant Transfers of Transferring Former Contractor Employees, Part A of Schedule 10 shall apply and Part B of Schedule 10 shall not apply; and
- 6.1.2 where the commencement of the provision of the Services or any part of the Services does not result in a Relevant Transfer of Transferring Former Contractor Employees, Part B of Schedule 10 shall apply and Part A of Schedule 10 shall not apply; and
- 6.1.3 Part C of Schedule 10 shall apply on the expiry or termination of the Services or any part of the Services, including in relation to pension issues on such expiry or termination.

7 CONTRACTOR STAFF

- 7.1 The Authority may refuse admission to Authority Premises and/or direct the Contractor to end the involvement in the Services of any Contractor Staff whom the Authority reasonably believes is a security risk.
- 7.2 If the Authority require the removal of any Contractor Staff pursuant to Clause 7.1, any Employment Liabilities and any other costs connected with that removal shall be at the Contractor's cost.
- 7.3 The Contractor shall use its reasonable endeavours to ensure continuity of Contractor Staff and to ensure that the turnover rate of Contractor Staff is at least as good as the prevailing industry norm for similar services, locations and environments.
- 7.4 The Contractor shall ensure that no person who discloses a Relevant Conviction or who is found to have any Relevant Convictions (whether as a result of a police check or through the Disclosure and Barring Service Procedures or otherwise), is employed or engaged in providing the Services without the Authority's prior written consent.
- 7.5 For each of the Contractor Staff who, in providing the Services, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the Authority owes a special duty of care the Contractor shall (and shall procure that any relevant Sub-Contractor shall) ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service, and the Contractor shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Services any person who has a Relevant Conviction or what would reasonably be regarded as having an inappropriate record.

- 7.6 The Contractor acknowledges that Key Contractor Staff and Key Sub-Contractors are essential to the proper provision of the Services. The Parties have agreed to the appointment of Key Contractor Staff and Key Sub-Contractors listed in Schedule 7 as at the Effective Date.
- 7.7 Key Contractor Staff shall not be released from supplying the Services without the Authority's consent except by reason of long-term sickness, maternity leave, paternity leave or termination of employment or other similar reason.
- 7.8 Any replacements of Key Contractor Staff shall be subject to the Authority's consent and shall be of at least equal status, experience and skills to Key Contractor Staff being replaced and be suitable for the responsibilities of that person in relation to the Services.
- 7.9 The Authority shall not unreasonably withhold consent under Clauses 7.7 or 7.8. Such consent shall be conditional on appropriate arrangements being made by the Contractor to minimise any adverse effect on Services which could be caused by a change in Key Contractor Staff or Key Sub-Contractors.
- 7.10 The Authority may require the Contractor to remove any Key Contractor Staff who the Authority reasonably considers is in any respect unsatisfactory.
- 7.11 The Authority shall not be liable for the cost of replacing any Key Contractor Staff and the Contractor shall indemnify the Authority against all Employment Liabilities that may arise in this respect.
- 7.12 Except in respect of any transfer of Staff under TUPE, for the Term and for 12 months after the Term neither Party shall (except with the prior written consent of the other) solicit the services of any Staff of the other Party who have been engaged in providing the Services or the management of the Contract or any significant part thereof whether as principal, agent, employee, independent contractor or in any other form of employment or engagement other than by means of an open national advertising campaign and not specifically targeted at any Staff of the other Party.

8 CHARGES

- 8.1 Except where otherwise expressly stated in the Contract the only payments to be paid by the Authority for the performance by the Contractor of its obligations under the Contract shall be the Charges which shall be inclusive of all costs and expenses incurred by the Contractor in the performance of its obligations.
- 8.2 In consideration for the provision of the Services the Authority shall pay the Charges in accordance with the Schedule 3 subject to the receipt of correct invoices pursuant to Clause 8.9 being issued by the Contractor.
- 8.3 The Contractor shall submit the first invoice by 12 November 2021 and subsequent invoices shall be submitted by the 10th Business Day of the month following the month in respect to which the invoice relates.
- 8.4 The Authority shall accept and process for payment an electronic invoice submitted for payment by the Contractor where the invoice is undisputed and where it complies with the standard on electronic invoicing. For the purposes of this paragraph, an electronic invoice complies with the standard on electronic invoicing where it complies with the European standard and any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870.
- 8.5 Except where otherwise expressly stated in Schedule 3 the Contractor shall not be entitled to increase the Charges or any rates identified in Schedule 3 throughout the Term.
- 8.6 The Charges are exclusive of Value Added Tax ("VAT") and all other taxes, duties and levies, but shall be inclusive of all charges, costs and expenses of whatever nature the Contractor incurs in providing the Services, and performing all other obligations of the Contractor, under the Contract (unless expressly stated otherwise in the Contract). The Contractor should notify the Authority of any direct VAT charges for the delivery of the Contract. The Contractor shall identify VAT and other applicable taxes, duties and levies separately on invoices,

including identifying the elements of the Charges that are subject to VAT at the standard rate or at any other rates and that are zero rated or exempt from VAT.

- 8.7 Payment of the Charges by the Authority shall be without prejudice to any rights the Authority may have by reason of any Services, or any part thereof, failing to comply with any provision of the Contract and any breach by the Contractor of the Contract shall not be deemed to be accepted or waived by the Authority by reason of such payment.
- 8.8 The Authority may deduct from or offset against any monies due or becoming due to the Contractor under the Contract (including the Charges) any monies due from the Contractor under the Contract or otherwise under any other agreement or account whatsoever.
- 8.9 Invoices shall be submitted electronically by email to **Redacted** by the relevant date as specified in Clause 8.3. To request a statement, please email **Redacted**
- 8.10 There is no postal address. Paper invoices or supporting documents will not be accepted. All supporting documents must be sent digitally along with the invoice to **Redacted**
- 8.11 An invoice is a "Valid Invoice" if it is legible and includes:
- 8.11.1 the date of the invoice;
 - 8.11.2 Contractor's full name and address;
 - 8.11.3 Contract reference number;
 - 8.11.4 Purchase Order number
 - 8.11.5 the charging period;
 - 8.11.6 a detailed breakdown of the appropriate Charges including deliverables or milestones achieved (if applicable);
 - 8.11.7 days and times worked (if applicable);
 - 8.11.8 Service Credits (if applicable); and
 - 8.11.9 VAT if applicable.
- 8.12 The Authority shall not pay an invoice which is not a Valid Invoice.
- 8.13 The Authority intends to pay Valid Invoices within 5 days of receipt. Valid Invoices not paid within 30 days are subject to interest at the rate of 2% above the base rate from time to time of Barclays Bank. This Clause 8.13 is a substantial remedy for late payment of any sum payable under the Contract in accordance with section 8(2) Late Payment of Commercial Debts (Interest) Act 1998.
- 8.14 The Authority shall not be responsible for any delay in payment caused by receipt of invoices which are not Valid Invoices and shall, within 10 Business Days of receipt, return to the Contractor for correction invoices that are not Valid Invoices together with an explanation of the need for correction.
- 8.15 At the end of the Term the Contractor shall promptly draw-up a final invoice which shall cover all Services provided up to the end of the Term which have not already been invoiced to the Authority. The final invoice shall be submitted not later than 30 days after the end of the Term.
- 8.16 The Authority shall not be obliged to pay the final invoice until the Contractor has carried out all of the Services.
- 8.17 The Contractor shall ensure that a term is included in all Sub-Contracts which requires payment to be made of all sums due to Sub-Contractors within 30 days from the receipt of a valid invoice.
- 8.18 If the Authority disputes any amount specified in a Valid Invoice it shall pay such amount of the invoice as is not in dispute and promptly notify the Contractor of the reasons for disputing

the invoice. The Authority may withhold the disputed amount pending resolution of the dispute.

- 8.19 The Parties shall use all reasonable endeavours to resolve any dispute over invoices within 10 Business Days of the dispute being raised, after which period either Party may refer the matter for resolution in accordance with Clause 39.

9 FINANCIAL DISTRESS

- 9.1 The Parties shall comply with the provisions of Schedule 11 (Financial Distress) in relation to the assessment of the financial standing of the Contractor and the consequences of a change to that financial standing.

10 TAX AND VAT

- 10.1 Where the Contractor is liable to be taxed in the UK in respect of consideration received under the Contract it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax in respect of that consideration.
- 10.2 If the Services are liable for VAT the Contractor shall comply with HMRC rules and regulations. The Contractor will be liable for paying to HMRC any identified VAT including those which may fall due.
- 10.3 If the Contractor is liable to NICs in respect of consideration received under the Contract it shall comply with the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to NICs in respect of that consideration.
- 10.4 The Authority may ask the Contractor to provide information which demonstrates how the Contractor complies with Clauses 10.1 to 10.3 or why those Clauses do not apply to it.
- 10.5 A request under Clause 10.4 may specify the information which the Contractor must provide and the period within which that information must be provided.
- 10.6 The Authority may terminate this Contract if:
- 10.6.1 in the case of a request mentioned in Clause 10.4 the Contractor:
- (a) fails to provide information in response to the request within a reasonable time; or
 - (b) provides information which does not demonstrate either how the Contractor complies with Clauses 10.1 or why those Clauses 10.1 to 10.3 do not apply to it;
- 10.6.2 it receives information which demonstrates that, if Clauses 10.1 to 10.3 apply, the Contractor is not complying with those Clauses.
- 10.7 The Authority may supply any information which it receives under Clause 10.4 to HMRC.
- 10.8 The Contractor bears sole responsibility for the payment of tax and national insurance contributions due from it in relation to any payments or arrangements made under the Contract or in relation to any payments made by the Contractor to its officers or employees in connection with the Contract.
- 10.9 The Contractor will account to the appropriate authorities for any applicable income tax, national insurance, VAT and all other taxes, liabilities, charges and duties relating to any payments made to the Contractor under the Contract or in relation to any payments made by the Contractor to its officers or employees in connection with the Contract. The Contractor shall indemnify the Authority against any liability, assessment or claim made by the HMRC or any other relevant Authority arising out of the performance by the Contractor of its obligations under the Contract (other than in respect of employer's secondary national insurance contributions) and any costs, expenses, penalty fine or interest incurred or payable by the Authority in connection with any such assessment or claim.

- 10.10 The Contractor authorises the Authority to provide HMRC and all other departments or agencies of the Government with any information which they may request as to fees and/or expenses paid or due to be paid under the Contract whether or not the Authority is obliged as a matter of law to comply with such request.
- 10.11 If, during the Term, an Occasion of Tax Non-Compliance occurs, the Contractor shall:
- 10.11.1 notify the Authority in writing of such fact within 5 Business Days of its occurrence; and
 - 10.11.2 promptly give the Authority:
 - (a) details of the steps it is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors it considers relevant; and
 - (b) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.

11 PREVENTION OF CORRUPTION

- 11.1 The Contractor represents and warrants that neither it, nor to the best of its knowledge any Contractor Staff, have at any time prior to the Effective Date:
- 11.1.1 committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; or
 - 11.1.2 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.
- 11.2 The Contractor shall not:
- 11.2.1 commit a Prohibited Act; or
 - 11.2.2 do or suffer anything to be done which would cause the Authority or any of its employees, consultants, contractors, Sub-Contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.
- 11.3 The Contractor shall:
- 11.3.1 procure that its Sub-Contractors shall, establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act; and
 - 11.3.2 keep appropriate records of its compliance with its obligations under Clause 11.3.1 and make such records available to the Authority on request.
- 11.4 The Contractor shall immediately notify the Authority in writing if it becomes aware of any breach of Clauses 11.1 and/or 11.2, or has reason to believe that it has or any of the Contractor Staff have:
- 11.4.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
 - 11.4.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; or
 - 11.4.3 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of the Contract or otherwise suspects that any person directly or indirectly connected with the Contract has committed or attempted to commit a Prohibited Act.

- 11.5 If the Contractor notifies the Authority pursuant to Clause 11.4, the Contractor shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and any other relevant documentation.
- 11.6 If the Contractor is in Default under Clauses 11.1 and/or 11.2, the Authority may by notice:
- 11.6.1 require the Contractor to remove from performance of the Contract any Staff whose acts or omissions have caused the Default; or
 - 11.6.2 immediately terminate the Contract.
- 11.7 Any notice served by the Authority under Clause 11.6 shall specify the nature of the Prohibited Act, the identity of the party who the Authority believes has committed the Prohibited Act and the action that the Authority has taken (including, where relevant, the date on which the Contract shall terminate).

12 DISCRIMINATION

- 12.1 The Contractor shall perform its obligations under the Contract in accordance with all applicable equality law.
- 12.2 The Contractor shall comply with Authority's equality and diversity policy as given to the Contractor from time to time and any other requirements and instructions which the Authority reasonably imposes in connection with any equality obligations imposed on the Authority at any time under equality law.
- 12.3 The Contractor indemnifies the Authority in full from and against all Employment Liabilities that may arise as a result of any claims brought against the Authority by any of its employees, agents, consultants and contractors ("**Authority Contractor Staff**") and/or any of the Contractor Staff where such claim arises from any act or omission of the Contractor Staff in respect of anti-discrimination legislation. The Contractor will also provide all reasonable cooperation, assistance and information as the Authority may request in connection with any investigation by the Authority into any complaint or other grievance received by it from any of the Authority Contractor Staff or Contractor Staff in respect of anti-discrimination legislation which may have arisen from, or been contributed to by, any act or omission of the Contractor or any Contractor Staff.

13 INTELLECTUAL PROPERTY

- 13.1 All Intellectual Property Rights in materials:
- 13.1.1 that are Existing IPR remain in the ownership of the Party that owns them. The Contractor gives the Authority a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Contractor's Existing IPR to enable it to both:
 - (a) receive and use the Services
 - (b) make use of the services provided by a Replacement Contractor.
 - 13.1.2 furnished to or made available to the Contractor by or on behalf of the Authority (the "**Authority IP Materials**") shall remain the property of the Authority (save for Copyright and Database Rights which shall remain the property of the Crown); and
 - 13.1.3 prepared by or for the Contractor on behalf of the Authority in connection with the Contract (the "**Service Specific IP Materials**") shall vest in the Authority (save for Copyright and Database Rights which shall vest in the Crown)
- (together the "**IP Materials**").
- 13.2 The Contractor shall not, and shall ensure that Contractor Staff shall not, use or disclose IP Materials (except the Contractor's Existing IPR) without the Authority's approval save to the extent necessary for the performance by the Contractor of its obligations under the Contract.

- 13.3 The Contractor hereby assigns to the Authority or undertakes to procure the assignment to the Authority of all Intellectual Property Rights which may subsist in the Service Specific IP Materials (save for Copyright and Database Rights which it hereby assigns to the Crown or undertakes to procure the assignment of to the Crown). These assignments shall be given with full title guarantee, shall take effect on the Effective Date or as a present assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights in the Service Specific IP Materials and shall include, without limitation, an assignment to the Authority (or the Crown as appropriate) of all rights arising in the United Kingdom and the world together with the right to sue for damages and other remedies for infringement occurring prior to the date of assignment. The Contractor shall execute all documents and do all other acts requested by the Authority and necessary to execute and perfect these assignments and to otherwise evidence the Authority's or the Crown's ownership of such rights.
- 13.4 The Contractor shall waive or procure a waiver on an irrevocable and unconditional basis of any moral rights subsisting in copyright produced by or in connection with the Contract or the performance of the Contract.
- 13.5 The Contractor shall ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Services grants to the Authority a non-exclusive licence or, if itself a licensee of those rights, shall grant to the Authority an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty-free, worldwide and irrevocable and shall include the right for the Authority to sub-licence, transfer, novate or assign to a Replacement Contractor. The Contractor shall notify the Authority of any third party Intellectual Property Rights to be used in connection with the Contract prior to their use in connection with the Contract or the creation or development of the Service Specific IP Materials.
- 13.6 The Contractor shall not infringe any Intellectual Property Rights of any third party in performing its obligations under the Contract and the Contractor shall indemnify and keep indemnified the Authority and any Replacement Contractor from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority may suffer or incur as a result of or in connection with any breach of this Clause 13, except to the extent that any such claim arises from:
- 13.6.1 items or materials supplied by the Authority; or
 - 13.6.2 the use of data supplied by the Authority which is not required to be verified by the Contractor under any provision of the Contract.
- 13.7 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 and/or licensed by the Contractor.
- 13.8 The Contractor shall at its own expense conduct all negotiations and any litigation arising in connection with any claim for infringement of Intellectual Property Rights in materials supplied and/or licensed by the Contractor to the Authority, provided always that the Contractor shall:
- 13.8.1 consult the Authority on all substantive issues which arise during the conduct of such litigation and negotiations;
 - 13.8.2 take due and proper account of the interests and concerns of the Authority; and
 - 13.8.3 not settle or compromise any claim without the Authority's prior written consent (not to be unreasonably withheld or delayed).
- 13.9 Notwithstanding Clause 13.8 the Authority may take any action it deems appropriate with respect to any such claim and shall have exclusive control of such claim. If the Authority takes action the Contractor shall at the request of the Authority afford to the Contractor all reasonable assistance to the Authority for the purpose of contesting such claim.

- 13.10 The Authority shall at the request of the Contractor afford 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 by a third party for infringement or alleged infringement of any third party Intellectual Property Rights in connection with the performance of the Contractor's obligations under the Contract subject to the Contractor indemnifying the Authority on demand and in full for all reasonable costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so.
- 13.11 If a claim, demand or action for infringement or alleged infringement of any Intellectual Property Right is made in connection with the Contract or in the reasonable opinion of the Contractor is likely to be made, the Contractor shall notify the Authority and, at its own expense and subject to the consent of the Authority (not to be unreasonably withheld or delayed), use reasonable endeavours to:
- 13.11.1 modify any or all of the Service Specific IP Materials and, where relevant, the Services without reducing the performance or functionality of the same, or substitute alternative materials or services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement, provided that the provisions of this Clause 13 shall apply mutatis mutandis to such modified materials or services or to the substitute materials or services; or
 - 13.11.2 procure a licence to use and supply the Service Specific IP Materials, other relevant Intellectual Property Rights and Services, which are the subject of the alleged infringement, on terms which are acceptable to the Authority.
- 13.12 If the Contractor is unable to comply with Clauses 13.11.1 and 13.11.2 within 20 Business Days of receipt of the Contractor's notification the Authority may terminate the Contract with immediate effect by notice in writing.
- 13.13 The Contractor grants to the Authority and, if requested by Authority, to a Replacement Contractor, a royalty-free, perpetual, irrevocable and non-exclusive licence (with a right to sub-licence) to use any Intellectual Property Rights the Contractor owned or developed prior to the Effective Date or otherwise not in connection with the Contract ("**Contractor IP**") and which the Authority (or a Replacement Contractor) reasonably requires in order to exercise its rights and take the benefit of the Contract including the Services provided and the use and further development of the IP Materials.
- 13.14 The Authority shall comply with the reasonable instructions of the Contractor in respect of the way in which it uses the Contractor IP.
- 13.15 If the Contractor is not able to grant to the Authority a licence to use any Contractor IP for any reason, including due to any Intellectual Property Rights that a third party may have in such Contractor IP, the Contractor shall use its reasonable endeavours to:
- 13.15.1 procure that the third party owner of any Intellectual Property Rights that are or that may be used to perform the Contract grants to the Authority a licence on the terms set out in Clause 13.13; or
 - 13.15.2 if the Contractor is itself a licensee of those rights and is able to do so under the terms of its licence, grant to the Authority a sub-licence on the terms set out in Clause 13.13.
- 13.16 The Contractor shall not knowingly do or permit to be done, or omit to do in connection with its use of Intellectual Property Rights which are or are to be the Authority IP Materials any act or thing which:
- 13.16.1 would or might jeopardise or invalidate any trade mark application or registration comprised within the same or give rise to an application to remove or amend any such application or registration from the register maintained by the relevant trade mark registry; or

- 13.16.2 would or might prejudice the right or title of the Authority to any of the Authority IP Materials.
- 13.17 The Contractor shall comply with the Authority's branding guidelines and shall not use any other branding, including its own, other than as set out in the Authority's branding guidelines or as otherwise agreed with the Authority.
- 13.18 When using Authority Trade Marks the Contractor shall observe all reasonable directions given by the Authority from time to time as to colour and size and the manner and disposition thereof on any materials it provides to persons in connection with the Services. The Contractor may not:
- 13.18.1 adopt or use any trade mark, symbol or device which incorporates or is confusingly similar to, or is a simulation or colourable imitation of, any Authority Trade Mark, or unfairly competes with any Authority Trade Mark; or
- 13.18.2 apply anywhere in the world to register any trade marks identical to or so nearly resembling any Authority Trade Mark as to be likely to deceive or cause confusion.
- 13.19 The provisions of Schedule 19 (Contractor's Technology Solution) shall apply in relation to the Intellectual Property Rights in and licensing of Software.

14 DATA, SYSTEMS HANDLING AND SECURITY

- 14.1 The Parties shall comply with the provisions of Schedule 8.

15 PUBLICITY AND PROMOTION

- 15.1 Subject to Clause 16.2, without prejudice to the Authority's obligations under the FOIA, the EIR, the Regulations, or any policy requirements as to transparency, neither Party shall make any press announcement or publicise the Contract or any part thereof in any way, except with the written consent of the other Party.
- 15.2 The Contractor shall use reasonable endeavours to ensure its Contractor Staff comply with Clause 15.1
- 15.3 Without prejudice to the generality of Clauses 13.18 and 15.1, the Contractor shall not itself, and shall procure that Consortium Members shall not, use the Authority's name, brand or Authority Trade Marks or the Personal Data of the Authority to sell, promote, market or publicise the Contractor's other programmes, courses, services or other activities.
- 15.4 Subject to Clauses 13 and 16 Authority may disclose, copy and otherwise distribute to the public, including but not limited to, by way of the Open Government Licence, any information arising out of the Services or comprised in any work relating to the Services.
- 15.5 Any marketing activity planned by the Contractor must be approved by or on behalf of the Authority's Director of Communications. In addition, if the proposed marketing activity will cost £100,000 or more, it must be approved in writing by the Cabinet Office.
- 15.6 In order to apply for Cabinet Office approval as set out in Clause 15.5, the Contractor must complete a Professional Assurance (PASS) application in conjunction with the Authority using the PASS form which the Authority will provide to the Contractor. The proposed marketing activity must be approved in writing by the Cabinet Office before any material expense on is incurred in relation to it.
- 15.7 The Contractor must comply with any amendments to the marketing activity that are required by the Authority and / or the Cabinet Office.

16 CONFIDENTIALITY

- 16.1 Except to the extent set out in this Clause 16 or if disclosure or publication is expressly permitted elsewhere in the Contract each Party shall treat all Confidential Information belonging to the other Party as confidential and shall not disclose any Confidential Information belonging to the other Party to any other person without the other Party's consent,

except to such persons and to such extent as may be necessary for the performance of the Party's obligations under the Contract.

- 16.2 The Contractor hereby gives its consent for the Authority to publish the whole Contract including from time to time agreed changes to the Contract. The Authority shall determine in its absolute discretion and notwithstanding any other provision in the Contract or any other agreement whether the Commercially Sensitive Information and any other information is exempt from publishing
- 16.3 The Contractor may only disclose the Authority's Confidential Information to those Contractor Staff who are directly involved in the provision of the Services and who need to know the information, and shall ensure that Contractor Staff are aware of and shall comply with these obligations as to confidentiality.
- 16.4 The Contractor shall not, and shall procure that Contractor Staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes of the Contract.
- 16.5 Clause 16.1 shall not apply to the extent that:
 - 16.5.1 such disclosure is a requirement of law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the EIR;
 - 16.5.2 such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
 - 16.5.3 such information was obtained from a third party without obligation of confidentiality;
 - 16.5.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or
 - 16.5.5 it is independently developed without access to the other Party's Confidential Information.
- 16.6 Nothing in this Clause 16 shall prevent the Authority disclosing any Confidential Information obtained from the Contractor:
 - 16.6.1 for the purpose of the examination and certification of the Authority's accounts;
 - 16.6.2 for the purpose of 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;
 - 16.6.3 to any other crown body and the Contractor hereby acknowledges that all government departments receiving such Confidential Information may further disclose the Confidential Information to other government departments 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; or
 - 16.6.4 to any consultant, contractor or other person engaged by the Authority provided that in disclosing information under Clauses 16.6.2 and 16.6.3 the Authority discloses only the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.
- 16.7 Nothing in Clauses 16.1 to 16.6 shall prevent either Party from using any techniques, ideas or know-how gained during the performance of its obligations under the Contract in the course of its normal business, to the extent that this does not result in a disclosure of the other Party's Confidential Information or an infringement of the other Party's Intellectual Property Rights.
- 16.8 The Authority shall endeavour to ensure that any government department, employee, third party or Sub-Contractor to whom the Authority's Confidential Information is disclosed pursuant to Clause 15.6 is made aware of the Authority's obligations of confidentiality.

- 16.9 If the Contractor does not comply with Clauses 16.1 to 16.5 the Authority may terminate the Contract immediately on notice to the Contractor.

17 FREEDOM OF INFORMATION

- 17.1 The Contractor acknowledges that the Authority is subject to the requirements of the FOIA and the EIR.
- 17.2 The Contractor shall transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within 2 Business Days of receipt:
- 17.2.1 give the Authority a copy of all Information in its possession or control in the form that the Authority requires within 5 Business Days (or such other period as the Authority may specify) of the Authority's request;
 - 17.2.2 provide all necessary assistance as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and EIR; and
 - 17.2.3 not respond to directly to a Request for Information unless authorised to do so in writing by the Authority.
- 17.3 The Authority shall determine in its absolute discretion and notwithstanding any other provision in the Contract or any other agreement whether the Commercially Sensitive Information and any other information is exempt from disclosure in accordance with the provisions of the FOIA and/or the EIR.

18 OFFICIAL SECRETS ACTS AND FINANCE ACT

- 18.1 The Contractor shall comply with the provisions of:
- 18.1.1 the Official Secrets Acts 1911 to 1989; and
 - 18.1.2 section 182 of the Finance Act 1989.

19 LIABILITY

- 19.1 Neither Party excludes or limits its liability (if any) to the other:
- 19.1.1 for breach of any obligations arising under section 12 Sale of Goods Act 1979 or section 2 Supply of Goods and Services Act 1982;
 - 19.1.2 for personal injury or death resulting from its negligence;
 - 19.1.3 under section 2(3) Consumer Protection Act 1987;
 - 19.1.4 any breach of Clause 16 or Schedule 8;
 - 19.1.5 for its own fraud; or
 - 19.1.6 for any other matter which it would be unlawful for it to exclude or to attempt to exclude its liability.
- 19.2 Subject to Clauses 19.1 and 19.3, the Contractor shall indemnify the Authority and keep the Authority indemnified fully against all claims, proceedings, demands, charges, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which may arise out of the supply, or the late or purported supply, of the Services or the performance or non-performance by the Contractor or any Contractor Staff on the Premises, including in respect of death or personal injury, loss of or damage to property (including the personal property of a Participant), financial loss arising from any advice given or omitted to be given by the Contractor, or any other loss which is caused directly by any act or omission of the Contractor.
- 19.3 The Contractor does not exclude or limit its liability (if any) pursuant to any indemnities given by it in Clauses 13 (Intellectual Property) and 10 (Tax).
- 19.4 Subject to Clauses 19.1, 19.3 and 19.6, neither Party shall have any liability to the other under or in connection with the Contract, whether in contract, tort (including negligence) or otherwise:

- 19.4.1 for any losses of an indirect or consequential nature;
 - 19.4.2 for any claims for loss of profits, revenue, business or opportunity (whether direct, indirect or consequential); or
 - 19.4.3 to the extent that it is prevented from meeting any obligation under the Contract as a result of any breach or other default by the other Party.
- 19.5 Subject to Clauses 19.1 and 19.3, the maximum liability of either Party to the other under the Contract, whether in contract, tort (including negligence) or otherwise:
- 19.5.1 in respect of damage to property is limited to £10m in respect of any one incident or series of connected incidents; and
 - 19.5.2 in respect of any claim not covered by Clause 19.5.1, is limited in each calendar year in aggregate to 150% of the sum of the Charges payable in that year.
- 19.6 The Authority may recover from the Contractor the following losses incurred by the Authority to the extent they arise as a result of a Default by the Contractor:
- 19.6.1 any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the default;
 - 19.6.2 any wasted expenditure or charges;
 - 19.6.3 the additional costs of procuring a Replacement Contractor for the remainder of the Contract and/or replacement deliverables which shall include any incremental costs associated with the Replacement Contractor and/or replacement deliverables above those which would have been payable under the Contract;
 - 19.6.4 any compensation or interest paid to a third party by the Authority; and
 - 19.6.5 any fine or penalty incurred by the Authority and any costs incurred by the Authority in defending any proceedings which result in such a fine or penalty.
- 19.7 Except as otherwise expressly provided by the Contract, all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 19.8 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 losses for which the relevant Party is entitled to bring a claim against the other Party pursuant to the indemnities in this Contract.
- 19.9 All property of the Contractor whilst on the Authority's premises shall be there at the risk of the Contractor and the Authority shall accept no liability for any loss or damage howsoever occurring to it.
- 19.10 The Contractor shall effect and maintain in force with a reputable insurance company employer's liability and public liability insurances for the sum and range of cover as the Authority deems to be appropriate but not less than £5,000,000 for any one claim, for professional indemnity insurances for the sum and range of cover as the Authority deems to be appropriate but not less than £2,000,000 for any one claim and insurance to cover the liability of the Contractor under the Contract. Such insurances shall be maintained for the Term and for a minimum of 6 years following the end of the Term.
- 19.11 The Contractor shall supply to the Authority on demand copies of the insurance policies maintained under Clause 19.10.
- 19.12 The provisions of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract.

- 19.13 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 it has under, or in connection with, the Contract.

20 WARRANTIES AND REPRESENTATIONS

- 20.1 The Contractor warrants and represents that:

- 20.1.1 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;
- 20.1.2 in entering the Contract it has not committed any fraud;
- 20.1.3 as at the Effective Date, all information contained in the Contractor's Solution remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract;
- 20.1.4 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, and 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;
- 20.1.5 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;
- 20.1.6 the Service Specific IP Materials will be its original work and will not have been copied wholly or substantially from another party's work or materials provided that this Clause 20.1.6 shall not apply to any IP Materials used by the Contractor under permission or licence from any other person or entity (including, without limitation, any Sub-Contractor); and
- 20.1.7 the use by the Authority of any Intellectual Property Rights assigned or licensed to it by the Contractor under the Contract will not infringe or conflict with the rights of any third party;
- 20.1.8 in the 3 years (or actual period of existence if the Contractor has been in existence for less time) prior to the Effective Date:
 - (a) 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;
 - (b) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
 - (c) 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;
- 20.1.9 it has and will continue to hold all necessary regulatory approvals from the Regulatory Bodies necessary to perform its obligations under the Contract; and
- 20.1.10 it has notified the Authority in writing of any Occasions of Tax Non-Compliance or any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance.

21 FORCE MAJEURE

- 21.1 Subject to the remaining provisions of this Clause 21 (and, in relation to the Contractor, subject to its compliance with its obligations in Schedule 18 (*Service Continuity Plan*)), a Party may claim relief under this Clause 21 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. Any failure or delay by the Contractor in performing its obligations under this Contract which results from a failure or delay by an agent, Sub-contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Contractor.

- 21.2 The Affected Party shall as soon as reasonably practicable issue a 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.
- 21.3 If the Contractor is the Affected Party, it shall not be entitled to claim relief under this Clause 21 to the extent that consequences of the relevant Force Majeure Event:
- (a) are capable of being mitigated, but the Contractor has failed to do so;
 - (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; or
 - (c) are the result of the Contractor's failure to comply with its Service Continuity Plan (except to the extent that such failure is also due to a Force Majeure Event that affects the execution of the Service Continuity Plan).
- 21.4 Subject to Clause 21.5, 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.
- 21.5 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.
- 21.6 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 25.19; 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 Agreement:
 - (i) the Authority shall not be entitled:
 - (A) during the continuance of the Force Majeure Event to exercise its rights under Clause 24 (*Step-in Rights*) as a result of such failure; and
 - (B) to receive Service Credits to the extent that a Performance Failure has been caused by the Force Majeure Event; and

- (ii) the Contractor shall be entitled to receive payment of the Charges (or a proportional payment of them) 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.

- 21.7 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.
- 21.8 Relief from liability for the Affected Party under this Clause 21 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 21.7.

22 MONITORING AND REMEDIATION

- 22.1 The Contractor shall comply with Schedule 16 (Records Provision and Management Information) in relation to the keeping of records and the management of information.
- 22.2 The Contractor shall provide to the Authority such supporting documentation as the Authority may reasonably require in order to verify the Contractor's performance.
- 22.3 The Authority reserves the right to verify any aspect of this Agreement either with the Contractor or independently including through requesting information, records or data from the Contractor and / or from a third party.
- 22.4 The Authority or its authorised representatives may visit on reasonable notice to the Contractor any premises of the Contractor, any Consortium Member or any other premises at which the Services (or any part of them) are being or are to be performed to ascertain that the Contractor is conforming in all respects with its obligations arising under the Contract and otherwise to monitor and quality assure the provision of the Services.
- 22.5 During such visits, the Authority may inspect and take copies of such of the records of the Contractor and any Consortium Member as relate to the performance of their obligations under the Contract.
- 22.6 If the Authority reasonably considers that any provision of the Contract is at risk of not being complied with it may, notwithstanding and without prejudice to any other right or remedy that it may have under the Contract or otherwise:
 - 22.6.1 require the Contractor to produce a plan of remedial action in order to remedy or remove such risk, which shall be subject to the approval of the Authority (not to be unreasonably withheld) and which, once approved, the Contractor shall implement; and
 - 22.6.2 monitor, supervise, direct and/or guide the Contractor's provision of the Services until the Authority reasonably considers that any such risk has been remedied or removed. The Contractor shall cooperate at all times with the Authority in this regard.
- 22.7 The Authority may review from time to time the progress of the Contractor against the Implementation Plan. The Contractor shall cooperate with the Authority in this regard and provide any information and evidence reasonably required by the Authority.
- 22.8 The Authority may instruct the Contractor to take appropriate remedial action where the Authority reasonably considers that the Implementation Plan is not being complied with or is at risk of not being complied with and the Contractor shall take such remedial action.

23 ANNUAL REVIEW

- 23.1 The parties shall undertake an Annual Review of the Services and Charges in each Contract Year. The first Annual Review shall take place no earlier than the first anniversary of the Service Commencement Date and no later than 30 November 2022. Subsequent Annual

Reviews shall take place in each Contract Year on the anniversary of the first Annual Review or such other date as the Authority and the Contractor agree.

- 23.2 During each Annual Review, the parties shall:
- 23.2.1 review the Contractor's performance against the Performance Indicators;
 - 23.2.2 consider potential improvements in the Performance Indicators and the Subsidiary Performance Indicators;
 - 23.2.3 consider potential improvements in the delivery of the Services;
 - 23.2.4 review and agree amendments as relevant to the Contractor's Contract Management Plans including but not limited to risk management;
 - 23.2.5 Review the Charges and the provisions of Schedule 3 with a view to identifying potential efficiencies and cost savings; and
- 23.3 Any changes to the Charges or Performance Indicators or Services shall be subject to agreement in accordance with the Change Control Procedures set out in Schedule 6 and the Charges shall be calculated utilising the Financial Model.
- 23.4 In the event of a dispute arising between the Authority and the Contractor at Annual Review, such dispute shall be dealt with in accordance with the dispute resolution provisions in Clause 39.
- 23.5 The Contractor shall submit to the Authority by the tenth (10th) Business Day of October in each Contract Year an Annual Review Report that includes the content as set out in Schedule 16 (Records Provision and Management Information).

24 STEP IN RIGHTS

- 24.1 Without prejudice to the Authority's rights of termination under Clause 25 the Authority may exercise one or more of the rights set out in this Clause 24 ("**Step In Rights**") if:
- 24.1.1 there is a Default by the Contractor which materially prevents or materially delays performance of the Services or any part of the Services;
 - 24.1.2 the Contractor fails to meet any of the Service Thresholds specified in Schedule 4 (Performance Levels);
 - 24.1.3 the Authority considers that the circumstances constitute an emergency despite the Contractor not being in breach of its obligations under this Contract;
 - 24.1.4 a Regulatory Body has advised the Authority that exercise by the Authority of its Step In Rights is necessary;
 - 24.1.5 a serious risk exists to the health and safety of persons, property or the environment;
 - 24.1.6 it is necessary to discharge a statutory duty; or
 - 24.1.7 the Contractor becomes insolvent.
- 24.2 If the Authority has a Step In Right it may serve notice on the Contractor (a "**Step-In Notice**") that it will take action under this Clause 24 either itself or with the assistance of a third party.
- 24.3 The Step-In Notice shall set out:
- 24.3.1 the action the Authority wishes to take and in particular the Services that it wishes to control (the "**Required Action**");
 - 24.3.2 the event triggering the Step In Rights and whether the Authority believes that the Required Action is due to the Contractor's Default;
 - 24.3.3 the date on which it wishes to commence the Required Action;
 - 24.3.4 the time period which it believes will be necessary for the Required Action;

- 24.3.5 whether the Authority will require access to the Contractor's premises; and
- 24.3.6 to the extent practicable, the effect the Authority anticipates the Required Action will have on the Contractor's obligations to provide the Services during the period that the Required Action is being taken.
- 24.4 Following service of a Step-In Notice, the Authority shall:
 - 24.4.1 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;
 - 24.4.2 keep records of the Required Action taken and provide information about the Required Action to the Contractor;
 - 24.4.3 co-operate wherever reasonable with the Contractor in order to enable the Contractor to continue to provide those Services of which the Authority is not assuming control; and
 - 24.4.4 act reasonably in mitigating the cost that the Contractor will incur as a result of the exercise of the Step In Rights.
- 24.5 For as long as and to the extent that the Required Action continues:
 - 24.5.1 the Contractor shall not be obliged to provide the Services to the extent that they are the subject of the Required Action; and
 - 24.5.2 the Authority shall pay the Contractor the Charges after subtracting any applicable Service Credits and the Authority's costs of taking the Required Action.
- 24.6 If the Contractor demonstrates to the Authority's reasonable satisfaction that the Required Action has resulted in the degradation of any Services not subject to the Required Action beyond that which would have been the case had the Authority not taken the Required Action, the Authority may adjust the Charges.
- 24.7 Before ceasing to exercise its Step In Rights the Authority shall deliver a written notice to the Contractor (a "**Step-Out Notice**"), specifying:
 - 24.7.1 the Required Action it has taken; and
 - 24.7.2 the date on which the Authority plans to end the Required Action 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 24.8.
- 24.8 The Contractor shall, following receipt of a Step-Out Notice and not less than 20 Business Days prior to the date specified in Clause 24.7.2, develop for the Authority's approval a draft 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 the Contract.
- 24.9 If the Authority does not approve the draft plan, it shall inform the Contractor of its reasons for not approving it and the Contractor shall then revise the draft plan taking those reasons into account and shall re-submit the revised plan to the Authority for approval. The Authority shall not withhold or delay its approval of the draft plan unreasonably.
- 24.10 The Contractor shall bear its own costs in connection with any Step-In under this Clause 24, 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 Clauses 24.1.3 to 24.1.6 (insofar as the primary cause of the Authority serving the Step-In Notice is identified as not being the result of a Contractor's Default).

25 TERMINATION

- 25.1 The Authority may terminate the Contract (or any part of it) with immediate effect and without paying compensation to the Contractor where the Contractor is a company and in respect of the Contractor:
- 25.1.1 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;
 - 25.1.2 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);
 - 25.1.3 a petition is presented for its winding up (which is not dismissed within 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;
 - 25.1.4 a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;
 - 25.1.5 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;
 - 25.1.6 it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;
 - 25.1.7 being a "small company" within the meaning of section 247(3) of the Companies Act 1985, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
 - 25.1.8 any event similar to those listed in Clauses 25.1.1 to 25.1.7 occurs under the law of any other jurisdiction.
- 25.2 The Authority may terminate the Contract (or any part of it) with immediate effect by notice and without paying compensation to the Contractor where the Contractor is an individual and:
- 25.2.1 an application for an interim order is made pursuant to sections 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, the Contractor's creditors;
 - 25.2.2 a petition is presented and not dismissed within 14 days or order made for the Contractor's bankruptcy;
 - 25.2.3 a receiver, or similar officer is appointed over the whole or any part of the Contractor's assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets;
 - 25.2.4 the Contractor is unable to pay his debts or has no reasonable prospect of doing so, in either case within the meaning of section 268 of the Insolvency Act 1986;
 - 25.2.5 a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Contractor's assets and such attachment or process is not discharged within 14 days;
 - 25.2.6 he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Capacity Act 2005;
 - 25.2.7 he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business; or

25.2.8 any event similar to those listed in Clauses 25.2.1 to 25.2.7 occurs under the law of any other jurisdiction.

25.3 The Contractor shall notify the Authority immediately in writing of any proposal or negotiations which will or may result in a merger, take-over, change of control, change of name or status including if the Contractor undergoes a change of control within the meaning of section 1124 of the Corporation Taxes Act 2010 ("**Change of Control**"). The Authority may terminate the Contract (or any part of it) with immediate effect by notice and without compensation to the Contractor within 6 months of:

25.3.1 being notified that a Change of Control has occurred; or

25.3.2 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 approval was granted prior to the Change of Control.

25.4 The Authority may terminate the Contract (or any part of it) with immediate effect and without paying compensation to the Contractor where the Contractor is a partnership and:

25.4.1 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;

25.4.2 it is for any reason dissolved;

25.4.3 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;

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

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

25.4.6 any of the following occurs in relation to any of its partners:

(a) an application for an interim order is made pursuant to sections 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;

(b) a petition is presented for his bankruptcy;

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

(d) any event similar to those listed in Clauses 25.4.1 to 25.4.6 occurs under the law of any other jurisdiction.

25.5 The Authority may terminate the Contract (or any part of it) with immediate effect and without paying compensation to the Contractor where the Contractor is a limited liability partnership and:

25.5.1 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;

25.5.2 it is for any reason dissolved;

25.5.3 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;

25.5.4 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;

- 25.5.5 a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator within Part IV of the Insolvency Act 1986;
- 25.5.6 a receiver, or similar officer is appointed over the whole or any part of its assets; or
- 25.5.7 it is or becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- 25.5.8 a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
- 25.5.9 any event similar to those listed in Clauses 25.5.1 to 25.5.8 occurs under the law of any other jurisdiction.
- 25.6 References to the Insolvency Act 1986 in Clause 25.5.1 shall be construed as being references to that Act as applied under the Limited Liability Partnerships Act 2000 subordinate legislation.
- 25.7 The Authority may terminate the Contract (or any part of it) with immediate effect and without paying compensation to the Contractor if the Contractor commits a Default and:
 - 25.7.1 the Contractor has not remedied the Default to the satisfaction of the Authority in accordance with the provisions set out in clauses 29.17 to 29.29;
 - 25.7.2 the Default is not, in the opinion of the Authority, capable of remedy; or
 - 25.7.3 the Default is a Material Breach; or
 - 25.7.4 the Default (not being a Material Breach) has occurred twice in any three month period.
- 25.8 The Authority may terminate the Contract (or any part of it) with immediate effect and without paying compensation to the Contractor if:
 - 25.8.1 the Contractor's warranty in Clause 20.1.10 is materially untrue;
 - 25.8.2 the Contractor commits a material breach of its obligation to notify the Authority of any Occasion of Non-Tax Compliance;
 - 25.8.3 the Contractor has not, in performing the Services, complied with its legal obligations in respect of environmental, social or labour law.
 - 25.8.4 the Contractor is in breach of Paragraph 4 of Schedule 11 (Financial Distress).
- 25.9 The Authority may terminate the Contract (or any part of it) with immediate effect and without paying compensation to the Contractor if:
 - 25.9.1 the Contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;
 - 25.9.2 the Contractor was, at the time the Contract was awarded, in one of the situations specified in regulation 57(1) of the Regulations, including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure which resulted in the award of the Contract; or
 - 25.9.3 the Contract should not have been awarded to the Contractor in view of a serious infringement of the obligations under the Treaties and the Regulations which has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU.
- 25.10 If the Authority terminates the Contract (or any part of it) under Clauses 25.7, 25.8 or 25.9:
 - 25.10.1 and makes other arrangements for the supply of the Services (or any part of the Services), the Authority may recover from the Contractor the cost reasonably incurred of making those other arrangements; and

- 25.10.2 the Authority shall make no further payments to the Contractor (for Services supplied by the Contractor prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority), until the Authority has established the final cost of making the other arrangements envisaged under this Clause 25.
- 25.11 The Authority may terminate the Contract (or any part of it) at any time during the Term by giving at least 3 months' prior written notice to the Contractor.
- 25.12 If the Authority terminates the Contract under Clause 25.11 the Authority shall make no further payments to the Contractor except for a Breakage Costs Payment assessed in accordance with Schedule 20 (Breakage Costs) and for Services supplied by the Contractor prior to termination where the payment has yet to be made by the Authority and for Termination Services agreed with the Authority in accordance with the Contract.
- 25.13 If any funding from governmental or other sources for the provision of the Services, or for a programme or a project to which the provision of the Services relates is withdrawn, reallocated or no longer available in such a way that the Contract (or any part of it) cannot reasonably continue the Authority may terminate the Contract (or that part of it) by serving 3 months' written notice on the Contractor.
- 25.14 If the Authority terminates the Contract (or any part of it) under Clause 25.13 the Authority shall pay to the Contractor for Services supplied prior to the termination and in accordance with the Contract, and any disengagement costs and other costs reasonably incurred by the Contractor as a direct consequence of such termination (excluding any loss of profit and any possible redundancy or other severance costs), provided that the Contractor shall use all reasonable endeavours to mitigate the amount of such costs and has provided written evidence of the reasonableness and unavoidability of such costs.
- 25.15 If, 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 and shall reimburse the Authority in respect of any charge levied for its transmission and any other costs charged in connection with such Default.
- 25.16 If the Authority fails to pay the Contractor undisputed sums of money when due the Contractor shall give notice to the Authority of its failure to pay. If the Authority fails to pay such undisputed sums within 30 Business Days of the date of such 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 of deduction and / or set-off under Clause 8.8 or to Force Majeure.
- 25.17 Save as otherwise expressly provided in the Contract:
- 25.17.1 termination or expiry of the Contract (or any part of it) shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to such termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and
- 25.17.2 termination of the Contract (or any part of it) shall not affect the continuing rights, remedies or obligations of the Authority or the Contractor under Clauses 8 (Payment), 10 (Tax and VAT), 11 (Prevention of Fraud), 13 (Intellectual Property Rights), 14 (Data), 16 (Confidentiality), 17 (Freedom of Information), 18 (Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989), 19 (Liability), 20 (Warranties and Representations), 25 (Termination), 27 (Exit Management), 28 (Audit), 40 (Governing Law and Jurisdiction) and Schedule 10 (Staff Transfer).
- 25.18 The Authority may terminate the Contract (or any part of it) with immediate effect and without paying compensation to the Contractor in the event that the Contractor's performance of the Service is such that any Service Threshold is reached or exceeded.

- 25.19 The Authority may terminate the Contract if a Force Majeure Event endures for a continuous period of more than ninety (90) days.

26 RETENDERING AND HANDOVER

- 26.1 Within 30 days of being requested by the Authority, the Contractor shall provide, and thereafter keep updated, in a fully indexed and catalogued format, all the information reasonably necessary to enable the Authority to issue tender documents for the future provision of replacement services. This will include but is not limited to the information required to be disclosed by the Contractor in accordance with Part D of Schedule 10 (Staff Transfer).
- 26.2 The Authority shall take reasonable precautions to ensure that the information referred to in Clause 26.1 is given only to potential contractors who have qualified to tender for the future provision of the replacement services.
- 26.3 The Authority shall require that all potential Contractors treat the information in confidence; that they do not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to tender issued by the Authority; and that they shall not use it for any other purpose.
- 26.4 The Contractor shall allow access to the Premises in the presence of the Authority's authorised representative, to any person representing any potential contractor whom the Authority has selected to tender for the future provision of the Services.
- 26.5 If access is required to the Contractor's Premises for the purposes of Clause 26.4, the Authority shall give the Contractor 7 days' notice of a proposed visit together with the names of all persons who will be visiting.
- 26.6 The Contractor shall co-operate fully with the Authority during any handover at the end of the Contract including allowing full access to, and providing copies of, all documents, reports, summaries and any other information necessary in order to achieve an effective transition without disruption to routine operational requirements.
- 26.7 Within 10 Business Days of being requested by the Authority, the Contractor shall transfer to the Authority, or any person designated by the Authority, free of charge, all computerised filing, recording, documentation, planning and drawing held on software and utilised in the provision of the Services. The transfer shall be made in a fully indexed and catalogued disk format, to operate on a proprietary software package identical to that used by the Authority.

27 EXIT MANAGEMENT

- 27.1 If the Authority requires a continuation of all or any of the Services at the end of the Term or on the earlier termination of any part of the Contract or cessation of the provision of any part of the Services by the Contractor, either by performing them itself or by engaging a third party to perform them as a Replacement Contractor or otherwise, the Contractor shall co-operate fully with the Authority and any such third party and shall take all reasonable steps to ensure the timely and effective transfer of the Services or the relevant part of the Services without disruption to routine operational requirements.
- 27.2 The Contractor will, within 3 months of the Effective Date, deliver to the Authority, a plan in accordance with paragraph 15 of Schedule 1 (Specification) which sets out the Contractor's proposals for achieving an orderly transition of Services from the Contractor to the Authority and/or its Replacement Contractor at the end of the Term or on the earlier termination of any part of the Contract or cessation of the provision of any part of the Services by the Contractor (an "**Exit Plan**").
- 27.3 Within 30 days of the submission of the Exit Plan, both Parties will use reasonable endeavours to agree the Exit Plan. If the Parties are unable to agree the Exit Plan the dispute shall be referred to the dispute resolution procedure in Clause 39.
- 27.4 The Contractor will review and (if appropriate) update the Exit Plan in each year of the Term in the month of the Effective Date to reflect changes to the Services. Following such update

the Contractor will submit the revised Exit Plan to the Authority for review. Within 30 days following submission of the revised Exit Plan, the Parties shall meet and use reasonable endeavours to agree the revised Exit Plan and the changes that have occurred in the Services since the Exit Plan was last agreed. If the Parties are unable to agree the revised Exit Plan within 30 days, such dispute shall be referred to the dispute resolution procedure in Clause 39.

27.5 If the Contractor:

27.5.1 does not have to use resources in addition to those normally used to deliver the Services prior to termination or expiry, there shall be no change to the Charges; or

27.5.2 reasonably incurs additional costs

the Parties shall agree a variation of the Charges through the Change Control Procedure.

27.6 If the Authority requests, the Contractor shall deliver to the Authority details of all licences for software used in the provision of the Services including the software licence agreements.

27.7 As part of the Exit Plan, the Contractor shall record the details of all enquiries received from potential Participants for a Programme that begins after the Expiry Date or Termination, whichever is the earlier, and pass this information on to the Authority and/or the Replacement Contractor.

27.8 Within one month of receiving the software licence information described above, the Authority shall notify the Contractor of the licences it wishes to be transferred, and the Contractor shall provide for the approval of the Authority a plan for licence transfer.

27.9 The Contractor shall co-operate fully with the Authority in order to enable an efficient and detailed knowledge transfer from the Contractor to the Authority or any other Replacement Contractor at the end of the Term or on the earlier termination of any part of the Contract or cessation of the provision of any part of the Services by the Contractor and shall provide the Authority free of charge with full access to Contractor Staff, copies of all documents, reports, summaries and any other information requested by the Authority. The Contractor shall comply with the Authority's request for information no later than 15 Business Days from the date that that request was made.

28 AUDIT RIGHTS AND FINANCIAL REPORTS

28.1 The Contractor shall keep and maintain until 6 years after the end of the Term, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Services supplied under it and all Charges.

28.2 The Contractor agrees to make available to the Authority, free of charge, whenever requested, copies of audit reports obtained by the Contractor in relation to the Services.

28.3 The Contractor shall permit duly authorised representatives of the Authority and/or the National Audit Office to examine the Contractor's records and documents relating to the Contract and to provide such copies and oral or written explanations as may reasonably be required.

28.4 The Contractor (and its agents) shall permit the Comptroller and Auditor General (and his appointed representatives) access free of charge during normal business hours on reasonable notice to all such documents (including computerised documents and data) and other information as the Comptroller and Auditor General may reasonably require for the purposes of his financial audit of the Authority and for carrying out examinations into the economy, efficiency and effectiveness with which the Authority has used its resources. The Contractor shall provide such explanations as are reasonably required for these purposes.

29 CONTRACT MANAGEMENT PROVISIONS

29.1 The Parties shall comply with the provisions of this Clause and Schedule 14 (Contract Management Provisions) in relation to the management and governance of this Contract.

- 29.2 Each Party shall have a representative for the Term who shall have the authority to act on behalf of their respective Party on the matters set out in, or in connection with, this Agreement.
- 29.3 The initial Contractor Representative shall be the person named as such in Schedule 7 (Key Contractor Staff and Key Sub-Contractors). Any change to the Contractor Representative shall be agreed in accordance with Clause 7 (Contractor Staff).
- 29.4 The Authority shall notify the Contractor of the identity of the initial Authority Representative within 5 Business Days of the Effective Date. The Authority may, by written notice to the Contractor, revoke or amend the authority of the Authority Representative or appoint a new Authority Representative.

Monitoring of Contract Performance

- 29.5 The Authority (including any representative of the Authority) shall monitor the Contractor's performance of the Services in accordance with the provisions of Schedule 14 (Contract Management Provisions) or such other requirements as notified by the Authority to the Contractor from time to time.
- 29.6 The Parties shall have regular meetings to monitor and review:
- 29.6.1 the performance of the contract;
 - 29.6.2 the achievement of Key Performance Indicators, Subsidiary Performance Indicators and Social Value Performance Indicators;
 - 29.6.3 the supply of the Services;
 - 29.6.4 the performance by the Contractor of any of its other obligations under the Contract; and
 - 29.6.5 any other matter the Parties consider appropriate;
- and the Contractor shall comply with the provisions of Schedule 14 (Contract Management Provisions) in this regard.
- 29.7 The Authority reserves the right to verify any aspect of this Contract either with the Contractor or independently including through requesting information, records or data from the Contractor and/or from a third party.
- 29.8 The Authority may organise regular monitoring and spot checks of the premises at which the Services (or part of them) are being performed, at any time to ensure that 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 delivery of the Services by the Contractor.
- 29.9 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 of the Services and the Contractor will co-operate with the assessor and take all reasonable and 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 Schedule 6 (Change Control).
- 29.10 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 including putting in place arrangements to permit legal access to information as may be required.
- 29.11 From the Effective Date of the Contract, the Authority and the Contractor shall meet at the times and with such frequency as specified in Schedule 14 (Contract Management

Provisions) 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 reasonable notice to the Contractor.

Performance Levels

- 29.12 The Contractor shall ensure that the Services meet or exceed the Key Performance Indicators, Subsidiary Performance Indicators and Social Value Performance Indicators at all times from the Service Commencement Date.
- 29.13 The Authority shall conduct regular Contract Performance Review meetings (“CPRs”) in accordance with Schedule 14 (Contract Management Provisions) to monitor and review the performance of the Contract, the achievement of the Key Performance Indicators, Subsidiary Performance Indicators, Social Value Performance Indicators and the provision of the Services.
- 29.14 The Contractor shall comply with the provisions of Schedule 14 (Contract Management Provisions) in relation to the review, monitoring and reporting of its performance against the Key Performance Indicators, Subsidiary Performance Indicators and Social Value Performance Indicators.
- 29.15 If there is a Service Failure, the Contractor shall:
- 29.15.1 take all reasonable steps to notify the Authority immediately of the Service Failure (and in any event as soon as the Contractor becomes aware that the Service Failure has occurred);
 - 29.15.2 provide the Authority with a Performance Improvement Plan in accordance with Clause 29.22.
 - 29.15.3 deploy all additional resources and take all remedial action that is necessary to rectify or to prevent the Service Failure from recurring; and
 - 29.15.4 carry out the actions identified in the Performance Improvement Plan in accordance with its terms.
- 29.16 The Authority may, at its sole discretion, elect to make changes to the Performance Indicators from time to time. If the Authority elects to make changes to the Performance Indicators, the Authority shall propose such variation by serving a Change Control Notice on the Contractor, and the Contractor shall promptly comply with the Change Control Procedure as detailed in Schedule 6.

Performance Improvement Process

- 29.17 In the event that:
- 29.17.1 there is, or is reasonably likely to be, a Service Failure; or
 - 29.17.2 the Contractor commits a Default that is capable of remedy,
- 29.18 the Authority may at any time (in its absolute discretion) elect to issue a Performance Improvement Notice to the Contractor in respect of such Service Failure or Default and thereby initiate the Performance Improvement Process in accordance with this Clause and the following Clauses.
- 29.19 A Performance Improvement Notice given in accordance with this Clause shall indicate:
- 29.19.1 that it is a Performance Improvement Notice;
 - 29.19.2 the Service Failure;
 - 29.19.3 the Default;
 - 29.19.4 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 matter of the Service Failure, which for the

avoidance of doubt, may include the requirement to remedy the Service Failure where it is capable or remedy; and

- 29.19.5 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.
- 29.20 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.
- 29.21 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.
- 29.22 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 less than ten (10) Business Days following receipt of a Performance Improvement Notice the Contractor shall either:
- 29.22.1 submit a draft Performance Improvement Plan, or
- 29.22.2 inform the Authority that it does not intend to submit a Performance Improvement Plan.
- 29.23 In the event that the Contractor either fails to submit a draft Performance Improvement Plan or the Contractor informs the Authority that it does not intend to submit a draft Performance Improvement Plan the Authority shall be entitled to terminate the Contract by giving written notice to the Contractor.
- 29.24 The Authority shall either approve the draft Performance Improvement Plan within ten (10) Business Days (or such other period as notified by the Authority to the Contractor) of its receipt pursuant to Clause 29.22 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 minimum period of ten (10) Business Days (or such greater 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.
- 29.25 The Authority and the Contractor may agree temporary variations to the Contract in relation to the subject matter and nature of the Service Failure as part of the Performance Improvement Plan.
- 29.26 Once agreed, the Contractor shall immediately implement the Performance Improvement Plan.
- 29.27 If, despite the measures taken under Clause 29.24 a revised Performance Improvement Plan cannot be agreed within the minimum period of ten (10) Business Days (or such greater 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 (a) refer the matter for resolution by the dispute resolution procedure set out in Clause 39 (Dispute Resolution) or (b) terminate the Contract by giving written notice to the Contractor with immediate effect and without liability.
- 29.28 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 (a "Performance Improvement Plan Failure"), the Authority may, at its absolute discretion, but shall not be obliged to:

- 29.28.1 terminate the Contract by giving written notice to the Contractor;
- 29.28.2 give the Contractor a further opportunity to resume full implementation of the Performance Improvement Plan; or
- 29.28.3 escalate any issues arising out of the failure to implement the Performance Improvement Plan in accordance with the dispute resolution procedure set out in Clause 39 (Dispute Resolution).

29.29 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 29 which occurs not less than six (6) months of the Performance Improvement End Date shall entitle the Authority to terminate the Contract by giving written notice to the Contractor.

Provision of Management Information

29.30 The Contractor shall operate and maintain appropriate systems, processes and records to ensure that it can, at all times deliver timely and accurate Management Information to the Authority in accordance with the provisions of this Clause 29 and Schedule 16 (Records Provision and Management Information).

30 ENTIRE AGREEMENT

- 30.1 The Contract contains all the terms which the Parties have agreed in relation to the subject matter of the Contract and supersedes any prior written or oral agreements, representations or understandings between the Parties.
- 30.2 Nothing in this Clause 30 shall exclude any liability which one Party would otherwise have to the other Party in respect of any statements made fraudulently.

31 PARTNERSHIP

- 31.1 Nothing in the Contract is intended to or shall operate to create a legal partnership between the Parties or to authorise either Party to act as an agent for the other, and neither Party shall have Authority to act in the name or on behalf of or otherwise to bind the other in any way (including making any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

32 WAIVER

- 32.1 No failure or delay by any Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

33 CHANGE

Change Control

- 33.1 Either Party may at any time request in writing a Variation in accordance with the change control procedure set out in Schedule 6 (the "**Change Control Procedure**"). No Variation shall be effective unless made in accordance with the Change Control Procedure.

Changes in Law

- 33.2 The Contractor shall neither be relieved of its obligations to supply the Services in accordance with the terms and conditions of this Contract nor be entitled to an increase in the Charges as the result of:
 - 33.2.1 a General Change in Law; or
 - 33.2.2 a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Effective Date.

- 33.3 If a Specific Change in Law occurs or will occur during the Term (other than as referred to in Clause 33.2.2, the Contractor shall:
- 33.3.1 notify the Authority as soon as reasonably practicable of the likely effects of that change, including:
- (a) whether any Change is required to the Services, the Charges or this Contract; and
 - (b) whether any relief from compliance with the Supplier's obligations is required, including any obligation to Achieve a Milestone and/or to meet the Target Performance Levels; and
- 33.3.2 provide the Authority with evidence:
- (a) that the Contractor has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-contractors;
 - (b) as to how the Specific Change in Law has affected the cost of providing the Services; and
 - (c) demonstrating that any expenditure that has been avoided, for example which would have been required under the provisions of Clause 3.9 (Services Improvement), has been taken into account in amending the Charges.
- 33.4 Any variation in the Charges or relief from the Contractor's obligations resulting from a Specific Change in Law (other than as referred to in Clause 33.2.2 shall be implemented in accordance with the Change Control Procedure.

34 COUNTERPARTS

- 34.1 The Contract may be executed in any number of counterparts, each of which so executed and delivered shall constitute an original, but together shall constitute one and the same instrument.

35 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 35.1 The provisions of Clauses 7.5 and 13.6 confer benefits on a Replacement Contractor and are intended to be enforceable by a Replacement Contractor by virtue of the Contracts (Rights of Third Parties) Act 1999 (“**CRTPA**”).
- 35.2 Subject to Clause 35.1, a person who is not a Party has no right under CRTPA to enforce provisions of the Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to the CRTPA and does not apply to the Crown.
- 35.3 A Replacement Contractor may not enforce or take steps to enforce the provisions of Clauses 7.5 or 13.6 without the Authority’s prior written consent.
- 35.4 The Parties may amend the Contract without the consent of any Replacement Contractor.

36 CONFLICTS OF INTEREST

- 36.1 The Contractor shall:
- 36.1.1 not permit its obligations to its other clients and third parties (including other governmental bodies and organisations providing services to other governmental bodies) to interfere or conflict in any material way with its duty (which the Contractor hereby acknowledges) to comply with its obligations under the Contract to the required standards; and
- 36.1.2 take appropriate steps to ensure that neither the Contractor nor any of the Contractor Staff is placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor or any of the Contractor Staff and

the duties owed to the Authority under the provisions of the Contract in either case, referred to in this Clause 36 as a “**Conflict of Interest**”.

- 36.2 If the Contractor becomes aware of any Conflict of Interest (or potential Conflict of Interest) or other situation which has arisen or may arise and which may cause a breach of this Clause 36 the Contractor shall forthwith provide full particulars to the Authority.
- 36.3 In performing its obligations under the Contract the Contractor shall conduct its business, operations and activities in a politically neutral fashion.
- 36.4 Without prejudice to the foregoing provisions of this Clause 36.1, if any Conflict of Interest (or potential Conflict of Interest) arises or is likely to arise, the Contractor shall:
- 36.4.1 take all reasonable steps to remove or avoid the Conflict of Interest or to prevent it occurring in each case, or to manage the conflict to the satisfaction of the Authority (acting reasonably); and
 - 36.4.2 give the Authority a comprehensive and detailed written statement of the action it had taken.
- 36.5 If the Authority is not satisfied with the Contractor's actions, the Contractor shall, on request by the Authority promptly end any relationship it may have with any third party, where that relationship has given rise to the Conflict of Interest (or potential Conflict of Interest).
- 36.6 Without prejudice to any other right or remedy it may have, the Authority may terminate the Contract with immediate effect by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is any continuing breach by the Contractor of the provisions of this Clause 36.

37 FURTHER ASSURANCE

- 37.1 The Parties shall do or procure the doing of all such acts and things and will execute or procure the execution of all such documents as may be reasonably required including on or subsequent to the end of the Contract to vest in the relevant all rights granted under the Contract and otherwise to comply with its terms.

38 NOTICES

- 38.1 Any notice, demand or communication in connection with the Contract shall be in writing and may be delivered by hand, pre-paid first class post or (where being sent to an address in a different country to where posted) airmail, facsimile or e-mail, addressed to the recipient at its registered office or its address (or such other address, facsimile number or e-mail address as may be notified in writing from time to time).
- 38.2 The notice, demand or communication shall be deemed to have been duly served:
- 38.2.1 if delivered by hand, when left at the proper address for service;
 - 38.2.2 if given or made by prepaid first class post 48 hours after being posted or in the case of airmail 14 days after being posted;
 - 38.2.3 if given or made by facsimile or e-mail, at the time of transmission, provided that a confirming copy is sent by first class pre-paid post or (where being sent to an address in a different country to where posted) airmail to the other Party within 24 hours after transmission and that, in the case of transmission by e-mail where the time of transmission is not between 9.00 am and 5.00 pm, service shall be deemed to occur at 9.00 am on the next following Business Day (such times being local time at the address of the recipient).
- 38.3 If proceedings to which the Civil Procedure Rules apply have been issued, the provisions of Civil Procedure Rule 6 must be complied with in respect of the service of documents in connection with those proceedings.

39 DISPUTE RESOLUTION

- 39.1 Any Dispute shall be dealt with in accordance with this Clause 39.
- 39.2 In the first instance, a representative of each Party will each use their reasonable endeavours to resolve the Dispute. If the Dispute cannot be resolved by such representatives within 15 days of the Dispute arising, it will be referred to a senior representative of each Party, who shall each use their reasonable endeavours to resolve the Dispute.
- 39.3 If a Dispute cannot be resolved by negotiation as referred to in Clause 39.2 within 30 days of the Dispute arising, either Party may refer the Dispute for determination in accordance with the mediation procedure administered by the Centre for Effective Dispute Resolution, the costs of the mediator being split equally between the Parties, who shall otherwise bear their own costs.

40 GOVERNING LAW AND JURISDICTION

- 40.1 The Contract and any non-contractual obligations arising out of or connection with it will be governed by and construed in accordance with English Law.
- 40.2 The courts of England shall have exclusive jurisdiction to settle any dispute which arises out of or in connection with the Contract.
- 40.3 If any provision of the Contract is held by any court or other competent Authority to be void or unenforceable in whole or part, the other provisions of the Contract and the remainder of the affected provisions shall continue to be valid.

41 DUE DILIGENCE

- 41.1 The Contractor acknowledges that:
- 41.1.1 The Authority has delivered or made available to the Contractor all of the information and documents that the Contractor considers necessary or relevant for the performance of its obligations under this Contract;
 - 41.1.2 It has made its own enquiries to satisfy itself as to the accuracy and adequacy of the Due Diligence Information;
 - 41.1.3 It has satisfied itself (whether by inspection or having raised all relevant due diligence questions with the Authority before the Effective Date) of all relevant details relating to:
 - (a) The Authority Requirements;
 - (b) The suitability of the existing and (to the extent that it is defined or reasonably foreseeable at the Effective Date) future Operating Environment;
 - (c) The operating processes and procedures and the working methods of the Authority;
 - (d) The ownership, functionality, capacity, condition and suitability for use in the services of the Authority Property; and
 - (e) The existing contracts (including any licences, support, maintenance and other agreements relating to the Operating Environment) referred to in the Due Diligence information which may be novated to, assigned to or managed by the Contractor under this Contract and/or which the Contractor will require the benefit of for the provision of the Services; and
 - 41.1.4 It has advised the Authority in writing of:
 - (a) Each aspect, if any, of the Operating Environment that is not suitable for the provision of the services;
 - (b) The actions needed to remedy each such unsuitable aspect; and

- (c) A timetable for and, to the extent that such costs are to be payable to the Contractor, the costs of those actions,
- (d) And such actions, timetable and costs are fully reflected in this Contract, including the Specification as applicable.

41.2 The Contractor shall not be excused from the performance of any of its obligations under this Contract on the grounds of, nor shall the Contractor be entitled to recover any additional costs or charges, arising as a result of:

41.2.1 Any unsuitable aspects of the Operating Environment;

41.2.2 Any misinterpretation of the Authority Requirements; and/or

41.2.3 Any failure by the Contractor to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information.

42 SOCIAL VALUE

42.1 The Contractor shall deliver Social Value during the Term with the intention of on helping local communities to manage and recover from the impact of COVID-19.

42.2 As part of this obligation, the Contractor shall:

42.2.1 develop, implement and an maintain a Social Value Plan that sets out, but is not limited to;

- (a) a timed project plan detailing their intended Social Value Proposals that meet with the requirements of section 17 of the Specification to deliver Social Value;
- (b) monitoring and reporting arrangements;
- (c) records and details of activities undertaken in respect of social value and any information to allow for the reporting of the Contractor's performance against the Social Value Performance Indicators.

42.2.2 deliver the Social Value proposals included in the Contractor's Social Value Plan.

Submitting and Updating the Social Value Plan

42.3 The Contractor shall deliver to the Authority, within three (3) Months of the Effective Date, its Social Value Plan which meets with the requirements set out in clause 42.2.

42.4 The Authority shall notify the Contractor of its approval or rejection of the proposed Social Value Plan (or any updates to it) within twenty (20) Working Days of receipt.

42.5 Within ten (10) Working Days of receipt of the Authority's notice of rejection and of the deficiencies of the proposed Social Value Plan, the Contractor shall submit to the Authority a revised Social Value Plan reflecting the changes required.

42.6 Following the approval of the submission of the first Social Value Plan (in accordance with paragraph 42.3 of this schedule) the Contractor shall regularly review, maintain and provide the Authority with an updated version of the Social Value Plan on at least a quarterly basis thereafter.

42.7 The Contractor shall ensure that the information that it provides to the Authority within the Social Value Plan is sufficient for the Authority to be able to measure the Contractors performance against the Social Value Performance Indicators.

SCHEDULE 3 FINANCIALS

1 GENERAL

- 1.1 The Authority shall pay the Contractor the Charges in accordance with the Pricing Model set out in Annex 1 to this Schedule 3, subject to successful delivery of the Services against the Performance Indicators set out in Schedule 4.
- 1.2 The Charges are inclusive of all expenses incurred by the Contractor in relation to its provision of the Services unless agreed otherwise between the Contractor and the Authority. The Contractor shall not be entitled to claim any expenses in addition to the Charges.
- 1.3 The Contractor shall be entitled to invoice the Charges following acceptance by the Authority of satisfactory completion of the Services or, where performance of the Services will continue, either monthly in arrears or on satisfactory completion of milestones, outputs or outcomes as set out in Annex 1 to this Schedule 3.
- 1.4 At any time during the Term (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 for payment made by the Contractor. At all times the Contractor shall provide all necessary assistance as requested by the Authority (including without limitation, procuring the consent of participants) to enable the Authority to validate any claim for payment made by the Contractor.

2 APPLICABLE PRICING METHODOLOGY

2.1 General

The Charges payable to the Contractor by the Authority shall consist of:

- 2.1.1 The Programme Delivery Costs.

2.2 Programme Delivery Costs

- 2.2.1 The Contractor shall provide, on a monthly basis, a full breakdown of the actual costs incurred against each of the cost elements in column D of the Delivery Costs tab in the Pricing Model at Annex 1 to this Schedule 3.
- 2.2.2 The Contractor shall provide a written explanation of any variance between the actual costs and the projected costs included in the Pricing Model at Annex 1 to this Schedule 3.
- 2.2.3 The Authority shall pay the Contractor on the basis of the actual costs incurred by the Contractor.

3 ADDITIONAL COSTS

- 3.1 Subject to the provisions of this Contract (including without limitation this Schedule 3 (Financials) and Schedule 4 (Performance Levels), the Charges are fixed and unless otherwise agreed in accordance with paragraph 3 of this Schedule 3 and Schedule 6 (Change Control) any additional or unforeseen costs incurred by the Contractor in delivering the Services shall be borne solely by the Contractor.

4 INTERRUPTION OF SERVICE

- 4.1 If there is at any time an interruption to the delivery of the Services as a result of a Default on the part of the Contractor, the Authority shall not be liable for payment of any Charges which relate to such period of interruption caused by the Default by the Contractor.

5 CHARGES TO PARTICIPANTS

- 5.1 The Contractor shall not levy any charge on Participants in respect of the Services unless expressly agreed by the Authority (at its sole discretion) in writing and in advance of the charges being levied.

6 CHARGES TO SCHOOLS

- 6.1 The Contractor shall not levy any charge on Schools in respect of the Services unless expressly agreed by the Authority (at its sole discretion) in writing and in advance of the charges being levied.

7 PRICING OF VARIATIONS

- 7.1 The provisions of this Paragraph 3 shall apply to the pricing of any Variation (or proposed Variation) and the calculation of any change to the Charges consequent upon a Variation (or proposed Variation).
- 7.2 The Parties acknowledge that a Variation or proposed Variation may have an impact on the Charges in one or more of the following ways –
- 7.2.1 One-off cost, in which case Paragraph 7.5 shall apply;
 - 7.2.2 Subject to the Contractor's obligation to mitigate increases in the Charges, a Process Variation may result in an amendment to the Charges, in which case Paragraph 7.6 shall apply;
 - 7.2.3 The cost of any up-front investment by the Contractor in order to achieve a Variation as set out in Paragraph 7.2.2, in which case Paragraph 7.7 shall apply.
- 7.3 In any of the cases referred to in Paragraphs 7.2.1 to 7.2.3 above, and without prejudice to Paragraph 8, the Contractor shall use the Pricing Model template provided by the Authority to demonstrate and justify any claim for additional or reduced Charges arising as a result of any proposed Variation.
- 7.4 Where a Variation is requested by either Party under the Change Control Procedure then, subject to the terms of the Change Control Procedure, the Contractor shall at its own cost prepare, populate and submit for the Authority's approval a specific version of the Pricing Model (a "**Contractor Finance Template Submission**") demonstrating the impact of the proposed Variation which shall:
- 7.4.1 Be based on and reflect the principles of the Pricing Model having regard to any assumptions stated in the Pricing Model which affect the Charges;
 - 7.4.2 Include estimated volumes of each type of resource to be employed and the applicable average annual salary for resource employed specified in the Pricing Model;
 - 7.4.3 Include full disclosure of any assumptions underlying such a quotation. The Authority reserves the right to request further clarity around these assumptions and the underlying calculations until it is satisfied as to their validity; and
 - 7.4.4 Include evidence of the cost of any assets required for the Variation.
- 7.5 Where Paragraph 7.2.1 applies:
- 7.5.1 The Contractor shall be paid in full upon completion, or by an agreed schedule of milestone payments (both payment options subject to meeting specified acceptance criteria agreed at the outset).
 - 7.5.2 The Authority shall issue a separate purchase order and the Contractor shall raise a separate invoice or credit note in respect of the one-off cost.
- 7.6 Where Paragraph 7.2.2 applies:
- 7.6.1 Any necessary changes to the Charges will be in accordance with the original requirements for the completion of the Pricing Model as set out in the Invitation to Tender.
 - 7.6.2 The Charges shall not be adjusted more than once a quarter. The date any adjustment to the Charges ("Price Adjustment Effective Date") takes effect shall be at the start of the quarter (1 January, 1 April, 1 July, and 1 October) immediately

following implementation of the Variation in question. For example, where a Process Variation is implemented during the month of September in a Contract Year; the relevant Charge(s) shall be adjusted with effect from 1 October in that Contract Year. If there are several adjustments in one quarter, these will be aggregated to make one adjustment at the start of the next quarter.

7.6.3 A Process Variation shall be implemented timeously and such implementation shall not await the Price Adjustment Effective Date.

7.6.4 If a Process Variation is implemented and there is a demonstrable financial loss to a Party due to the relevant Charge(s) not being adjusted until the Price Adjustment Effective Date (first day of next quarter), then the Party impacted in this way can seek recovery of the amount due in the following manner:

(a) If it is the Contractor, by submitting a separate invoice and supporting documentation; or

(b) If it is the Authority, by issuing a credit note request and supporting documentation.

7.6.5 Any request to seek recovery of such an amount must be submitted within 3 Months of the Price Adjustment Effective Date.

7.7 Where Paragraph 7.2.3 applies, the Process Variation element shall be dealt with in accordance with Paragraph 7.6 above and any up-front investment required to implement such a Process Variation shall itself be dealt with through an adjustment to the relevant Charges under Paragraph 7.6 above or treated as a one-off cost in accordance with Paragraph 7.5 above.

7.8 Following implementation of a Variation, the Authority shall make any necessary consequential changes and/or updates to Annex 1 of this Schedule 3.

8 INDEXATION

8.1 Indexation shall not apply to the Charges at any point during the Term.

Annex 1

Pricing Model

Redacted

SCHEDULE 4 PERFORMANCE LEVELS

1 OBJECTIVES

- 1.1 The objectives of the Performance Indicators are to:
 - 1.1.1 ensure that the Services delivered by the Contractor are of a consistently high quality and meet the requirements of the Authority;
 - 1.1.2 provide a mechanism whereby the Authority can, without prejudice to its other rights and remedies, attain meaningful recognition of inconvenience and/or loss resulting from the Contractor's failure to deliver the level of Service in relation to particular Performance Indicators which it has contracted to deliver; and
 - 1.1.3 incentivise the Contractor to meet the Performance Indicators and to remedy any failure to meet the Performance Indicators expeditiously.

2 PERFORMANCE INDICATORS

- 2.1 This Schedule 4 sets out the Performance Indicators against which the Contractor shall measure its performance.
- 2.2 The Contractor shall provide the Services in such a manner so as to meet or exceed the Performance Indicators from the Service Commencement Date.
- 2.3 The Contractor shall monitor its performance against of each of the Performance Indicators and send the Authority MI Reports detailing the Performance Indicators which were achieved in accordance with the provisions of Schedule 16 (Records Provision and Management Information).
- 2.4 The Contractor shall achieve or better the standards specified for each identified Performance Indicator as set out in Table 1 and Table 2 below within the agreed Service Period.
- 2.5 Where a Performance Indicator is stated with reference to percentages, it shall be calculated, and rounded up or down to the nearest 0.1%.
- 2.6 If the Contractor fails to achieve three or more Key Performance Indicators in any three (3) consecutive Service Periods, this will constitute a Default and the Authority may terminate the Contract and/or seek damages in addition to any Service Credits which have already been accrued by the Contractor and are payable by the Contractor to the Authority.

3 SERVICE CREDITS

- 3.1 Service Credits are a reduction of the Charges payable in respect of the Service (or relevant part of the Service) to reflect the reduced value of the Service actually received and are stated exclusive of VAT.
- 3.2 If during a Service Period the Contractor achieves a Key Performance Indicator, no Service Credit will accrue to the Contractor in respect of that Key Performance Indicator
- 3.3 In the event of a failure by the Contractor to achieve any Key Performance Indicator, the Service Credits shall be applied to the Charges payable to the Contractor as prescribed in this Schedule 4.
- 3.4 The Contractor shall monitor the performance of its obligations under this Contract, at no additional cost to the Authority, and shall provide the Authority with Management Information in order for the Authority to determine the Service Credits applicable.
- 3.5 Following agreement of the Service Credit, the Contractor will process the credit against the next invoice (in accordance with the offset provisions detailed in Clause 8.8 until such time as the full amount of the Service Credit is paid.

- 3.6 In the event of a dispute arising between the Authority and the Contractor over any matter relating to Service Credits under this Schedule, such dispute shall be dealt with in accordance with the Dispute Resolution Procedure set out in Clause 39.
- 3.7 In the event that new Performance Indicators are introduced, the Authority and the Contractor shall agree the Service Credits which will apply for failures to meet such Performance Indicators. In the event of a dispute arising in matters relating to the introduction of new Service Credits such dispute shall be dealt with in accordance with the Dispute Resolution Procedure set out in Clause 39 of the Contract.
- 3.8 The Parties acknowledge and agree that the Performance Indicators and Service Credits set out in this Schedule 4 represent a fair and reasonable method to adjust the Charges to account for the Contractor's underperformance against the Performance Indicators.
- 3.9 The maximum value of Service Credits to be paid by the Contractor in the Initial Contract Period shall not exceed 5% of the Total Contract Value for this Contract (the "Service Credit Cap"). If the Contract is extended in accordance with Clause 2.1, the Service Credit Cap will be reset.

4 SERVICE THRESHOLDS

- 4.1 The Authority reserves the right to exercise its remedies under Clause 24.1.2 and Clause 25.18 in the event that the Service Threshold is not reached or exceeded by the Contractor in relation to any individual Performance Indicator.

5 ANNUAL REVIEW

- 5.1 The Performance Indicators may be revised each Contract Year in accordance with the Annual Review process as set out in Clause 23.
- 5.2 The Contractor shall submit to the Authority by the tenth (10th) Business Day of October in each Contract Year an Annual Review Report that includes the content as set out in Schedule 16 (Records Provision and Management Information).

Table 1 – Key Performance Indicators and Service Credits

KPI Reference	KPI Description and Standard	Service Threshold	Monitoring Method	Service Credit Reference	Service Credit Description
KPI1/22	2022 Cohort Participant Starts 200 Participants will Start Year 1 of the Programme	100	Measure taken on 30 September 2022 Success will be measured against the validated total number of Starts on Year 1 of the Programme taken from the Authority's Database of Trainee Teachers and Providers	SC1-22	If Performance is 95% or more of the 200 target (i.e. 190 and over), then no Service Credit will be levied If Performance is between 90.0% and 95% of the 200 target (i.e. 180 - 189), then 3% of the Charges for the previous 12 months will be levied as a Service Credit If Performance is below 90.0% of the 200 target (i.e. 179 and below), then 5% of Charges for the previous 12 months will be levied as a Service Credit
KPI1/23	2023 Cohort Participant Starts 250 Participants will Start Year 1 of the Programme	125	Measure taken on 30 September 2023 Success will be measured against the validated total number of Starts on Year 1 of the Programme taken from the Authority's Database of Trainee Teachers and Providers	SC1-23	If Performance is 95% or more of the 250 target (i.e. 238 and over), then no Service Credit will be levied If Performance is between 90.0% and 95% of the 250 target (i.e. 225 - 237), then 3% of the Charges for the previous 12 months will be levied as a Service Credit If Performance is below 90.0% of the 250 target (i.e. 224 and below), then 5% of Charges for the previous 12 months will be levied as a Service Credit

KPI2/22	2022 Cohort Participant Achievement of QTS 85% of Participants who start Year 1 of the Programme will achieve QTS by the end of Year 1 of the Programme ⁴	65%	Measure taken on 30 Sept 2023 Success will be measured against the validated total number of Participants who achieve QTS by the end of Year 1 of the Programme taken from the Authority's central record of teachers and trainee teachers.	SC2-22	If 80% or more of Participants who start Year 1 of the Programme achieve QTS by the end of Year 1 of the Programme, then no Service Credit will be levied If between 70.1% and 79.9% of Participants who start Year 1 of the Programme achieve QTS by the end of Year 1 of the Programme, then 3% of the Charges for the previous 12 months will be levied as a Service Credit If 70% or less of Participants who start Year 1 of the Programme achieve QTS by the end of Year 1 of the Programme, then 5% of the Charges for the previous 12 months will be levied as a Service Credit
KPI2/23	2023 Cohort Participant Achievement of QTS 85% of Participants who start Year 1 of the Programme will achieve QTS by the end of Year 1 of the Programme	65%	Measure taken on 30 September 2024 Success will be measured against the validated total number of Participants who achieve QTS by the end of Year 1 of the Programme taken from the Authority's central record of teachers and trainee teachers	SC2-23	If 80% or more of Participants who start Year 1 of the Programme achieve QTS by the end of Year 1 of the Programme, then no Service Credit will be levied If between 70.1% and 79.9% of Participants who start Year 1 of the Programme achieve QTS by the end of Year 1 of the Programme, then 3% of the Charges for the previous 12

⁴ Participants that have deferred/delayed QTS will be excluded from this calculation.

					<p>months will be levied as a Service Credit</p> <p>If 70% or less of Participants who start Year 1 of the Programme achieve QTS by the end of Year 1 of the Programme, then 5% of the Charges for the previous 12 months will be levied as a Service Credit</p>
KPI3/22	<p>2022 Cohort Participant Year 2 Retention</p> <p>75% of Participants who achieved QTS by the end of Year 1 of the Programme will complete Year 2 of the Programme⁵.</p>	55%	<p>Measure taken on 30 September 2024</p> <p>Success will be measured against the validated total number Participants who have completed Year 2 of the Programme taken from the Authority's Database of Qualified Teachers</p>	SC3-22	<p>If 70% or more of Participants who achieved QTS by the end of Year 1 of the Programme complete Year 2 of the Programme, then no Service Credit will be levied</p> <p>If between 60.1% and 69.9% of Participants who achieved QTS by the end of Year 1 of the Programme will complete Year 2 of the Programme, then 3% of the Charges for the previous 12 months will be levied as a Service Credit</p> <p>If 60% or less of Participants who achieved QTS by the end of Year 1 of the Programme will complete Year 2 of the Programme then 5% of the Charges for the previous 12 months will be levied as a Service Credit</p>

⁵ Participants that have delayed or deferred will be excluded from this calculation.

KPI3/23	2023 Cohort Participant Year 2 Retention 75% of Participants who achieved QTS by the end of Year 1 of the Programme will complete Year 2 of the Programme ⁶ .	55%	Measure taken on 30 September 2025 Success will be measured against the validated total number Participants who have completed Year 2 of the Programme taken from the Authority's Database of Qualified Teachers	SC3-23	If 70% or more of Participants who achieved QTS by the end of Year 1 of the Programme complete their NQT Induction Year 2 of the Programme, then no Service Credit will be levied If between 60.1% and 69.9% of Participants who achieved QTS by the end of Year 1 of the Programme will complete Year 2 of the Programme, then 3% of the Charges for the previous 12 months will be levied as a Service Credit If 60% or less of Participants who achieved QTS by the end of Year 1 of the Programme will complete Year 2 of the Programme then 5% of the Charges for the previous 12 months will be levied as a Service Credit
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Table 2 – Subsidiary Performance Indicators

SPI No.	SPI Title	SPI Description and Standard	Monitoring Period	Monitoring Method
SPI1/22	Priority Subjects	100% of Participants will start Year 1 of the 2022 Cohort Programme in Priority Subjects	Measure taken on 30 September 2022	MI to be submitted in the October 2022 Annual Review Report. The data will be validated on the

⁶ Participants that have delayed or deferred will be excluded from this calculation.

		as defined in Schedule 2 (Specification)		Authority's Database of Trainee Teacher and Providers
SPI2/22	Participant Exit Reviews	At least 90% of Participants that start the 2022 Cohort Programme will receive an Exit Review on leaving the Programme	Measured Quarterly each year in October, January, April and July until October 2024.	MI to be submitted in each Quarterly Performance Report
SPI3/22	Participant Satisfaction	At least 90% of 2022 Cohort Participants rate their experience of being on the Programme as good or better measured by the Satisfaction Survey and at their Exit Review.	Satisfaction Survey carried out by the Contractor. Measured at the end of Year 1 (July 2023). Exit reviews carried out by the Contractor. Measured quarterly each year at the end of October, January, April, and July until October 2024	MI to be submitted in each Quarterly Performance Report
SPI4/22	School Satisfaction	At least 90% of schools surveyed rate their experience of the 2022 Cohort Programme as good or better	Measured Annually in September until September 2024	MI to be submitted in the October 2023 and October 2024 Annual Review Reports.
SPI5/22	Additionality	90% of participants who join the programme agree that they would not have entered teacher training without the bespoke support offered by the programme	Measured 30th September 2022	MI to be submitted in the October 2023 Annual Review Reports.
SPI6/22	Added Value	90% of schools surveyed agree that participants add value above and beyond that of other ITT trainees.		MI to be submitted in the October 2023 and October 2024 Annual Review Reports.
SPI1/23	Priority Subjects	100% of Participants will start Year 1 of the 2023 Cohort	Measure taken on 30 September 2023	MI to be submitted in the October 2023 Annual Review Report. The

		Programme in Priority Subjects as defined in Schedule 2 (Specification)		data will be validated on the Authority's Database of Trainee Teacher and Providers
SPI1/23	Priority Subjects	100% of Participants will start Year 1 of the 2023 Cohort Programme in Priority Subjects as defined in Schedule 2 – Specification	Measure taken on 30 September 2023	MI to be submitted in the October 2023 Annual Review Report. The data will be validated on the Authority's Database of Trainee Teacher and Providers
SPI2/23	Participant Exit Reviews	At least 90% of Participants that start the 2023 Cohort Programme will receive an Exit Review on leaving the Programme	Measured Quarterly each year in October, January, April and July until October 2025.	MI to be submitted in each Quarterly Performance Report
SPI3/23	Participant Satisfaction	At least 90% of 2023 Cohort Participants rate their experience of being on the Programme as good or better measured by the Satisfaction Survey and at their Exit Review.	Satisfaction Survey carried out by the Contractor. Measured at the end of Year 1 (July 2024). Exit reviews carried out by the Contractor. Measured quarterly each year at the end of October, January, April, and July until October 2025	MI to be submitted in each Quarterly Performance Report
SPI4/23	School Satisfaction	At least 90% of schools surveyed rate their experience of the 2023 Cohort Programme as good or better	Measured Annually in September until September 2025	MI to be submitted in the November 2024 and November 2025 Annual Review Reports.
SPI5/23	Additionality	90% of participants who join the programme agree that they would not have entered teacher training without the bespoke support offered by the programme	Measured 30th September 2022	MI to be submitted in the October 2024 Annual Review Reports.

SPI6/23	Added Value	90% of schools surveyed agree that participants add value above and beyond that of other ITT trainees.		MI to be submitted in the October 2024 and October 2025 Annual Review Reports.
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Table 3 – Social Value Performance Indicators

SVPI No.	SPI Description and Standard	Monitoring Period	Monitoring Method
SVPI1	Line Manager Toolkit to be implemented by March 2022	Measured on 31 March 2022	Evidence to be submitted in the April 2022 Monthly Performance Report.
SVPI2	Bi-annual pulse surveys to be launched by April 2022	Measured on 30 April 2022	Evidence to be submitted May 2022 Quarterly Performance Report.
SVPI3	Sign up as a Disability Confident Employer by Sep 2022	Measured on 30 September 2022	MI to be submitted in the October 2022 Monthly Performance Report.
SVPI4	Start public reporting on social value by Jun 2022	Measured on 30 June 2022	MI to be submitted in the July 2022 Monthly Performance Report.
SVPI5	The six Standards of Mental Health to be implemented by March 2022	Measured on 31 March 2022	MI to be submitted in the April 2022 Monthly Performance Report.

SCHEDULE 5 IMPLEMENTATION PLAN

1. The Contractor shall provide the Services in accordance with the Implementation Plan set out at Annex 1 to this Schedule 5 (Implementation Plan)
2. The Implementation Plan shall be sufficiently detailed (and in accordance with paragraph 14 of the Specification) as is necessary to manage the Services and any proposed changes are subject to the Change Control Procedure.
3. The Contractor shall be responsible for implementing and managing the Services and for taking all such steps as may be necessary so as to ensure that from the Service Commencement Date the Contractor is able to provide the Services:
 - 3.1. in accordance with the provisions of the Contract; and
 - 3.2. in a manner that maintains the continuity of Services to the Authority.
4. The Contractor shall monitor its performance against the Implementation Plan and report to the Authority monthly (or more frequently if so required by the Authority) on its performance.

Annex 1

Implementation Plan

Redacted

SCHEDULE 6

CHANGE CONTROL PROCEDURE

1. The Parties acknowledge that minor changes to the Contract may be necessary to reflect operational and administrative procedures during the Term and that such minor changes may be agreed in writing between the Parties' respective contract managers.
2. The Contractor shall use reasonable endeavours to incorporate minor changes requested by the Authority within the current Charges and shall not serve a Contractor Notice of Change unless the change involves a demonstrable material increase to its costs or requires a material change to the Contract.
3. Either Party may request a Variation provided that such Variation does not amount to a material change.
4. The Contractor must request a Variation where it anticipates not delivering or is not delivering the Services or a part of the Services on an ongoing basis for a period that exceeds 5 (five) Business Days.
5. The Authority may request a Variation by completing the Change Control Note and giving the Contractor sufficient information to assess the extent of the Variation and consider whether any change to the Charges are required in order to implement the Variation within a reasonable time limit specified by the Authority. If the Contractor accepts the Variation it shall confirm it in writing within 21 days of receiving the Change Control Note.
6. If the Contractor is unable to accept the Variation or where the Parties are unable to agree a change to the Charges, the Authority may allow the Contractor to fulfil its obligations under the Contract without Variation or if the Parties cannot agree to the Variation the Dispute will be determined in accordance with Clause 39.
7. If the Contractor wishes to introduce a change to the Contract it may request a Variation by serving the Change Control Note on the Authority.
8. The Authority shall evaluate the Contractor's proposed Variation in good faith, taking into account all relevant issues.
9. In relation to the pricing of Variations, the provisions of Paragraph 7 of Schedule 3 (Financials) shall apply.
10. The Authority shall confirm in writing within 21 days of receiving the Change Control Note if it accepts or rejects the Variation.
11. The Authority may at its absolute discretion reject any request for a Variation proposed by the Contractor.

Change Control Note

:

Contract Number		Authority Contract / Programme Manager
Contractor		Original Contract Value (£)
Contract Start Date		Contract Expiry Date

Variation Requested	
Originator of Variation (tick as appropriate)	Authority <input type="checkbox"/> Contractor <input type="checkbox"/>
Date	
Reason for Variation	
Summary of Variation (e.g., specification, finances, Term)	
Date of Variation commencement	
Date of Variation expiry (if applicable)	
Total Value of Variation £ (if applicable)	
Payment Profile (if applicable) e.g., milestone payments	
Revised daily rate (if applicable)	
Impact on original contract (if applicable)	

Supporting Information (please attach all supporting documentation for this Change Control)			
Terms and Conditions	Save as herein amended all other terms and conditions of the Contract shall remain in full force and effect.		
Variation Agreed <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> For the Contractor: Signature..... Full Name..... Title..... Date..... </td> <td style="width: 50%; vertical-align: top;"> For the Authority: Signature..... Full Name..... Title..... Date..... </td> </tr> </table>		For the Contractor: Signature..... Full Name..... Title..... Date.....	For the Authority: Signature..... Full Name..... Title..... Date.....
For the Contractor: Signature..... Full Name..... Title..... Date.....	For the Authority: Signature..... Full Name..... Title..... Date.....		

Please note that no works/services described in this form should be undertaken, and no invoices will be paid until both copies of the CCN are signed, returned and counter-signed.

To be entered by the Commercial Category Team:			
Commercial Lead		Variation Number	
Date of CAB/JAC Approval			

SCHEDULE 7
KEY CONTRACTOR STAFF AND KEY SUB CONTRACTORS

Key Contractor Staff

The individuals listed in the table below are Key Contractor Staff:

Name	Role	Period of Involvement
Clare Geldard	Executive Director	Throughout Term
Katie Waldegrave	Co-Founder	Throughout Term
Meera Moynihan	Director of Operations	Throughout Term
Maria Floud	Director of Recruitment and Marketing	Throughout Term
Sarah Shaw	Head of Programme	Throughout Term

Key Sub-Contractors

NOT USED

SCHEDULE 8
DATA, SYSTEMS HANDLING AND SECURITY

1. Definitions

"Control"	means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and "Controls" and "Controlled" are interpreted accordingly;
"Data Loss Event"	any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
"DPA"	Data Protection Act 2018;
"Data Protection Impact Assessment"	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
"Data Protection Legislation"	(i) the UK GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;
"Data Subject Request"	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
"Controller", "Processor," "Data Subject", "Personal Data", "Personal Data Breach", "Data Protection Officer", "Processing"	shall have the meanings given in the UK GDPR;
"Law"	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Processor is bound to comply;
"LED"	Law Enforcement Directive (Directive (EU) 2016/680);

“Processor Contractor Staff”	employees, agents, consultants and contractors of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Contract;
“Protective Measures”	appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it including those set out in the Contract;
“Sub-processor”	any third Party appointed to process Personal Data on behalf of the Processor related to this Contract;
“UK GDPR”	the retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679).

- 1.1. The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Contractor is the Processor unless otherwise specified in this clause and Schedule 8 Annex 2. *Schedule 8 Annex 2* describes the subject matter, duration, nature and purpose of the processing and the Personal Data categories and Data Subject types in respect of which the Contractor may process to fulfil the purposes specifically set out in that Schedule 8 Annex 2. The only such processing that the Processor is authorised to do is listed in Schedule 8 Annex 2 by the Controller and may not be determined by the Processor.
- 1.2. The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 1.3. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:
 - (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 1.4. The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:
 - (a) process that Personal Data only in accordance with Schedule 8 Annex 2, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;
 - (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
 - (i) nature of the data to be protected;

- (ii) harm that might result from a Data Loss Event;
- (iii) state of technological development; and
- (iv) cost of implementing any measures;
- (c) ensure that:
 - (i) the Processor Contractor Staff do not process Personal Data except in accordance with this Contract (and in particular this Schedule 8);
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Contractor Staff who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this Clause;
 - (B) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Contract; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
- (d) not transfer Personal Data outside of the UK unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or LED Article 37) as determined by the Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
- (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.

1.5. Subject to Clause 1.6, the Processor shall notify the Controller immediately if it:

- (a) receives a Data Subject Request (or purported Data Subject Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory Authority in connection with Personal Data processed under this Contract;
- (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- (f) becomes aware of a Data Loss Event.

1.6. The Processor's obligation to notify under Clause 1.5 shall include the provision of further information to the Controller in phases, as details become available.

- 1.7. Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 1.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- (a) the Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Controller following any Data Loss Event; and
 - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 1.8. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Clause. This requirement does not apply where the Processor employs fewer than 250 Staff, unless:
- (a) the Controller determines that the processing is not occasional;
 - (b) the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; and
 - (c) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 1.9. The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 1.10. Each Party shall designate its own data protection officer if required by the Data Protection Legislation.
- 1.11. Before allowing any Sub-processor to process any Personal Data related to this Contract, the Processor must:
- (a) notify the Controller in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Controller;
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this Clause 1 such that they apply to the Sub-processor; and
 - (d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
- 1.12. The Processor shall remain fully liable for all acts or omissions of any Sub-processor.
- 1.13. The Controller may, at any time on not less than 30 Business Days' notice, revise this Clause by replacing it with any applicable controller to processor standard Clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).
- 1.14. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than 30 Business Days' notice to the Processor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

SCHEDULE 8 – ANNEX 1

AUTHORITY SECURITY STANDARDS

1. DEFINITIONS

<p>"Authority Data"</p> <p>"Authority Information"</p>	<p>is any data or information owned or retained in order to meet departmental business objectives and tasks, including:</p> <p>(a) any data, text, drawings, diagrams, images or sounds (together with any repository or database made up of any of these components) which are embodied in any electronic, magnetic, optical or tangible media, and which are:</p> <p>(i) supplied to the Contractor by or on behalf of the Authority; or</p> <p>(ii) which the Contractor is required to generate, process, store or transmit pursuant to this Contract; or</p> <p>(b) any Personal Data for which the Authority is the Data Controller;</p>
"Authority"	means the Department for Education
"Authority Security Standards"	means the Authority's security policy or any standards, procedures, process or specification for security that the Contractor is required to deliver.
<p>"BPSS"</p> <p>"Baseline Personnel Security Standard"</p>	<p>means the Government's HMG Baseline Personal Security Standard . Further information can be found at: https://www.gov.uk/government/publications/government-baseline-personnel-security-standard</p>
<p>"CCSC"</p> <p>"Certified Cyber Security Consultancy"</p>	<p>is the National Cyber Security Centre's (NCSC) approach to assessing the services provided by consultancies and confirming that they meet NCSC's standards.</p> <p>See website: https://www.ncsc.gov.uk/scheme/certified-cyber-consultancy</p>
<p>"CCP"</p> <p>"Certified Professional"</p>	<p>is a NCSC scheme in consultation with government, industry and academia to address the growing need for specialists in the cyber security profession. See website: https://www.ncsc.gov.uk/information/about-certified-professional-scheme</p>
<p>"CPA"</p> <p>"Commercial Product Assurance"</p> <p>[formerly called "CESG Product Assurance"]</p>	<p>is an 'information assurance scheme' which evaluates commercial off the shelf (COTS) products and their developers against published security and development standards.. See website: https://www.ncsc.gov.uk/scheme/commercial-product-assurance-cpa</p>
<p>"Cyber Essentials"</p> <p>"Cyber Essentials Plus"</p>	<p>Cyber Essentials is the government backed, industry supported scheme to help organisations protect themselves against common cyber-attacks. Cyber</p>

	<p>Essentials and Cyber Essentials Plus are levels within the scheme.</p> <p>There are a number of certification bodies that can be approached for further advice on the scheme; the link below points to these providers:</p> <p>https://www.cyberessentials.ncsc.gov.uk/getting-certified/#what-is-an-accreditation-body</p>
<p>“Data”</p> <p>“Data Controller”</p> <p>“Data Protection Officer”</p> <p>“Data Processor”</p> <p>“Personal Data”</p> <p>“Personal Data requiring Sensitive Processing”</p> <p>“Data Subject”, “Process” and “Processing”</p>	<p>shall have the meanings given in the UK GDPR;</p>
“Digital Marketplace / G-Cloud”	<p>means the Digital Marketplace is the online framework for identifying and procuring cloud technology and people for digital projects.</p>
End User Devices	<p>means the personal computer or consumer devices that store or process information.</p>
<p>“Good Industry Practice”</p> <p>“Industry Good Practice”</p>	<p>means the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector.</p>
<p>“Good Industry Standard”</p> <p>“Industry Good Standard”</p>	<p>means the implementation of products and solutions, and the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector.</p>
<p>“GSC”</p> <p>“GSCP”</p>	<p>means the Government Security Classification Policy which establishes the rules for classifying HMG information. The policy is available at:</p> <p>https://www.gov.uk/government/publications/government-security-classifications</p>
“HMG”	<p>means Her Majesty’s Government</p>
“ICT”	<p>means Information and Communications Technology (ICT) and is used as an extended synonym for information technology (IT), used to describe the bringing together of enabling technologies used to deliver the end-to-end solution</p>
“ISO/IEC 27001” “ISO 27001”	<p>is the International Standard for Information Security Management Systems Requirements</p>

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

"SIRA"	https://www.ncsc.gov.uk/articles/about-certified-professional-scheme
"Senior Information Risk Owner" "SIRO"	means the Senior Information Risk Owner (SIRO) responsible on behalf of the DfE Accounting Officer for overseeing the management of information risk across the organisation. This includes its executive agencies, arms length bodies (ALBs), non-departmental public bodies (NDPBs) and devolved information held by third parties.
"SPF" "HMG Security Policy Framework"	means the definitive HMG Security Policy which describes the expectations of the Cabinet Secretary and Government's Official Committee on Security on how HMG organisations and third parties handling HMG information and other assets will apply protective security to ensure HMG can function effectively, efficiently and securely. https://www.gov.uk/government/publications/security-policy-framework

- 1.1. The Contractor shall be aware of and comply the relevant [HMG security policy framework](#), [NCSC guidelines](#) and where applicable the Authority's Security Standards for Contractors which include but are not constrained to the following paragraphs.
- 1.2. Where the Contractor will provide products or services or otherwise handle information at OFFICIAL for the Authority, the requirements of [Cabinet Office Procurement Policy Note – Use of Cyber Essentials Scheme certification - Action Note 09/14](#) dated 25 May 2016, or any subsequent updated document, are mandated, namely that contractors supplying products or services to HMG shall have achieved, and will be expected to retain Cyber Essentials certification at the appropriate level for the duration of the contract. The certification scope shall be relevant to the services supplied to, or on behalf of, the Authority.
- 1.3. Where clause 12.2 above has not been met, the Contractor shall have achieved, and be able to maintain, independent certification to ISO/IEC 27001 (Information Security Management Systems Requirements). The ISO/IEC 27001 certification must have a scope relevant to the services supplied to, or on behalf of, the Authority. The scope of certification and the statement of applicability must be acceptable, following review, to the Authority, including the application of controls from ISO/IEC 27002 (Code of Practice for Information Security Controls).
- 1.4. The Contractor shall follow the UK Government Security Classification Policy (GSCP) in respect of any Authority Data being handled in the course of providing this service, and will handle this data in accordance with its security classification. (In the event where the Contractor has an existing Protective Marking Scheme then the Contractor may continue to use this but must map the HMG security classifications against it to ensure the correct controls are applied to the Authority Data).
- 1.5. Authority Data being handled in the course of providing an ICT solution or service must be separated from all other data on the Contractor's or sub-contractor's own IT equipment to protect the Authority Data and enable the data to be identified and securely deleted when required in line with clause 1.14
- 1.6. The Contractor shall have in place and maintain physical security to premises and sensitive areas in line with ISO/IEC 27002 including, but not limited to, entry control mechanisms (e.g. door access), CCTV, alarm systems, etc.
- 1.7. The Contractor shall have in place and maintain an appropriate user access control policy for all ICT systems to ensure only authorised personnel have access to Authority Data. This

policy should include appropriate segregation of duties and if applicable role-based access controls (RBAC). User credentials that give access to Authority Data or systems shall be considered to be sensitive data and must be protected accordingly.

- 1.8. The Contractor shall have in place and shall maintain procedural, personnel, physical and technical safeguards to protect Authority Data, including but not limited to:
 - 1.8.1. physical security controls;
 - 1.8.2. good industry standard policies and processes;
 - 1.8.3. malware protection;
 - 1.8.4. boundary access controls including firewalls, application gateways, etc;
 - 1.8.5. maintenance and use of fully supported software packages in accordance with vendor recommendations;
 - 1.8.6. use of secure device configuration and builds;
 - 1.8.7. software updates and patching regimes including malware signatures, for operating systems, network devices, applications and services;
 - 1.8.8. user identity and access controls, including the use of multi-factor authentication for sensitive data and privileged account accesses;
 - 1.8.9. any services provided to the Authority must capture audit logs for security events in an electronic format at the application, service and system level to meet the Authority's logging and auditing requirements, plus logs shall be:
 - 1.8.9.1. retained and protected from tampering for a minimum period of six months;
 - 1.8.9.2. made available to the Authority on request.
- 1.9. The Contractor shall ensure that any Authority Data (including email) transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device shall be encrypted when transmitted.
- 1.10. The Contractor shall ensure that any Authority Data which resides on a mobile, removable or physically uncontrolled device is stored encrypted using a product or system component which has been formally assured through a recognised certification process agreed with the Authority except where the Authority has given its prior written consent to an alternative arrangement.
- 1.11. The Contractor shall ensure that any device which is used to process Authority Data meets all of the security requirements set out in the NCSC End User Devices Platform Security Guidance, a copy of which can be found at: <https://www.ncsc.gov.uk/guidance/end-user-device-security> and <https://www.ncsc.gov.uk/collection/end-user-device-security/eud-overview/eud-security-principles>
- 1.12. Whilst in the Contractor's care all removable media and hardcopy paper documents containing Authority Data must be handled securely and secured under lock and key when not in use and shall be securely destroyed when no longer required, using either a cross-cut shredder or a professional secure disposal organisation. The term 'lock and key' is defined as: "securing information in a lockable desk drawer, cupboard or filing cabinet which is under the user's sole control and to which they hold the keys".
- 1.13. When necessary to hand carry removable media and/or hardcopy paper documents containing Authority Data, the media or documents being carried shall be kept under cover and transported in such a way as to ensure that no unauthorised person has either visual or physical access to the material being carried. This paragraph shall apply equally regardless of whether the material is being carried inside or outside of company premises. The term 'under cover' means that the information is carried within an opaque folder or envelope within

official premises and buildings and within a closed briefcase or other similar bag or container when outside official premises or buildings.

- 1.14. In the event of termination of contract due to expiry, liquidation or non-performance, all information assets provided, created or resulting from the Service shall not be considered as the Contractor's assets and must be returned to the Authority and written assurance obtained from an appropriate officer of the Contractor that these assets regardless of location and format have been fully sanitised throughout the organisation in line with clause 12.15.
- 1.15. In the event of termination, equipment failure or obsolescence, all Authority Information and data, in either hardcopy or electronic format, that is physically held or logically stored by the Contractor must be accounted for and either physically returned or securely sanitised or destroyed in accordance with the current HMG policy using an NCSC approved product or method. Where sanitisation or destruction is not possible for legal, regulatory or technical reasons, such as data stored in a cloud system, Storage Area Network (SAN) or on shared backup tapes, then the Contractor or sub-contractor shall protect the Authority Information and Data until such time, which may be long after the end of the contract, when it can be securely cleansed or destroyed. Evidence of secure destruction will be required in all cases.
- 1.16. Access by Contractor or Sub-Contractor Staff to Authority Data shall be confined to those individuals who have a "need-to-know" in order to carry out their role; and have undergone mandatory pre-employment screening, to a minimum of HMG Baseline Contractor Staff Security Standard (BPSS); or hold an appropriate National Security Vetting clearance as required by the Authority. All Contractor or Sub-Contractor Staff must complete this process before access to Authority Data is permitted. Any Contractor Staff who will be in contact with children or vulnerable adults must, in addition to any security clearance, have successfully undergone an Enhanced DBS (Disclosure and Barring Service) check prior to any contact.
- 1.17. All Contractor or Sub-Contractor Staff who handle Authority Data must have annual awareness training in protecting information.
- 1.18. The Contractor shall, as a minimum, have in place robust Service Continuity arrangements and processes including IT disaster recovery plans and procedures that conform to ISO 22301 to ensure that the delivery of the contract is not adversely affected in the event of an incident. An incident shall be defined as any situation that might, or could lead to, a disruption, loss, emergency or crisis to the services delivered. If a ISO 22301 certificate is not available the Contractor will provide evidence of the effectiveness of their ISO 22301 conformant Service Continuity arrangements and processes including IT disaster recovery plans and procedures. This should include evidence that the Contractor has tested or exercised these plans within the last 12 months and produced a written report of the outcome, including required actions.
- 1.19. Any suspected or actual breach of the confidentiality, integrity or availability of Authority Data, including user credentials, used or handled in the course of providing this service shall be recorded as an incident. This includes any non-compliance with these Authority Security Standards for Contractors, or other Security Standards pertaining to the solution. Incidents shall be reported to the Authority immediately, wherever practical, even if unconfirmed or when full details are not known, but always within 24 hours of discovery. If incident reporting has been delayed by more than 24 hours, the Contractor should provide an explanation about the delay. Incidents shall be reported through the Authority's nominated system or service owner. Incidents shall be investigated by the Contractor with outcomes being notified to the Authority.
- 1.20. The Contractor shall ensure that any IT systems and hosting environments that are used to handle, store or process Authority Data shall be subject to independent IT Health Checks (ITHC) using a NCSC approved ITHC provider before go-live and periodically (at least annually) thereafter. The findings of the ITHC relevant to the service being provided are to be shared with the Authority and all necessary remedial work carried out. In the event of significant security issues being identified, a follow up remediation test may be required.

- 1.21. The Contractor or Sub-Contractors providing the service will provide the Authority with full details of any storage of any actual or future intent to develop, manage, support, process or store Authority Data outside of the UK mainland. The Contractor or Sub-contractor shall not go ahead with any such proposal without the prior written agreement from the Authority.
- 1.22. The Authority reserves the right to audit the Contractor or Sub-Contractors providing the Services within a mutually agreed timeframe but always within seven days of notice of a request to audit being given. The audit shall cover the overall scope of the service being supplied and the Contractor's, and any Sub-Contractors, compliance with the clauses contained in this Schedule 8.
- 1.23. The Contractor and Sub-contractors shall undergo appropriate security assurance activities and shall provide appropriate evidence including the production of the necessary security documentation as determined by the Authority. This will include obtaining any necessary professional security resources required to support the Contractor's and Sub-contractor's security assurance activities such as: a Security and Information Risk Advisor (SIRA) certified to NCSC Certified Cyber Security Consultancy (CCSC) or NCSC Certified Cyber Professional (CCP) schemes.
- 1.24. Where the Contractor is delivering an ICT solution to the Authority they shall design and deliver solutions and services that are compliant with the HMG Security Policy Framework in conjunction with current NCSC information assurance guidance and Authority policy. The Contractor shall provide the Authority with evidence of compliance for the solutions and services to be delivered. The Authority's expectation is that the Contractor shall provide written evidence of:
 - 1.24.1. Compliance with HMG Minimum Cyber Security Standard.
 - 1.24.2. Any existing security assurance for the services to be delivered, such as: ISO/IEC 27001 / 27002 or an equivalent industry level certification.
 - 1.24.3. Any existing HMG security accreditations or assurance that are still valid including: details of the awarding body; the scope of the accreditation; any caveats or restrictions to the accreditation; the date awarded, plus a copy of the residual risk statement.
 - 1.24.4. Documented progress in achieving any security assurance or accreditation activities including whether documentation has been produced and submitted. The Contractor shall provide details of who the awarding body or organisation will be and date expected.
- 1.25. The Contractor shall contractually enforce all these Authority Security Standards for Contractors onto any third-party suppliers, Sub-Contractors or partners who could potentially access Authority Data in the course of providing the Services.

SCHEDULE 8 - ANNEX 2

Processing, Personal Data and Data Subjects

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

- 1 The contact details of the Controller's Data Protection Officer are Emma Wharram
Redacted
- 2 The contact details of the Processor's Data Protection Officer are Rebecca Jones
Redacted
- 3 The Processor shall comply with any further written instructions with respect to processing by the Controller.
- 4 Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of the Controller and Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Contractor is the Processor in accordance with Schedule 8 Paragraph 1.1.
Subject matter of the processing	<p>The processing is needed for the delivery of the Contract:</p> <p>(a) in order to ensure that the Contractor can effectively deliver the Contract to provide the Programme and in order that the Authority can effectively manage the delivery of the Contract by the Contractor, in each case specifically only for the purposes of delivering Management Information, invoicing and for the Authority to resolve and be made aware of queries relating to Participant Circumstances;</p> <p>(b) for the purposes of the Authority's teacher recruitment and retention statistics. The data provided will give an insight and quantitative description of Candidate and Participant diversity and Participant teaching outcomes in terms of entry into teaching, retentions, career progression and contribution to shortage subjects and schools in areas of disadvantage,</p> <p>(c) if the data subject consents, to register data subjects with the Controller's "Get Into Teaching" service.</p> <p>The references to (a), (b) and (c) below reflect this same distinction in order to identify the personal data.</p>
Duration of the processing	As a minimum, the Processing will take place throughout the Term of the Contract but data must be retained for longer in accordance with the retention period noted below.
Nature and purposes of the processing	<p><u>Legal Basis for Processing:</u></p> <p>(a) and (b):</p> <p>Non-special category data</p>

	<p>Personal Data is shared and processed on the legal basis that the processing is necessary for the performance of a task in the public interest pursuant to Section 14 of the Education Act 2002</p> <p>Special category data</p> <p>Personal data is processed on the legal basis that it is necessary for archiving purposes in the public interest, scientific or historical research purposes, or statistical purposes</p> <p>(c):</p> <p>(i) Personal Data is shared and processed on the legal basis that the processing is necessary for the performance of a task in the public interest pursuant to Section 14 of the Education Act 2002</p> <p>(ii) Personal Data shared for the purposes of the Get Into Teaching Service is shared and processed on the basis that the Data Subject has given consent to the processing</p> <p><u>Data Minimisation:</u></p> <p>For data processing requirements (a) and (b), all Candidate and Participant data will be processed, shared and retained. When shared with the Authority, the Processor shall anonymise data unless explicitly instructed otherwise by the Authority</p> <p>For data processing requirement (c) above, only that data required for the “Get Into Teaching” service to make contact with Data Subjects for the purposes of the Get into Teaching Service will be shared.</p> <p><u>Frequency of Sharing</u></p> <p>For (a) and (b) Data will be shared with the Controller in accordance with the provisions set out in Schedule 16 (Records Provision and Management Information)</p> <p>For (c) Data will be shared with the Get Into Teaching Service at least once per calendar month during the recruitment phase for each Cohort, subject to Data Subject agreement,</p> <p><u>Method and Format of Transferring the Data</u></p> <p>(a) and (b) Personal Data of all Candidates and Participants (including those who do not give their consent to share their data with the “Get Into Teaching” service) will be transferred from the Processor to the Controller in accordance with the provisions within the Contract that relate to reporting and performance</p> <p>(c) The Personal Data will be transferred from the Processor to the Controller using the Authority's secure encrypted email system. The Controller's and the Get Into Teaching Service's standard data protection protocols will be followed.</p>
Type of Personal Data	<p>(a) and (b)</p> <p>Non-special category data:</p> <ul style="list-style-type: none"> • ITT Subject; • Programme start year; • ITT Provider; • ITT Provider Type; • TRN • Title;

	<ul style="list-style-type: none"> • First Name; • Middle Name • Last Name; • Address; • Postcode; • Nationality • Email address; • Telephone Number; • Date of Birth; • Age • Gender; • Status of Application; • Placement Region; • QTS – date achieved; • Year 2 Completion; • Participant Deferral or Withdrawal; • Previous consideration of teaching as a career; • Current or Last Employment; and • Career Status/History. <p>Special Category data:</p> <p>Ethnicity; and Disability;</p> <p>(c)</p> <p>Non-special category data:</p> <ul style="list-style-type: none"> • First Name • Last Name • Date of Birth • Address • Postcode • Telephone Number • Email Address • Stage in the recruitment process in which the Data Subject has withdrawn or was unsuccessful. <p>Special category data: none</p>
Categories of Data Subject	<ul style="list-style-type: none"> • Candidates • Participants
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	<p>The data may be securely retained by the Controller and the Processor as long as is required for the purpose(s) of this Contract; this period shall not exceed 7 years. All data will be securely deleted or destroyed after this period unless the Controller wishes to keep the data for longer period for research and statistical purposes only.</p> <p>Confirmation of destruction will be provided by the Processor to the Controller, within 15 Business Days of a request being made.</p>

SCHEDULE 9 COMMERCIALLY SENSITIVE INFORMATION

- 1 Without prejudice to the Authority's general obligations of confidentiality, the Parties acknowledge that the Authority may have to disclose information in or relating to the Contract following a Request for Information pursuant to clause 17 (Freedom of Information).
- 2 In the Schedule, the Parties have sought to identify the Contractor's Commercially Sensitive Information that is genuinely commercially sensitive, and the disclosure would be contrary to the public interest.
- 3 Where possible the parties have sought to identify when any relevant information will cease to fall into the category of information to which this Schedule 9 applies
- 4 Without prejudice to the Authority's obligation to disclose information in accordance with the FOIA and the EIR, the Authority will, acting reasonably but at its sole discretion, seek to apply the commercial interest exemption set out in s.43 of the FOIA to the information listed in Table 1 below.

Table 1

Commercially Sensitive Information	For Period Ending on the Date Below
Schedule 3: Financials Annex 1 Pricing Model - save for the Total Contract Value which shall not be commercially sensitive information	Until the Expiry Date or Termination Date, whichever is the earlier.
Schedule 5: Implementation Plan Annex 1 Implementation Plan	
Schedule 15: Contractor's Solution The following parts of the Contractor's Response to Q2.1 Overarching Delivery Method: <ol style="list-style-type: none"> 1) <ul style="list-style-type: none"> • First paragraph - details of the core functions • Second paragraph - details of the delivery method • Fourth paragraph, second numbered point - names of delivery partners • Fifth paragraph - name of delivery partner 2) <ul style="list-style-type: none"> • First paragraph - details of delivery method • Second paragraph and bullets - details of technology systems and solutions • Third paragraph and all numbered points - details of technology systems and solutions • Fourth paragraph - details of technology systems and solutions • Fifth paragraph - details of technology systems and solutions • Sixth paragraph - details of technology systems and solutions • Technology solution diagram 3) 	Until the Expiry Date or Termination Date, whichever is the earlier.

<ul style="list-style-type: none"> • First paragraph, all numbered points - description of the participant journey. • Second paragraph - detail of assessment • Third paragraph - detail of the events and named individuals • Fourth paragraph - information on the deferral process • Fifth paragraph - name of delivery partner • Participant Journey process maps 	
<p>Schedule 15: Contractor's Solution</p> <p>The following parts of the Contractor's Response to Q2.2 Attraction of Candidates:</p> <p>1)</p> <ul style="list-style-type: none"> • Second paragraph, second, sixth, eighth and ninth bullet points - Contractor's internal targets; <p>2)</p> <ul style="list-style-type: none"> • First paragraph - The Contractor's statistical information and analysis; • Second paragraph - The Contractor's statistical information and analysis; • Fourth paragraph - The Contractor's statistical information and analysis; • Fifth paragraph - The Contractor's statistical information and analysis; • Sixth paragraph, all bullet points - The Contractor's statistical information and analysis; • Seventh paragraph - The Contractor's statistical information and analysis; • Eighth paragraph - The Contractor's statistical information and analysis; <p>3)</p> <ul style="list-style-type: none"> • First paragraph - The Contractor's statistical information and analysis; • Second paragraph - The Contractor's statistical information and analysis; • Third paragraph - details of delivery partnerships and associated costs; • Fourth paragraph - The Contractor's marketing campaign branding and statistical information and analysis; • Fifth paragraph, second, third and fourth bullet points - features of the Contractor's PR • Sixth paragraph, all bullet points - features of the Contractor's social media and marketing approach; <p>4)</p> <ul style="list-style-type: none"> • Second paragraph, Milestones, all bullets - Marketing milestones • Third paragraph, Regional Expansion, including bullets - details of training providers 	<p>Until the Expiry Date or Termination Date, whichever is the earlier.</p>

<ul style="list-style-type: none"> • Fourth paragraph, Critical Activities, third and fourth bullets - details of named partners, the Contractor's statistical information and unique activities <p>5)</p> <ul style="list-style-type: none"> • First paragraph, all sub-bullets - details of the Contractor's reporting and evaluation tools <p>6)</p> <ul style="list-style-type: none"> • First and Second paragraphs - The Contractor's projected marketing spend and spend breakdown table 	
<p>Schedule 15: Contractor's Solution</p> <p>The following parts of the Contractor's Response to Q2.3 Candidate Recruitment and Selection:</p> <p>1)</p> <ul style="list-style-type: none"> • Second paragraph, first bullet point - details of the Contractor's EOI process • Second paragraph, second bullet point, all sub bullets - details of the Contractor's application process • Second paragraph, third bullet point, all sub-bullets - details of the competencies assessed at interview <p>2)</p> <ul style="list-style-type: none"> • First paragraph, all bullet points and sub-bullets - details of Contractor's application process. • Third paragraph, all bullets - details of the Contractor's application and interview process <p>3)</p> <ul style="list-style-type: none"> • Second paragraph, EOI to application - the Contractor's statistical information and analysis • Second paragraph, EOI to application, first bullet - information on the Contractor's EOI approach • Second paragraph, EOI to application - second and third bullet points, the Contractor's statistical information and analysis • Third paragraph, Application to interview - detail of the Contractor's approach • Fourth paragraph, Interview to securing a training place, first bullet point - the Contractor's branding • Fourth paragraph, Interview to securing a training place, third and fourth bullet points - details of interview support and statistical information, details of school insights and statistical information. 	<p>Until the Expiry Date or Termination Date, whichever is the earlier.</p>

<p>4) • Fifth paragraph, ITT place to starting - details of the Contractor's onboarding strategy.</p> <p>5) • Fourth and fifth paragraphs - The Contractor's statistical information and analysis</p> <p>• Third paragraph - the Contractor's approach to subject specific priority groups.</p> <p>Annex C - Recruitment Pipeline in its entirety</p>	
<p>Schedule 15: Contractor's Solution</p> <p>The following parts of the Contractor's Response to Q2.4 Participant Placement:</p> <p>1)</p> <ul style="list-style-type: none"> • Third paragraph, third bullet - details of approach to partnerships • Fourth paragraph, Track record - Contractor's statistical information and analysis • Fifth paragraph, Approach - details of approach to partnership building, • Sixth paragraph, Approach - details of approach to partnership building, • Seventh paragraph - Contractor's statistical information and analysis, • Eighth paragraph - details of promotion channels • Ninth paragraph - the number and names of partners • Eleventh paragraph - the application deadline <p>2)</p> <ul style="list-style-type: none"> • First paragraph - the Contractor's Net Promoter Score • First paragraph, all five numbered points - mechanisms that support partnership working • Second paragraph, first sentence - description of mechanism number 1 • Fourth paragraph, all bullet points - description and content of mechanism number 2 • Sixth paragraph, all bullet points - description and content of mechanism number 3 • Seventh paragraph - description of mechanism number 4 • Eighth paragraph, all bullet points - content of mechanism number 4 	<p>Until the Expiry Date or Termination Date, whichever is the earlier.</p>

<p>3)</p> <ul style="list-style-type: none"> Nineth paragraph, all bullet points - content of mechanism number 4 Eleventh paragraph, all bullet points - description and content of mechanism number 5 Second paragraph and all bullet points - detail of approach to matching participants to ITT places Third paragraph, all bullet points - detail of approach to matching participants to ITT places 	
<p>Schedule 15: Contractor's Solution</p> <p>The following parts of the Contractor's Response to Q2.5 Participant Retention and Ongoing Support:</p> <p>1)</p> <ul style="list-style-type: none"> Second paragraph - details of the approach to retention Third paragraph, all bullets - description of the retention strategy Fourth paragraph, second bullet table and third bullet - The Contractor's statistical information and analysis <p>2)</p> <ul style="list-style-type: none"> Third paragraph in its entirety - details of the retention approach Fourth paragraph in its entirety including table - details of retention approach Added Value - details of the four levels of added value <p>3)</p> <ul style="list-style-type: none"> Second paragraph - detail of Engagement Third and fourth paragraphs - detail of Progress <p>4)</p> <ul style="list-style-type: none"> Third paragraph - detail of deferral approach Fifth paragraph - details of deferral approach <p>5)</p> <ul style="list-style-type: none"> End of paragraph one - details of approach to underperformance Start of paragraph two - details of approach to underperformance <p>6)</p> <ul style="list-style-type: none"> Second and third paragraphs and associated bullet points - detail of wrap-around support <p>7)</p> <ul style="list-style-type: none"> First paragraph - the Contractor's statistical information 	<p>Until the Expiry Date or Termination Date, whichever is the earlier.</p>

<p>8)</p> <ul style="list-style-type: none"> • All bullets - approach to participant satisfaction • Final paragraph - detail of the approach to feedback 	
<p>Schedule 15: Contractor's Solution</p> <p>The following parts of the Contractor's Response to Q3.1 Contract Performance Management and Continuous Improvement:</p> <p>1)</p> <ul style="list-style-type: none"> • First paragraph, last column of the table - insights and actions <p>2)</p> <ul style="list-style-type: none"> • Last sentence of second paragraph and third paragraph - detail of Participant contacts. <p>3)</p> <ul style="list-style-type: none"> • Fifth, sixth, seventh and eighth paragraphs - details related to named individuals <p>6)</p> <ul style="list-style-type: none"> • Second paragraph, first numbered point - details of surveys • Fourth paragraph, first and fourth bullet points - detail of unique process improvements <p>Annex D - Service Continuity Plan in its entirety</p>	<p>Until the Expiry Date or Termination Date, whichever is the earlier.</p>
<p>Schedule 15: Contractor's Solution</p> <p>The following parts of the Contractor's Response to Q3.2 Implementation and Resourcing:</p> <p>1)</p> <ul style="list-style-type: none"> • First paragraph - the Contractor's statistical information and analysis • First paragraph, third bullet point, Candidates - the Contractor's statistical information and details of the approach • First paragraph, fourth bullet point, Partnerships - information related to partnerships • First paragraph, fifth bullet point, Programme - details related to the programme • First paragraph, seventh bullet point, Impact - name of partner organisation. <p>3)</p> <ul style="list-style-type: none"> • Second paragraph, third bullet - details of the organisation • Third paragraph, table - organisational chart 	<p>Until the Expiry Date or Termination Date, whichever is the earlier.</p>

<ul style="list-style-type: none"> • Fourth paragraph and numbered points - details of the organisation and staffing • Seventh paragraph - details of programme <p>Annex E - Implementation Plan in its entirety</p> <p>Annex F - Risk Management Plan in its entirety</p> <p>Annex H - Organisational Chart in its entirety</p>	
<p>Schedule 15: Contractor's Solution</p> <p>The following parts of the Contractor's Response to Q4.2. Health and Reduced Demand on Public Services:</p> <ul style="list-style-type: none"> • Fifth paragraph - name of partner organisation • Tenth paragraph - the Contractor's statistical information and analysis 	<p>Until the Expiry Date or Termination Date, whichever is the earlier.</p>

SCHEDULE 10 STAFF TRANSFER

2 DEFINITIONS

In this Schedule, the following definitions shall apply:

“Acquired Rights Directive”	the European Council Directive 2001/23/EC on the approximation of the laws of the member states of the European Union relating to the safeguarding of employees’ rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or re-enacted from time to time;
“Contractor’s Final Staff List”	a list provided by the Contractor of all Staff who will transfer under the Employment Regulations on the relevant Service Transfer Date;
“Contractor’s Provisional Staff List”	a list prepared and updated by the Contractor of all Contractor Staff who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Contractor;
“Employee”	has the meaning given to that term in regulation 2(1) of the Employment Regulations;
“Employment Regulations”	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the Acquired Rights Directive;
“Fair Deal Employees”	<p>any of:</p> <ul style="list-style-type: none">(i) Transferring Former Contractor Employees;(ii) employees who are not Transferring Former Contractor Employees but to whom the Employment Regulations applies on the Relevant Transfer Date to transfer their employment to the Contractor or a Sub-Contractor, and whose employment is not terminated in accordance with the provisions of Paragraphs 2.5 of Part A or 1.4 of Part B of this Schedule 10; or(iii) where a Former Contractor becomes the Contractor, employees, <p>who at the Service Commencement Date or Relevant Transfer Date (as appropriate) are or become entitled to New Fair Deal protection in respect of any of the Statutory Schemes as notified by the Authority.</p>
“Former Contractor”	a contractor supplying services to the Authority before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any Sub-Contractor of such contractor;
“MSC Schedule 9.1”	Schedule 9.1 in v1.09A (England & Wales) of the Model Services Contract Combined Schedules issued by the

Cabinet Office on 12 November 2020 as published online, as amended or revised and published online as so amended or revised as a new version by or with the authority of the Cabinet Office from time to time, and referred to in Schedule 1 to this Contract, substituting for the definition of Fair Deal Employees in Paragraph 1 of Part D of the said Schedule 9.1 the definition of Fair Deal Employees in this Paragraph 1 of this Schedule 10.

“New Fair Deal”

the revised Fair Deal position set out in the HM Treasury guidance: “Fair Deal for staff pensions: staff transfer from central government” issued in October 2013 including:

- (i) any amendments to that document immediately prior to the Relevant Transfer Date;
- (ii) any similar pension protection in accordance with the Annexes D1 to D3 inclusive to Part D of MSA Schedule 9.1 as notified to the Contractor by the Authority.

“Old Fair Deal”

HM Treasury Guidance “Staff Transfers from Central Government: A Fair Deal for Staff Pensions” issued in June 1999 including the supplementary guidance “Fair Deal for Staff pensions: Procurement of Bulk Transfer Agreements and Related Issues” issued in June 2004.

“Programme”

the High Potential Initial Teacher Training Programme to be operated for the Authority by the Contractor under the Contract;

“Relevant Transfer”

a transfer of employment to which the Employment Regulations applies.

“Relevant Transfer Date”

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

“Replacement Sub-Contractor”

a Sub-Contractor of any Replacement Contractor to whom Transferring Contractor Employees will transfer on a Service Transfer Date.

“Service Transfer”

any transfer of the Services (or any part of the Services), for whatever reason, from the Contractor or any Sub-Contractor to a Replacement Contractor or a Replacement Sub-Contractor.

“Service Transfer Date”

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

“Statutory Schemes”

means the CSPA, NHSPA or LGPS as defined in the Annexes to Part D of MSC Schedule 9.1.

“Transferring Contractor Employees”

those employees of the Contractor or the Contractor’s Sub-Contractors to whom the Employment Regulations will apply on the relevant Service Transfer Date;

“Transferring Former Contractor Employees”

in relation to a Former Contractor, those employees of the Former Contractor to whom the Employment Regulations will apply on the Relevant Transfer Date; and

“Staff Information”

in relation to all persons identified on the Contractor’s Provisional Staff List or the Contractor’s Final Staff List, as the case may be, all information that the Authority may reasonably request, including the following:

- (a) their ages, dates of commencement of employment or engagement, gender and place of work;
- (b) details of whether they are employed, self-employed contractors or consultants, workers, agency workers or otherwise;
- (c) the identity of the employer or relevant contracting party;
- (d) their relevant contractual notice periods and all other terms and conditions of their employment or engagement, including all other terms relating to the termination of their employment or engagement, including redundancy procedures and redundancy and any other severance payments, and their job titles and qualifications;
- (e) their wages, salaries, bonuses, profit sharing arrangements and any other remuneration, and any future pay settlements;
- (f) details of all other employment-related benefits, including (without limitation) pension or any other retirement benefits or entitlements, medical insurance, life assurance, share option schemes and company car or similar benefits;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment or engagement (or relevant standard contracts if applied generally in respect of such employees);
- (j) 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;
- (k) details of all collective agreements with a brief summary of the current state of negotiations with any relevant trade unions or other representative bodies and details of any current industrial disputes or claims for recognition by any trade union; and

- (l) any other “employee liability information” as such term is defined in regulation 11 of the Employment Regulations.

3 INTERPRETATION

Where a provision in this Schedule or (if applicable) in Part D of MSC Schedule 9.1 imposes an obligation on the Contractor to provide an indemnity, undertaking or warranty, the Contractor shall procure that each of its Sub-Contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Authority, Former Contractor, Replacement Contractor or Replacement Sub-Contractor, as the case may be.

PART A: TRANSFERRING FORMER CONTRACTOR EMPLOYEES AT COMMENCEMENT OF SERVICES

1 RELEVANT TRANSFERS

1.1 The Contractor agrees that:

- (a) the commencement of the provision of the Services or of any relevant part of the Services will be a Relevant Transfer in relation to the relevant Transferring Former Contractor Employees;
- (b) as a result of the operation of the Employment Regulations, the contracts of employment between each Former Contractor and the Transferring Former Contractor Employees (except in relation to any terms disapplied through the operation of regulation 10(2) of the Employment Regulations) shall have effect on and from the Relevant Transfer Date as if originally made between the Contractor or any relevant Sub-Contractor and each such Transferring Former Contractor Employee.

1.2 The Authority shall procure that each Former Contractor shall comply with all its obligations under the Employment Regulations and shall perform and discharge all its obligations in respect of all the Transferring Former Contractor Employees in respect of the period up to (but not including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (but not including) the Relevant Transfer Date) and the Contractor shall make, and the Authority shall procure that each Former Contractor makes, any necessary apportionments in respect of any periodic payments.

2 FORMER CONTRACTOR INDEMNITIES

2.1 Subject to Paragraph 2.2, the Authority shall procure that each Former Contractor shall indemnify and keep indemnified the Contractor and any relevant Sub-Contractor against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which they may suffer or incur as a result of or in connection with:

- (a) the provision of any Staff Information by the Former Contractor;
- (b) any claim or demand by any Transferring Former Contractor Employee (whether in contract, tort, under statute, pursuant to EU law or otherwise) in each case arising directly or indirectly from any act, fault or omission of the Former Contractor or any of its Sub-Contractors in respect of any Transferring Former Contractor Employee in the period up to (but not including) the Relevant Transfer Date relating to that Transferring Former Contractor Employee;
- (c) any failure by the Former Contractor or any of its Sub-Contractors to comply with its obligations under regulations 13 or 14 of the Employment Regulations or any award of compensation under regulation 15 of the Employment Regulations;
- (d) any court or Employment Tribunal claims (including any individual employee entitlement under or consequent on such a claim) by any trade union or other body or person representing any Transferring Former Contractor Employees arising from or connected with any failure by the Former Contractor or any of its Sub-Contractors to comply with any legal obligation to such trade union, body or person; and
- (e) any claim by any person who is transferred by the Former Contractor to the Contractor who has not, prior to the Relevant Transfer Date, been identified to the Contractor as a Transferring Former Contractor Employee.

2.2 The indemnities in Paragraph 2.1 shall not apply to the extent that the relevant liabilities arise from or are attributable to any act or omission of the Contractor or any Sub-Contractor,

whether occurring or having its origin before, on or after the Relevant Transfer Date, including any such liabilities:

- (a) arising out of the resignation of any Transferring Former Contractor Employee before the Relevant Transfer Date on account of substantial detrimental changes to his or her working conditions proposed by the Contractor or any Sub-Contractor to occur in the period from (and including) the Relevant Transfer Date; or
- (b) arising from any failure by the Contractor or any Sub-Contractor to comply with its obligations under the Employment Regulations.

2.3 If any person who is not identified by the Authority as a Transferring Former Contractor Employee claims, or it is determined in relation to any person who is not identified by the Authority as a Transferring Former Contractor Employee, that his or her contract of employment has been transferred from a Former Contractor to the Contractor or any Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

- (a) the Contractor shall, or shall procure that the relevant Sub-Contractor shall, within 5 Business Days of becoming aware of that fact, give notice in writing to the Authority and, where required by the Authority, to the Former Contractor; and
- (b) the Former Contractor may offer (or may procure that a third party may offer) employment to such person within 15 Business Days of the notification by the Contractor or the Sub-Contractor (as the case may be) or take such other reasonable steps as the Former Contractor considers appropriate to deal with the matter, provided always that such steps are in compliance with any applicable law.

2.4 If an offer referred to in Paragraph 2.3(b) is accepted, or if the situation has otherwise been resolved by the Former Contractor or the Authority, the Contractor shall, or shall procure that the relevant Sub-Contractor shall, immediately release the person from his or her employment or alleged employment.

2.5 If by the end of the 15 Business Day period specified in Paragraph 2.3(b)

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

the Supplier or the Sub-Contractor (as appropriate) may within 5 Business Days give notice to terminate the employment or alleged employment of such person.

2.6 Subject to the Contractor or the relevant Sub-Contractor acting in accordance with the provisions of Paragraphs 2.3 to 2.5 and in accordance with all applicable proper employment procedures set out in law, the Authority shall procure that the Former Contractor indemnifies the Contractor or the relevant Sub-Contractor (as the case may be) against all liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.5, provided that the Contractor takes, and procures that the relevant Sub-Contractor takes, all reasonable steps to minimise any such liabilities.

2.7 The indemnity in Paragraph 2.6:

- (a) shall not apply to:
 - (i) any claim for:
 - (A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - (B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Contractor or any Sub-Contractor; or

- (ii) any claim that the termination of employment was unfair because the Contractor or any Sub-Contractor neglected to follow a fair dismissal procedure; and
 - (b) shall apply only where the notification referred to in Paragraph 2.3(a) is made by the Contractor or the relevant Sub-Contractor (as appropriate) to the Authority and, if applicable, the Former Contractor, within 6 months of the Relevant Transfer Date.
- 2.8 If any such person as is described in Paragraph 2.3 is neither re-employed by the Former Contractor nor dismissed by the Contractor or the relevant Sub-Contractor within the time-scales set out in Paragraph 2.5, such person shall be treated as having transferred to the Contractor or the relevant Sub-Contractor and the Contractor shall, or shall procure that the relevant Sub-Contractor shall, comply with such obligations as may be imposed upon it under law.

3 CONTRACTOR INDEMNITIES AND OBLIGATIONS

- 3.1 Subject to Paragraph 3.2, the Contractor shall indemnify the Authority and any Former Contractor against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which they may suffer or incur as a result of or in connection with:
- (a) any act or omission by the Contractor or any Sub-Contractor in respect of any Transferring Former Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Contractor Employee whether occurring before, on or after the Relevant Transfer Date;
 - (b) the breach or non-observance by the Contractor or any Sub-Contractor on or after the Relevant Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Former Contractor Employee;
 - (ii) any custom or practice in respect of any Transferring Former Contractor Employees which the Contractor or any Sub-Contractor is contractually bound to honour;
 - (c) any claim by any trade union or other body or person representing any Transferring Former Contractor Employees arising from or connected with any failure by the Contractor or any Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
 - (d) any proposal by the Contractor or any Sub-Contractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Contractor Employees to their material detriment on or after their transfer to the Contractor or any Sub-Contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Contractor Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
 - (e) any statement communicated by the Contractor or any Sub-Contractor to, or any action undertaken by the Contractor or any Sub-Contractor in respect of, any Transferring Former Contractor Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Authority in writing;
 - (f) any proceeding, claim or demand by HMRC or any other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions;

- (i) in relation to any Transferring Former Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or such other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
- (ii) in relation to any employee who is not a Transferring Former Contractor Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his or her employment from the Former Contractor to the Contractor or a Sub-Contractor, to the extent that the proceeding, claim or demand by HMRC or such other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
- (g) any failure of the Contractor or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Contractor Employees in respect of the period from (and including) the Relevant Transfer Date; and
- (h) any claim made by or in respect of a Transferring Former Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Former Contractor Employee relating to any act or omission of the Contractor or any Sub-Contractor in relation to obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the Former Contractor's failure to comply with its obligations under regulation 13 of the Employment Regulations.

3.2 The indemnities in paragraph 3.1 shall not apply to the extent that the relevant liabilities arise or are attributable to any act or omission of the Former Contractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any such liabilities arising from the Former Contractor's failure to comply with its obligations under the Employment Regulations.

3.3 The Contractor shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the Employment Regulations) and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Transferring Former Contractor Employees, on and from the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and any other sums due under any Admission Agreement (as the same is defined in Part D of MSC Schedule 9.1) which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Contractor and the Former Contractor.

4 INFORMATION

4.1 The Contractor shall, and shall procure that each Sub-Contractor shall, promptly provide to the Authority and, at the Authority's direction, the Former Contractor, in writing such information as is necessary to enable the Authority and the Former Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

5 PRINCIPLES OF GOOD EMPLOYMENT PRACTICE

5.1 The Contractor shall, and shall procure that each Sub-Contractor shall, comply with any requirement notified to it by the Authority relating to pensions in respect of any Transferring Former Contractor Employee as set down in:

- (a) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007;

- (b) HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions" of 1999;
- (c) HM Treasury's guidance: "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and
- (d) the New Fair Deal.

5.2 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in paragraph 5.1 shall be agreed in accordance with the Change Control Procedure.

6 PROCUREMENT OBLIGATIONS

Notwithstanding any other provisions of this Part A, where in this Part A the Authority accepts an obligation to procure that a Former Contractor does or does not do something, such obligation shall be limited so that it extends only to the extent that the Authority's contract with the Former Contractor contains a contractual right in that regard which the Authority may enforce, or otherwise so that it requires only that the Authority must use reasonable endeavours to procure that the Former Contractor.

7 PENSIONS

7.1 The Contractor shall, and shall procure that each Sub-Contractor shall, comply with:

- (a) the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff; and
- (b) Part D of MSC Schedule 9.1, which shall apply mutatis mutandis as if it formed part of this Schedule.

PART B: NO TRANSFER OF EMPLOYEES AT COMMENCEMENT OF SERVICES

1 PROCEDURE IN THE EVENT OF TRANSFER

- 1.1 The Authority and the Contractor agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Authority or any Former Contractor.
- 1.2 If any employee of the Authority or a Former Contractor claims, or it is determined in relation to any employee of the Authority or a Former Contractor, that his or her contract of employment or engagement has been transferred from the Authority or the Former Contractor to the Contractor or any Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:
- (a) the Contractor shall, or shall procure that the relevant Sub-Contractor shall, within 5 Business Days of becoming aware of that fact, give notice in writing to the Authority and, where required by the Authority, give notice to the Former Contractor; and
 - (b) the Authority or the Former Contractor may offer (or may procure that a third party may offer) employment to such person within 15 Business Days of the notification by the Contractor or the Sub-Contractor (as the case may be) or take such other reasonable steps as the Authority or Former Contractor (as the case may be) considers appropriate to deal with the matter provided always that such steps are in compliance with any applicable law.
- 1.3 If an offer referred to in Paragraph 10.2(b) is accepted or if the situation has otherwise been resolved by the Authority or the Former Contractor, the Contractor shall, or shall procure that the Sub-Contractor shall, immediately release the person from his or her employment or alleged employment.
- 1.4 If by the end of the 15 Business Day period specified in Paragraph 10.2(b):
- (a) no such offer of employment has been made;
 - (b) such offer has been made but not accepted; or
 - (c) the situation has not otherwise been resolved,
- the Contractor or the Sub-Contractor (as appropriate) may within 5 Business Days give notice to terminate the employment or alleged employment of such person.

2 INDEMNITIES

- 2.1 Subject to the Contractor or the relevant Sub-Contractor acting in accordance with the provisions of Paragraphs 1.2 to 1.4 and in accordance with all applicable employment procedures set out in applicable law and subject also to Paragraph 2.4, the Authority shall:
- (a) indemnify the Contractor or the relevant Sub-Contractor (as the case may be) against all liabilities arising out of the termination of the employment of any employees of the Authority referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 10.4, provided that the Contractor takes, and procures that the relevant Sub-Contractor takes, all reasonable steps to minimise any such liabilities; and
 - (b) procure that the Former Contractor indemnifies the Contractor or the relevant Sub-Contractor against all liabilities arising out of the termination of the employment of the employees of the Former Contractor referred to in Paragraph 10.2 made pursuant to the provisions of Paragraph 10.4, provided that the Contractor takes, and procures that the relevant Sub-Contractor takes, all reasonable steps to minimise any such liabilities.
- 2.2 If any such person as is described in Paragraph 10.2 is neither re-employed by the Authority or the Former Contractor as appropriate nor dismissed by the Contractor or the relevant Sub-Contractor within the 15 Business Day period referred to in Paragraph 10.4, such person shall be treated as having transferred to the Contractor or the Sub-Contractor (as

appropriate) and the Contractor shall, or shall procure that the Sub-Contractor shall, comply with such obligations as may be imposed upon it under law.

2.3 Where any person remains employed by the Contractor and/or any Sub-Contractor pursuant to Paragraph 11.2, all liabilities in relation to such employee shall remain with the Contractor or the relevant Sub-Contractor (as the case may be) and the Contractor shall indemnify the Authority and any Former Contractor, and shall procure that the Sub-Contractor shall indemnify the Authority and any Former Contractor, against any such liabilities that either of them may incur in respect of any such employees of the Contractor or any relevant Sub-Contractor.

2.4 The indemnities in Paragraph 11.1:

- (a) shall not apply to:
 - (i) any claim for:
 - (A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - (B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,in any case in relation to any alleged act or omission of the Contractor or any Sub-Contractor; or
 - (ii) any claim that the termination of employment was unfair because the Contractor or any Sub-Contractor neglected to follow a fair dismissal procedure; and
- (b) shall apply only where the notification referred to in Paragraph 1.2(a) is made by the Contractor or the relevant Sub-Contractor to the Authority and, if applicable, the Former Contractor within 6 months of the Relevant Transfer Date.

3 PROCUREMENT OBLIGATIONS

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

4 PENSIONS

4.1 The Contractor shall, and shall procure that each Sub-Contractor shall, comply with:

- (a) the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005, if and to the extent that the same shall apply to any transferring staff; and
- (b) Part D of MSC Schedule 9.1, which shall apply mutatis mutandis as if it formed part of this Schedule, if and to the extent that the same shall apply to any transferring staff.

PART C: EMPLOYMENT EXIT PROVISIONS

1 PRE-SERVICE TRANSFER OBLIGATIONS

- 1.1 The Contractor agrees that within 20 Business Days of the earliest of:
- (a) receipt of a notification from the Authority of a Service Transfer or intended Service Transfer;
 - (b) receipt of the giving of notice of early termination or any Partial Termination of this Contract;
 - (c) the date which is 12 months before the end of the Term; and
 - (d) receipt of a written request by the Authority at any time (provided that the Authority shall only be entitled to make one such request in any 6 month period),
- it shall provide in a suitably anonymised format so as to comply with applicable Data Protection Legislation, the Contractor's Provisional Staff List, together with the Staff Information in relation to the Contractor's Provisional Staff List and it shall provide an updated Contractor's Provisional Staff List at such intervals as are reasonably requested by the Authority.
- 1.2 At least 20 Business Days prior to the Service Transfer Date, the Contractor shall provide to the Authority or at the direction of the Authority to any Replacement Contractor or any Replacement Sub-Contractor:
- (a) the Contractor's Final Staff List, which shall identify which members of the Contractor's Staff are Transferring Contractor Employees; and
 - (b) the Staff Information in relation to the Contractor's Final Staff List (insofar as such information has not previously been provided).
- 1.3 The Authority shall be permitted to use and disclose information provided by the Contractor under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Contractor or Replacement Sub-Contractor.
- 1.4 The Contractor warrants, for the benefit of the Authority, any Replacement Contractor and any Replacement Sub-Contractor, that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in Paragraphs 1.1(a), 1.1(b) and 1.1(c), the Contractor agrees that it shall not, and agrees to procure that each Sub-Contractor shall not, assign any person to the provision of the Services who is not listed on the Contractor's Provisional Staff List and shall not without the approval of the Authority (not to be unreasonably withheld or delayed):
- (a) replace or re-deploy any member of the Contractor Staff listed on the Contractor's Provisional Staff List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he or she replaces;
 - (b) make, promise, propose, permit or implement any material changes to the terms and conditions of employment of any of the Contractor Staff (including any payments connected with the termination of employment);
 - (c) increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Contractor Staff, save for fulfilling assignments and projects previously scheduled and agreed;
 - (d) introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Contractor's Provisional Staff List;

- (e) increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or

terminate or give notice to terminate the employment or engagement of any persons on the Contractor's Provisional Staff List save by due disciplinary process,

and shall promptly notify, and procure that each Sub-Contractor shall promptly notify, the Authority or, at the direction of the Authority, any Replacement Contractor and any Replacement Sub-Contractor of any notice to terminate employment given by the Contractor or relevant Sub-Contractor or received from any persons listed on the Contractor's Provisional Contractor Staff List regardless of when such notice takes effect.

- 1.6 During the Term, the Contractor shall provide, and shall procure that each Sub-Contractor shall provide, to the Authority any information the Authority may reasonably require relating to the manner in which the Services are organised and provided, which shall include:

- (a) the numbers of employees engaged in providing the Services;
- (b) the percentage of time spent by each employee so engaged in providing the Services;
- (c) the extent to which each employee qualifies for membership of any of the Statutory Schemes or any Broadly Comparable (as defined in Paragraph 1 of Part D of MSC Schedule 9.1) scheme set up pursuant to the provisions of any of the annexes to Part D of MSC Schedule 9.1 (as appropriate); and
- (d) a description of the nature of the work undertaken by each employee by location.

- 1.7 The Contractor shall provide, and shall procure that each Sub-Contractor shall provide, all reasonable cooperation and assistance to the Authority, any Replacement Contractor and any Replacement Sub-Contractor to ensure the smooth transfer of the Transferring Contractor Employees on the Service Transfer Date, including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Contractor Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Business Days following the Service Transfer Date, the Contractor shall provide, and shall procure that each Sub-Contractor shall provide, to the Authority or, at the direction of the Authority, to any Replacement Contractor or any Replacement Sub-Contractor (as appropriate), in respect of each person on the Contractor's Final Staff List who is a Transferring Contractor Employee:

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

2 THE EMPLOYMENT REGULATIONS EXIT PROVISIONS

- 2.1 The Authority and the Contractor acknowledge that, subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Contract or otherwise) resulting in the Services or the relevant part of the Services being undertaken by a Replacement Contractor or a Replacement Sub-Contractor. Such change in the identity of the Contractor of such services may constitute a Relevant Transfer to which the Employment Regulations or the Acquired Rights Directive will apply. The Authority and the Contractor further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Contractor and the Transferring Contractor Employees (except in relation to any contract terms disapplied through the operation of regulation 10(2) of the Employment Regulations) will have effect on

and from the Service Transfer Date as if originally made between the Replacement Contractor or the relevant Replacement Sub-Contractor (as the case may be) and each such Transferring Contractor Employee.

- 2.2 The Contractor shall, and shall procure that each Sub-Contractor shall, comply with all its obligations in respect of the Transferring Contractor Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of all the Transferring Contractor Employees arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Statutory Schemes which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Contractor or the Sub-Contractor (as appropriate); and (ii) the Replacement Contractor or Replacement Sub-Contractor (as appropriate).
- 2.3 Subject to Paragraph 2.4, the Contractor shall indemnify the Authority and any relevant Replacement Contractor and Replacement Sub-Contractor against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which they may suffer or incur as a result of or in connection with:
- (a) any act or omission of the Contractor or any Sub-Contractor in respect of any Transferring Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Contractor Employee whether occurring before, on or after the Service Transfer Date;
 - (b) the breach or non-observance by the Contractor or any Sub-Contractor occurring on or before the Service Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Contractor Employees; or
 - (ii) any other custom or practice with a trade union or staff association in respect of any Transferring Contractor Employees which the Contractor or any Sub-Contractor is contractually bound to honour;
 - (c) any claim by any trade union or other body or person representing any Transferring Contractor Employees arising from or connected with any failure by the Contractor or a Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
 - (d) any proceeding, claim or demand by HMRC or any other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Transferring Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or such other statutory authority relates to financial obligations arising on or before the Service Transfer Date; and
 - (ii) in relation to any employee who is not identified in the Contractor's Final Staff List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his or her employment from the Contractor to the Authority or Replacement Contractor or any Replacement Sub-Contractor, to the extent that the proceeding, claim or demand by HMRC or such other statutory authority relates to financial obligations arising on or before the Service Transfer Date;
 - (e) any failure of the Contractor or any Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions

and national insurance contributions relating to the Transferring Contractor Employees in respect of the period up to (and including) the Service Transfer Date);

- (f) any claim made by or in respect of any person employed or formerly employed by the Contractor or any Sub-Contractor other than a Transferring Contractor Employee identified in the Contractor's Final Staff List for whom it is alleged the Authority or the Replacement Contractor or any Replacement Sub-Contractor may be liable by virtue of this Contract or the Employment Regulations or the Acquired Rights Directive; and
- (g) any claim made by or in respect of a Transferring Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Contractor Employee relating to any act or omission of the Contractor or any Sub-Contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Authority or Replacement Contractor to comply with regulation 13(4) of the Employment Regulations.

2.4 The indemnities in Paragraph 2.3 shall not apply to the extent that the relevant liabilities arise or are attributable to any act or omission of the Replacement Contractor or any Replacement Sub-Contractor, whether occurring or having its origin before, on or after the Service Transfer Date, including any such liabilities:

- (a) arising out of the resignation of any Transferring Contractor Employee before the Service Transfer Date on account of substantial detrimental changes to his or her working conditions proposed by the Replacement Contractor or any Replacement Sub-Contractor to occur in the period on or after the Service Transfer Date; or
- (b) arising from any failure by the Replacement Contractor or any Replacement Sub-Contractor to comply with their obligations under the Employment Regulations.

2.5 If any person who is not identified in the Contractor's Final Staff List claims, or it is determined in relation to any person who is not identified in the Contractor's Final Staff List that his or her contract of employment or engagement has been transferred from the Contractor or any Sub-Contractor to the Replacement Contractor or any Replacement Sub-Contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:

- (a) the Authority shall procure that the Replacement Contractor shall, or any Replacement Sub-Contractor shall, within 5 Business Days of becoming aware of that fact, give notice in writing to the Contractor; and
- (b) the Contractor may offer (or may procure that a Sub-Contractor may offer) employment to such person within 15 Business Days of the notification by the Replacement Contractor or the relevant Replacement Sub-Contractor or take such other reasonable steps as it considers appropriate to deal with the matter, provided always that such steps are in compliance with all applicable law.

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

2.7 If after the 15 Business Day period specified in Paragraph 2.5(b) has elapsed:

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

the Authority shall advise the Replacement Contractor or Replacement Sub-Contractor, as appropriate, that it may within 5 Business Days give notice to terminate the employment or alleged employment of such person.

- 2.8 Subject to the Replacement Contractor or the relevant Replacement Sub-Contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable law, the Contractor shall indemnify the Replacement Contractor or the Replacement Sub-Contractor against all liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.7, provided that the Replacement Contractor takes, or shall procure that the Replacement Sub-Contractor takes, all reasonable steps to minimise any such liabilities.
- 2.9 The indemnity in Paragraph 2.8:
- (a) shall not apply to:
 - (i) any claim for:
 - (A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - (B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,in any case in relation to any alleged act or omission of the Replacement Contractor or Replacement Sub-Contractor; or
 - (ii) any claim that the termination of employment was unfair because the Replacement Contractor or Replacement Sub-Contractor neglected to follow a fair dismissal procedure; and
 - (b) shall apply only where the notification referred to in Paragraph 2.5(a) is made by the Replacement Contractor or Replacement Sub-Contractor to the Contractor within 6 months of the Service Transfer Date .
- 2.10 If any such person as is described in Paragraph 2.5 is neither re-employed by the Contractor or any Sub-Contractor nor dismissed by the Replacement Contractor or Replacement Sub-Contractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Contractor Employee.
- 2.11 The Contractor shall comply, and shall procure that each Sub-Contractor shall comply, with all its obligations under the Employment Regulations and shall perform and discharge, and shall procure that each Sub-Contractor shall perform and discharge, all its obligations in respect of any person identified in the Contractor's Final Staff List before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Statutory Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:
- (a) the Contractor or any relevant Sub-Contractor; and
 - (b) the Replacement Contractor or the relevant Replacement Sub-Contractor.
- 2.12 The Contractor shall, and shall procure that each Sub-Contractor shall, promptly provide to the Authority and any Replacement Contractor and Replacement Sub-Contractor in writing such information as is necessary to enable the Authority, the Replacement Contractor and any Replacement Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Authority shall procure that the Replacement Contractor and any relevant Replacement Sub-Contractor shall promptly provide to the Contractor and each Sub-Contractor in writing such information as is necessary to enable the Contractor and each Sub-Contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

- 2.13 Subject to Paragraph 2.14, the Authority shall procure that the Replacement Contractor indemnifies the Contractor on its own behalf and on behalf of any Replacement Sub-Contractor and its Sub-Contractors against any liabilities arising from or as a result of:
- (a) any act or omission of the Replacement Contractor or any Replacement Sub-Contractor in respect of any Transferring Contractor Employee identified in the Contractor's Final Staff List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Contractor Employee;
 - (b) the breach or non-observance by the Replacement Contractor or any Replacement Sub-Contractor on or after the Service Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Contractor Employees identified in the Contractor's Final Staff List ; or
 - (ii) any custom or practice in respect of any Transferring Contractor Employees identified in the Contractor's Final Staff List which the Replacement Contractor or any Replacement Sub-Contractor is contractually bound to honour;
 - (c) any claim by any trade union or other body or person representing any Transferring Contractor Employees identified in the Contractor's Final Staff List arising from or connected with any failure by the Replacement Contractor or any Replacement Sub-Contractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
 - (d) any proposal by the Replacement Contractor or any Replacement Sub-Contractor to change the terms and conditions of employment or working conditions of any Transferring Contractor Employees identified in the Contractor's Final Staff List on or after their transfer to the Replacement Contractor or Replacement Sub-Contractor (as the case may be) on the Service Transfer Date or to change the terms and conditions of employment or working conditions of any person identified in the Contractor's Final Staff List who would have been a Transferring Contractor Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;
 - (e) any statement communicated by the Replacement Contractor or any Replacement Sub-Contractor to, or action undertaken by the Replacement Contractor or any Replacement Sub-Contractor in respect of, any Transferring Contractor Employee identified in the Contractor's Final Staff List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Contractor in writing;
 - (f) any proceeding, claim or demand by HMRC or any other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Transferring Contractor Employee identified in the Contractor's Final Staff List, to the extent that the proceeding, claim or demand by HMRC or such other statutory authority relates to financial obligations arising after the Service Transfer Date; and
 - (ii) in relation to any employee who is not a Transferring Contractor Employee identified in the Contractor's Final Staff List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his or her employment from the Contractor or Sub-Contractor to the Replacement Contractor or Replacement Sub-Contractor to the extent that the proceeding, claim or demand by HMRC or such other statutory authority relates to financial obligations arising after the Service Transfer Date;
 - (g) a failure of the Replacement Contractor or Replacement Sub-Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax

deductions and national insurance contributions relating to the Transferring Contractor Employees identified in the Contractor's Final Staff List in respect of the period after the Service Transfer Date; and

- (h) any claim made by or in respect of a Transferring Contractor Employee identified in the Contractor's Final Staff List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Contractor Employee relating to any act or omission of the Replacement Contractor or Replacement Sub-Contractor in relation to obligations under regulation 13 of the Employment Regulations.

- 2.14 The indemnities in Paragraph 2.13 shall not apply to the extent that the relevant liabilities arise or are attributable to an act or omission of the Contractor or any Sub-Contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any such liabilities arising from the failure by the Contractor or any Sub-Contractor (as applicable) to comply with its obligations under the Employment Regulations.

SCHEDULE 11 FINANCIAL DISTRESS

1 FINANCIAL STANDING

- 1.1 If during the Term the Contractor does not meet any of the Guarantee Criteria the Contractor shall procure that:
- (a) an Affiliate of the Contractor which at the relevant time and thereafter meets all the Guarantee Criteria shall become a Guarantor and shall provide a Guarantee in the form set out in Schedule 12 (Guarantee); or
 - (b) in the event that a Group Company is not able to meet the Guarantee Criteria the Contractor shall provide suitable alternative security in the form of:
 - (i) an ABI Model Form of Guarantee Bond or equivalent bond to the Authority to a value of £2,000,000 (Two Million Pounds); or
 - (ii) an alternative guarantee, the provision of funds or reserves by a third party under guarantee, cash, deposit or escrow account as the Authority may approve (such approval not to be unreasonably withheld or delayed).
- 1.2 The Contractor shall:
- (a) regularly monitor compliance with the Guarantee Criteria ; and
 - (b) promptly notify the Authority in writing following the occurrence of a Financial Distress Event or Key Sub-Contractor Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event or a Key Sub-Contractor Financial Distress Event (and in any event, ensure that such notification is made within 10 Business Days of the date on which the Contractor first becomes aware of the Financial Distress Event, the Key Sub-Contractor Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event or a Key Sub-Contractor Financial Distress Event).

2 FINANCIAL DISTRESS EVENTS

- 2.1 The following shall be Financial Distress Events:
- (a) the Contractor not meeting the Guarantee Criteria or providing a Guarantor that meets the Guarantee Criteria, or providing alternative security as set out in paragraph 1.1(b);
 - (b) the Contractor, or the Guarantor or any Key Sub-Contractor issuing a profits warning to a stock exchange or making any other public announcement, in each case about a material deterioration in its financial position or prospects;
 - (c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of the Contractor, or the Guarantor or any Key Sub-Contractor;
 - (d) the Contractor, the Guarantor or any Key Sub-Contractor committing a material breach of covenant to its lenders;
 - (e) a Key Sub-Contractor notifying the Authority that the Contractor has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute; or
 - (f) any of the following:
 - (i) commencement of any litigation against the Contractor, the Guarantor or any Key Sub-Contractor with respect to financial indebtedness greater than £5,000,000 million (five million pounds) or obligations under a service contract with a total contract value greater than £5,000,000 million (five million pounds) and which is reasonably likely to be adversely determined;

- (ii) non-payment by the Contractor, the Guarantor or any Key Sub-Contractor of any financial indebtedness;
- (iii) any financial indebtedness of the Contractor, the Guarantor or any Key Sub-Contractor becoming due as a result of an event of default; or
- (iv) the cancellation or suspension of any financial indebtedness in respect of the Contractor, the Guarantor or any Key Sub-Contractor ; or
- (v) the external auditor of Contractor, the Guarantor or any Key Sub-Contractor expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that Contractor, the Guarantor or any Key Sub-Contractor;

in each case which the Authority reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance and delivery of the Services in accordance with this Agreement; or

- (g) any banking or credit facility being unavailable or removed from the Contractor ;or
- (h) any guarantee related to any banking or credit facility being unavailable or removed from the Contractor

3 CONSEQUENCES OF FINANCIAL DISTRESS EVENTS

- 3.1 Immediately upon notification of the Financial Distress Event (or if the Authority becomes aware of the Financial Distress Event without notification and brings the event to the attention of the Contractor), the Contractor shall have the obligations and the Authority shall have the rights and remedies as set out in Paragraphs 3.3 to 3.6 of this Schedule.
- 3.2 In the event of a late or non-payment of a Key Sub-contractor pursuant to Paragraph 2.1(e), the Authority shall not exercise any of its rights or remedies under Paragraph 3.3 without first giving the Supplier 10 Working Days to:
 - (a) rectify such late or non-payment; or
 - (b) demonstrate to the Authority's reasonable satisfaction that there is a valid reason for late or non-payment.
- 3.3 The Contractor shall (and shall procure that the Guarantor and/or any relevant Key Sub-Contractor shall):
 - (a) at the request of the Authority, meet the Authority as soon as reasonably practicable (and in any event within 3 Business Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Authority may permit and notify to the Contractor in writing) to review the effect of the Financial Distress Event on the continued performance and delivery of the Services in accordance with this Contract; and
 - (b) where the Authority reasonably believes (taking into account the discussions and any representations made under Paragraph 3.3(a) that the Financial Distress Event could impact on the continued performance and delivery of the Services in accordance with this Contract:
 - (i) submit to the Authority a draft Financial Distress Remediation Plan as soon as reasonably practicable (and in any event, within 10 Business Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Authority may permit and notify to the Contractor in writing); and
 - (ii) to the extent that it is legally permitted to do so and subject to Paragraph 3.8, provide such information relating to the Contractor, Key Sub-contractors and/or the Guarantor as the Authority may reasonably require in order to understand the risk to the Services, which may include forecasts in relation to cash flow,

orders and profits and details of financial measures being considered to mitigate the impact of the Financial Distress Event.

- 3.4 The Authority shall not withhold its approval of a draft Financial Distress Remediation Plan unreasonably. If the Authority does not approve the draft Financial Distress Remediation Plan, it shall inform the Contractor of its reasons and the Contractor shall take those reasons into account in the preparation of a further draft Financial Distress Remediation Plan, which shall be resubmitted to the Authority within 5 Working Days of the rejection of the first draft. This process shall be repeated until the Financial Distress Service Continuity is approved by the Authority or referred to the Dispute Resolution Procedure under Paragraph 3.5.
- 3.5 If the Authority considers that the draft Financial Distress Remediation Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not ensure the continued performance of the Supplier's obligations in accordance with the Agreement, then it may either agree a further time period for the development and agreement of the Financial Distress Remediation Plan or escalate any issues with the draft Financial Distress Remediation Plan using the Dispute Resolution Procedure.
- 3.6 Following approval of the Financial Distress Remediation Plan by the Authority, the Contractor shall:
- (a) on a regular basis (which shall not be less than fortnightly)
 - (i) review and make any updates to the Financial Distress Remediation Plan as the Supplier may deem reasonably necessary and/or as may be reasonably requested by the Authority, so that the plan remains adequate, up to date and ensures the continued performance and delivery of the Services in accordance with this Contract; and
 - (ii) provide a written report to the Authority setting out its progress against the Financial Distress Remediation Plan, the reasons for any changes made to the Financial Distress Remediation Plan by the Supplier and/or the reasons why the Supplier may have decided not to make any changes;
 - (b) where updates are made to the Financial Distress Remediation Plan in accordance with Paragraph 3.6(a), submit an updated Financial Distress Remediation Plan to the Authority for its approval, and the provisions of Paragraphs 3.4 and 3.5 shall apply to the review and approval process for the updated Financial Distress Remediation Plan; and
 - (c) comply with the Financial Distress Remediation Plan (including any updated Financial Distress Remediation Plan) and ensure that it achieves the financial and performance requirements set out in the Financial Distress Remediation Plan.
- 3.7 Where the Contractor reasonably believes that the relevant Financial Distress Event under Paragraph 3.1 (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Authority and the Parties may agree that the Contractor shall be relieved of its obligations under Paragraph 3.6.
- 3.8 The Contractor shall use reasonable endeavours to put in place the necessary measures to ensure that the information specified at paragraph 3.3(b)(ii) is available when required and on request from the Authority and within reasonable timescales. Such measures may include:
- (a) obtaining in advance written authority from Key Sub-contractors and the Guarantor authorising the disclosure of the information to the Authority and/or entering into confidentiality agreements which permit disclosure;
 - (b) agreeing in advance with the Authority, Key Sub-contractors and the Guarantor a form of confidentiality agreement to be entered by the relevant parties to enable the disclosure of the information to the Authority;
 - (c) putting in place any other reasonable arrangements to enable the information to be lawfully disclosed to the Authority (which may include making price sensitive

information available to Authority nominated personnel through confidential arrangements, subject to their consent); and

- (d) disclosing the information to the fullest extent that it is lawfully entitled to do so, including through the use of redaction, anonymisation and any other techniques to permit disclosure of the information without breaching a duty of confidentiality.

4 TERMINATION RIGHTS

4.1 The Authority shall be entitled to terminate this Agreement under Clause 25.8.4 (Termination) if:

- (a) the Contractor fails to notify the Authority of a Financial Distress Event in accordance with Paragraph 1.2(b);
- (b) the Parties fail to agree a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraphs 3.3 to 3.5; and/or
- (c) the Contractor fails to comply with the terms of the Financial Distress Remediation Plan (or any updated Financial Distress Remediation Plan) in accordance with Paragraph 3.6(c).

SCHEDULE 12
GUARANTEE

[Insert the name of the Guarantor]

- and -

[Insert the name of the Beneficiary]

DEED OF GUARANTEE

DEED OF GUARANTEE

THIS DEED OF GUARANTEE is made the day of 2021

BETWEEN:

- (1) [*Insert the name of the Guarantor*] [a company incorporated in England and Wales with number [] whose registered office is at [*insert details of the Guarantor's registered office here*] [a company incorporated under the laws of [*insert country*], registered in [*insert country*] with number [*insert number*] at [*insert place of registration*], whose principal office is at [*insert office details*] ("**Guarantor**")]; in favour of
- (2) [*Insert the name of the public sector Party to the Guaranteed Agreement*] whose principal office is at [] ("**Beneficiary**")

WHEREAS:

- (A) It is a condition of the Beneficiary entering into the Guaranteed Agreement that the Guarantor executes and delivers this Deed of Guarantee to the Beneficiary.
- (B) The Guarantor has agreed, in consideration of the Beneficiary entering into the Guaranteed Agreement with the Contractor, to guarantee all of the Contractor's obligations under the Guaranteed Agreement.
- (C) It is the intention of the Parties that this document be executed and take effect as a deed.

Now in consideration of the Beneficiary entering into the Guaranteed Agreement, the Guarantor hereby agrees with the Beneficiary as follows:

5 DEFINITIONS AND INTERPRETATION

In this Deed of Guarantee:

- 1.1 unless defined elsewhere in this Deed of Guarantee or the context requires otherwise, defined terms shall have the same meaning as they have for the purposes of the Guaranteed Agreement;
- 1.2 the words and phrases below shall have the following meanings:
 - (a) "**Contractor Termination Event**" means grounds under the Guaranteed Agreement that relate to the Contractor that give the Authority the right to terminate the Guaranteed Agreement.
 - (b) "**Financial Distress Event**" means an event of Financial Distress under the Guaranteed Agreement;
 - (c) "**Guaranteed Agreement**" means the [*insert details of main contract*] made between the Beneficiary and the Contractor on [*insert date*]; and
 - (d) "**Guaranteed Obligations**" means all obligations and liabilities of the Contractor to the Beneficiary under the Guaranteed Agreement together with all obligations owed by the Contractor to the Beneficiary that are supplemental to, incurred under, ancillary to or calculated by reference to the Guaranteed Agreement;
- 1.3 references to this Deed of Guarantee and any provisions of this Deed of Guarantee or to any other document or agreement (including to the Guaranteed Agreement) are to be construed as references to this Deed of Guarantee, those provisions or that document or agreement in force for the time being and as amended, varied, restated, supplemented, substituted or novated from time to time;
- 1.4 unless the context otherwise requires, words importing the singular are to include the plural and vice versa;
- 1.5 references to a person are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;

- 1.6 the words “other” and “otherwise” are not to be construed as confining the meaning of any following words to the class of thing previously stated where a wider construction is possible;
- 1.7 unless the context otherwise requires, reference to a gender includes the other gender and the neuter;
- 1.8 unless the context otherwise requires, references to an Act of Parliament, statutory provision or statutory instrument include a reference to that Act of Parliament, statutory provision or statutory instrument as amended, extended or re-enacted from time to time and to any regulations made under it;
- 1.9 unless the context otherwise requires, any phrase introduced by the words “including”, “includes”, “in particular”, “for example” or similar, shall be construed as illustrative and without limitation to the generality of the related general words;
- 1.10 references to Clauses and Schedules are, unless otherwise provided, references to Clauses of and Schedules to this Deed of Guarantee; and
- 1.11 references to liability are to include any liability whether actual, contingent, present or future.

2 GUARANTEE AND INDEMNITY

- 2.1 The Guarantor irrevocably and unconditionally guarantees and undertakes to the Beneficiary to procure that the Contractor duly and punctually performs all of the Guaranteed Obligations now or hereafter due, owing or incurred by the Contractor to the Beneficiary.
- 2.2 The Guarantor irrevocably and unconditionally undertakes upon demand to pay to the Beneficiary all monies and liabilities which are now or at any time hereafter shall have become payable by the Contractor to the Beneficiary under or in connection with the Guaranteed Agreement or in respect of the Guaranteed Obligations as if it were a primary obligor.
- 2.3 If at any time the Contractor shall fail to perform any of the Guaranteed Obligations, the Guarantor, as primary obligor, irrevocably and unconditionally undertakes to the Beneficiary that, upon first demand by the Beneficiary it shall, at the cost and expense of the Guarantor:
 - (a) fully, punctually and specifically perform such Guaranteed Obligations as if it were itself a direct and primary obligor to the Beneficiary in respect of the Guaranteed Obligations and liable as if the Guaranteed Agreement had been entered into directly by the Guarantor and the Beneficiary; and
 - (b) as a separate and independent obligation and liability, indemnify and keep the Beneficiary indemnified against all losses, damages, costs and expenses (including VAT thereon, and including, without limitation, all court costs and all legal fees on a solicitor and own client basis, together with any disbursements,) of whatever nature which may result or which such Beneficiary may suffer, incur or sustain arising in any way whatsoever out of a failure by the Contractor to perform the Guaranteed Obligations save that, subject to the other provisions of this Deed of Guarantee, this shall not be construed as imposing greater obligations or liabilities on the Guarantor than are purported to be imposed on the Contractor under the Guaranteed Agreement.
- 2.4 As a separate and independent obligation and liability from its obligations and liabilities under Clauses 2.1 to 2.3 above, the Guarantor as a primary obligor irrevocably and unconditionally undertakes to indemnify and keep the Beneficiary indemnified on demand against all losses, damages, costs and expenses (including VAT thereon, and including, without limitation, all legal costs and expenses), of whatever nature, whether arising under statute, contract or at common law, which such Beneficiary may suffer or incur if any obligation guaranteed by the Guarantor is or becomes unenforceable, invalid or illegal as if the obligation guaranteed had not become unenforceable, invalid or illegal provided that the Guarantor's liability shall be no greater than the Contractor's liability would have been if the obligation guaranteed had not become unenforceable, invalid or illegal.

3 OBLIGATION TO ENTER INTO A NEW CONTRACT

- 3.1 If the Guaranteed Agreement is terminated for any reason, whether by the Beneficiary or the Contractor, or if the Guaranteed Agreement is disclaimed by a liquidator of the Contractor or the obligations of the Contractor are declared to be void or voidable for any reason, then the Guarantor will, at the request of the Beneficiary enter into a contract with the Beneficiary in terms mutatis mutandis the same as the Guaranteed Agreement and the obligations of the Guarantor under such substitute agreement shall be the same as if the Guarantor had been original obligor under the Guaranteed Agreement or under an agreement entered into on the same terms and at the same time as the Guaranteed Agreement with the Beneficiary.

4 DEMANDS AND NOTICES

- 4.1 Any demand or notice served by the Beneficiary on the Guarantor under this Deed of Guarantee shall be in writing, addressed to:

- (a) ***[Address of the Guarantor in England and Wales]***
- (b) ***[Facsimile Number]***
- (c) For the Attention of ***[insert details]***

or such other address in England and Wales or facsimile number as the Guarantor has from time to time notified to the Beneficiary in writing in accordance with the terms of this Deed of Guarantee as being an address or facsimile number for the receipt of such demands or notices.

- 4.2 Any notice or demand served on the Guarantor or the Beneficiary under this Deed of Guarantee shall be deemed to have been served:

- (a) if delivered by hand, at the time of delivery; or
- (b) if posted, at 10.00 a.m. on the second Business Day after it was put into the post; or
- (c) if sent by facsimile, at the time of despatch, if despatched before 5.00 p.m. on any Business Day, and in any other case at 10.00 a.m. on the next Business Day.

- 4.3 In proving service of a notice or demand on the Guarantor or the Beneficiary it shall be sufficient to prove that delivery was made, or that the envelope containing the notice or demand was properly addressed and posted as a prepaid first class recorded delivery letter, or that the facsimile message was properly addressed and despatched, as the case may be.

- 4.4 Any notice purported to be served on the Beneficiary under this Deed of Guarantee shall only be valid when received in writing by the Beneficiary.

5 BENEFICIARY'S PROTECTIONS

- 5.1 The Guarantor shall not be discharged or released from this Deed of Guarantee by any arrangement made between the Contractor and the Beneficiary (whether or not such arrangement is made with or without the assent of the Guarantor) or by any amendment to or termination of the Guaranteed Agreement or by any forbearance or indulgence whether as to payment, time, performance or otherwise granted by the Beneficiary in relation thereto (whether or not such amendment, termination, forbearance or indulgence is made with or without the assent of the Guarantor) or by the Beneficiary doing (or omitting to do) any other matter or thing which but for this provision might exonerate the Guarantor.

- 5.2 This Deed of Guarantee shall be a continuing security for the Guaranteed Obligations and accordingly:

- (a) it shall not be discharged, reduced or otherwise affected by any partial performance (except to the extent of such partial performance) by the Contractor of the Guaranteed Obligations or by any omission or delay on the part of the Beneficiary in exercising its rights under this Deed of Guarantee;
- (b) it shall not be affected by any dissolution, amalgamation, reconstruction, reorganisation, change in status, function, control or ownership, insolvency,

liquidation, administration, appointment of a receiver, voluntary arrangement, any legal limitation or other incapacity, of the Contractor, the Beneficiary, the Guarantor or any other person;

- (c) if, for any reason, any of the Guaranteed Obligations shall prove to have been or shall become void or unenforceable against the Contractor for any reason whatsoever, the Guarantor shall nevertheless be liable in respect of that purported obligation or liability as if the same were fully valid and enforceable and the Guarantor were principal debtor in respect thereof; and
- (d) the rights of the Beneficiary against the Guarantor under this Deed of Guarantee are in addition to, shall not be affected by and shall not prejudice, any other security, guarantee, indemnity or other rights or remedies available to the Beneficiary.

5.3 The Beneficiary shall be entitled to exercise its rights and to make demands on the Guarantor under this Deed of Guarantee as often as it wishes and the making of a demand (whether effective, partial or defective) in respect of the breach by the Contractor of any Guaranteed Obligation shall not preclude the Beneficiary from making a further demand in respect of the same or some other default in respect of the same Guaranteed Obligation.

5.4 The Beneficiary shall not be obliged before taking steps to enforce this Deed of Guarantee against the Guarantor to obtain judgment against the Contractor or the Guarantor or any third party in any court, or to make or file any claim in a bankruptcy or liquidation of the Contractor or any third party, or to take any action whatsoever against the Contractor or the Guarantor or any third party or to resort to any other security or guarantee or other means of payment. No action (or inaction) by the Beneficiary in respect of any such security, guarantee or other means of payment shall prejudice or affect the liability of the Guarantor hereunder.

5.5 The Beneficiary's rights under this Deed of Guarantee are cumulative and not exclusive of any rights provided by law and may be exercised from time to time and as often as the Beneficiary deems expedient.

5.6 Any waiver by the Beneficiary of any terms of this Deed of Guarantee, or of any Guaranteed Obligations shall only be effective if given in writing and then only for the purpose and upon the terms and conditions, if any, on which it is given.

5.7 Any release, discharge or settlement between the Guarantor and the Beneficiary shall be conditional upon no security, disposition or payment to the Beneficiary by the Guarantor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to liquidation, administration or insolvency or for any other reason whatsoever and if such condition shall not be fulfilled the Beneficiary shall be entitled to enforce this Deed of Guarantee subsequently as if such release, discharge or settlement had not occurred and any such payment had not been made. The Beneficiary shall be entitled to retain this security after as well as before the payment, discharge or satisfaction of all monies, obligations and liabilities that are or may become due owing or incurred to the Beneficiary from the Guarantor for such period as the Beneficiary may determine.

6 GUARANTOR INTENT

6.1 Without prejudice to the generality of Clause 5 (Beneficiary's protections), the Guarantor expressly confirms that it intends that this Deed of Guarantee shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to the Guaranteed Agreement and any associated fees, costs and/or expenses.

7 RIGHTS OF SUBROGATION

7.1 The Guarantor shall, at any time when there is any default in the performance of any of the Guaranteed Obligations by the Contractor and/or any default by the Guarantor in the performance of any of its obligations under this Deed of Guarantee, exercise any rights it may have:

- (a) of subrogation and indemnity;

- (b) to take the benefit of, share in or enforce any security or other guarantee or indemnity for the Contractor's obligations; and
- (c) to prove in the liquidation or insolvency of the Contractor,

only in accordance with the Beneficiary's written instructions and shall hold any amount recovered as a result of the exercise of such rights up to such amount as the Beneficiary determines in its sole discretion represents the amount of the Guarantor's liabilities under this Deed of Guarantee (the "**Guarantee Estimate Amount**") on trust for the Beneficiary and pay the same to the Beneficiary on first demand. The Guarantor may retain for its own account or otherwise deal with any such amounts recovered in excess of the Guarantee Estimate Amount as the Guarantor may determine in its sole discretion. The Guarantor hereby confirms that it has not taken any security from the Contractor (other than cross-indemnities or other security taken in the ordinary course of its financial arrangements with its Affiliates) and agrees not to do take any further security until Beneficiary receives all moneys payable hereunder and will hold any security taken in breach of this Clause on trust for the Beneficiary.

8 DEFERRAL OF RIGHTS

8.1 Until all amounts which may be or become payable by the Contractor under or in connection with the Guaranteed Agreement have been irrevocably paid in full, the Guarantor agrees that, without the prior written consent of the Beneficiary, it will not:

- (a) claim any contribution from any other guarantor of the Contractor's obligations under the Guaranteed Agreement; or
- (b) take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Beneficiary under the Guaranteed Agreement or of any other guarantee or security taken pursuant to, or in connection with, the Guaranteed Agreement.

8.2 Until all amounts which may be or become payable by the Contractor under or in connection with the Guaranteed Agreement have been irrevocably paid in full, the Guarantor agrees that, without the prior written consent of the Beneficiary, it will not following the occurrence of a Financial Distress Event or Contractor Termination Event:

- (a) exercise any rights it may have to be indemnified by the Contractor;
- (b) demand or accept repayment in whole or in part of any indebtedness now or hereafter due from the Contractor; or
- (c) claim any set-off or counterclaim against the Contractor.

8.3 If the Guarantor receives any payment or other benefit or exercises any set off or counterclaim or otherwise acts in breach of this Clause 8, anything so received and any benefit derived directly or indirectly by the Guarantor therefrom shall be held on trust for the Beneficiary and applied in or towards discharge of its obligations to the Beneficiary under this Deed of Guarantee.

9 REPRESENTATIONS AND WARRANTIES

9.1 The Guarantor hereby represents and warrants to the Beneficiary that:

- (a) the Guarantor is duly incorporated and is a validly existing company under the laws of its place of incorporation, has the capacity to sue or be sued in its own name and has power to carry on its business as now being conducted and to own its property and other assets;
- (b) the Guarantor has full power and authority to execute, deliver and perform its obligations under this Deed of Guarantee and no limitation on the powers of the Guarantor will be exceeded as a result of the Guarantor entering into this Deed of Guarantee;
- (c) the execution and delivery by the Guarantor of this Deed of Guarantee and the performance by the Guarantor of its obligations under this Deed of Guarantee

including, without limitation entry into and performance of a contract pursuant to Clause 3) have been duly authorised by all necessary corporate action and do not contravene or conflict with:

- (i) the Guarantor's memorandum and articles of association or other equivalent constitutional documents;
 - (ii) any existing law, statute, rule or regulation or any judgment, decree or permit to which the Guarantor is subject; or
 - (iii) the terms of any agreement or other document to which the Guarantor is a Party or which is binding upon it or any of its assets;
- (d) all governmental and other authorisations, approvals, licences and consents, required or desirable, to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed of Guarantee, and to make this Deed of Guarantee admissible in evidence in its jurisdiction of incorporation, have been obtained or effected and are in full force and effect; and
- (e) this Deed of Guarantee is the legal valid and binding obligation of the Guarantor and is enforceable against the Guarantor in accordance with its terms.

10 PAYMENTS AND SET-OFF

- 10.1 All sums payable by the Guarantor under this Deed of Guarantee shall be paid without any set-off, lien or counterclaim, deduction or withholding, howsoever arising, except for those required by law, and if any deduction or withholding must be made by law, the Guarantor will pay that additional amount which is necessary to ensure that the Beneficiary receives a net amount equal to the full amount which it would have received if the payment had been made without the deduction or withholding.
- 10.2 The Guarantor shall pay interest on any amount due under this Deed of Guarantee 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.
- 10.3 The Guarantor will reimburse the Beneficiary for all legal and other costs (including VAT) incurred by the Beneficiary in connection with the enforcement of this Deed of Guarantee.

11 GUARANTOR'S ACKNOWLEDGEMENT

- 11.1 The Guarantor warrants, acknowledges and confirms to the Beneficiary that it has not entered into this Deed of Guarantee in reliance upon, nor has it been induced to enter into this Deed of Guarantee by any representation, warranty or undertaking made by or on behalf of the Beneficiary (whether express or implied and whether pursuant to statute or otherwise) which is not set out in this Deed of Guarantee.

12 ASSIGNMENT

- 12.1 The Beneficiary shall be entitled to assign or transfer the benefit of this Deed of Guarantee at any time to any person without the consent of the Guarantor being required and any such assignment or transfer shall not release the Guarantor from its liability under this Guarantee.
- 12.2 The Guarantor may not assign or transfer any of its rights and/or obligations under this Deed of Guarantee.

13 SEVERANCE

- 13.1 If any provision of this Deed of Guarantee 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 hereof shall continue in full force and effect as if this Deed of Guarantee had been executed with the invalid, illegal or unenforceable provision eliminated.

14 THIRD PARTY RIGHTS

- 14.1 A person who is not a Party to this Deed of Guarantee shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed of Guarantee. This Clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

15 GOVERNING LAW

- 15.1 This Deed of Guarantee and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in all respects in accordance with English law.
- 15.2 The Guarantor irrevocably agrees for the benefit of the Beneficiary that the courts of England shall have jurisdiction to hear and determine any suit, action or proceedings and to settle any dispute which may arise out of or in connection with this Deed of Guarantee and for such purposes hereby irrevocably submits to the jurisdiction of such courts.
- 15.3 Nothing contained in this Clause shall limit the rights of the Beneficiary to take proceedings against the Guarantor in any other court of competent jurisdiction, nor shall the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not (unless precluded by applicable law).
- 15.4 The Guarantor irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for the purpose of this Clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum.
- 15.5 ***[Provision dealing with the appointment of English process agent by a non English incorporated Guarantor]*** [The Guarantor hereby irrevocably designates, appoints and empowers [the Contractor] ***[a suitable alternative to be agreed if the Contractor's registered office is not in England or Wales]*** either at its registered office or on facsimile number ***[insert fax no.]*** from time to time to act as its authorised agent to receive notices, demands, service of process and any other legal summons in England and Wales for the purposes of any legal action or proceeding brought or to be brought by the Beneficiary in respect of this Deed of Guarantee. The Guarantor hereby irrevocably consents to the service of notices and demands, service of process or any other legal summons served in such way.]

IN WITNESS whereof the Guarantor has caused this instrument to be executed and delivered as a Deed the day and year first before written.

EXECUTED as a DEED by)

[Insert name of the Guarantor] acting by ***[Insert/print names]***

Director

Director/Secretary

SCHEDULE 13

FINANCIAL REPORTS AND AUDIT RIGHTS

PART A: FINANCIAL TRANSPARENCY OBJECTIVES AND OPEN BOOK DATA

1 FINANCIAL TRANSPARENCY OBJECTIVES

1.1 The Contractor shall co-operate with the Authority in order to achieve the following objectives:

Understanding the Charges

- (a) for the Authority to understand any payment sought from it by the Contractor including an analysis of the Costs, and time spent by Contractor Staff in providing the Services;
- (b) for the Authority to be able to understand the impact of any proposed Change on the Charges;

Agreeing the Impact of Change

- (c) for both Parties to agree the quantitative impact of any Changes that affect ongoing costs and to identify how these could be mitigated and/or reflected in the Contractor's Charges;
- (d) for both Parties to be able to review, address issues with and re-forecast progress in relation to the provision of the Services;

Continuous Improvement

- (e) for the Parties to challenge each other with ideas for efficiency and improvements; and
- (f) to enable the Authority to demonstrate that it is achieving value for money for the tax payer relative to current market prices.

2 OPEN BOOK DATA

2.1 The Contractor shall keep or cause to be kept full and proper books of account in relation to the provision of the Services and the entries made therein shall be kept up-to-date at all times and shall include all such matters and things which are usually entered in books of account in the United Kingdom kept by persons or companies engaged in concerns of a similar nature in accordance with best accountancy practices.

2.2 Such books of account, invoices, charge out rates, time sheets, or other time recording documents kept by the Contractor in connection with the provision of the Services and all vouchers, receipts, invoices, orders, contractual documentation and other documentation relating to the Services to which the Contractor is a party ("**Open Book Data**") shall be open to inspection by the Authority or any persons appointed to act on the Authority's behalf at any reasonable time having made prior appointment with the Contractor. The Authority shall be entitled to ask for a copy of the Open Book Data or any part thereof which (subject to the prior payment of the Contractor reasonable copying and administrative charges) the Contractor shall provide within 10 Business Days of the Authority's written request.

2.3 If the Authority reasonably considers the Open Book Data does not accurately represent and detail sums relating to this Agreement, and the Services then the Contractor shall provide the Authority with documentary evidence relating to such sums and contractual obligations.

2.4 During the Term, and for a period of 7 years following the end of the Term, the Contractor shall:

- (a) maintain and retain the Open Book Data; and
- (b) disclose and allow the Authority and/or the auditor(whether internal or external) of the Authority access to the Open Book Data.

PART B: AUDIT RIGHTS

3 AUDIT RIGHTS

- 3.1 The Contractor shall co-operate fully and in a timely manner with any reasonable request from time to time of the Authority or any Audit Agents and at the expense of the Contractor to provide documents, or to procure the provision of documents, relating to this Contract, and to provide, or to procure the provision of, any oral or written explanation relating to the same.
- 3.2 The Contractor shall instruct its external auditor to provide reasonable co-operation with the Audit Agents for the purposes of verifying financial information.
- 3.3 The Authority shall during each audit comply with those security, sites, systems and facilities operating procedures of the Contractor that the Authority deems reasonable and use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the provision of the Services.

SCHEDULE 14
CONTRACT MANAGEMENT PROVISIONS

1. INTRODUCTION

- 1.1. For the avoidance of doubt, the Authority and the Contractor agree and acknowledge that the work carried out by the Contractor in accordance with the provisions of this Schedule is at no additional charge to the Authority.

2. MANAGEMENT OF THE SERVICES

- 2.1. The Contractor and the Authority shall each appoint delivery managers for the purposes of this Contract through whom the Services shall be managed day-to-day and each shall notify the other of the identity of its delivery manager.
- 2.2. Each Party shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Schedule 14 (Contract Management Provisions) can be fully realised.

3. CONTRACT PERFORMANCE REVIEWS

- 3.1. The Contractor shall work with the Authority to establish and maintain an effective and beneficial working relationship and to ensure the Contract is delivered to at least the minimum required standard as specified in Schedule 1 (Specification).
- 3.2. The Authority will conduct regular formal Contract Performance Review Meetings ("CPRs") at a frequency (usually monthly) determined by the Authority from time to time to monitor, measure and review the Contractor's performance.
- 3.3. The objectives of the CPRs shall be to manage this Contract and shall include but not be limited to:
- 3.3.1. reviewing the performance of the Contractor against the Performance Indicators set out in Schedule 4 (Performance Levels), the Service Levels in Schedule 19 (Contractor's Technology Solution) and conformance by the Contractor to all other standards and policies set out elsewhere in this Contract;
 - 3.3.2. monitoring the Contractor's compliance with its obligations under this Contract;
 - 3.3.3. reviewing Performance Improvement Plans;
 - 3.3.4. agreeing any changes to this Agreement, which have been raised through the Change Control Procedure as detailed in Schedule 6 (Change Control Procedure);
 - 3.3.5. reviewing the Specification set out in Schedule 1 and the Contractor's Solution set out in Schedule 15 of this Contract;
 - 3.3.6. resolving operational and contractual problems, which may have been raised using the Dispute Resolution Procedure as detailed in Clause 39 of this Contract or through agreed operational routes; and
 - 3.3.7. transferring and exchanging information as required to ensure that all business needs are met.
- 3.4. CPRs shall be held between the Authority and the Contractor to discuss issues related to the objectives described in Paragraph 3.3 to this Schedule 14 (Contract Management Provisions) and any other relevant business. An agenda shall be produced by the Authority and agreed by the Contractor.
- 3.5. The Contractor shall supply all information requested by the Authority for the purpose of conducting the CPRs.
- 3.6. The Contractor shall provide suitable representatives with the necessary authority to consider service performance and to ensure that any issues impacting the Authority are surfaced and resolved.
- 3.7. The Authority shall make, retain, and distribute a record of the meetings.

- 3.8. Each party reserves the right to change its nominated representative(s) with staff of the appropriate authority and responsibility and shall notify the other party as soon as practicable of any changes.

4. COMPLIANCE MONITORING

- 4.1. The Authority will undertake Compliance Monitoring evidence-based checks at a frequency determined by the Authority from time to time to;
- 4.1.1. identify if the Contractor is adhering to the Contractor's Solution set out in Schedule 15 of this Contract; and
 - 4.1.2. sample Participant records held by the Contractor for evidence of eligibility; and
 - 4.1.3. confirm whether Participant engagement is in line with the Specification as detailed in Schedule 1 of this Contract and the Contractor's Solution in Schedule 15; and
 - 4.1.4. observe a range of activities, including recruitment processes and ITT provision at the Contractor's and Sub-Contractors' premises.
- 4.2. The Authority will specify the location where such checks will take place.
- 4.3. The Contractor shall supply all information requested by the Authority and must make available the Contractor's systems for inspection.

5. CONTRACTOR'S SYSTEM ASSURANCE

- 5.1. The Contractor shall comply with the Authority's requirements for Contractor's Systems Assurance as described in this Paragraph 5.
- 5.2. The Contractor shall have systems in place to
- 5.2.1. detect and prevent duplicate Charges;
 - 5.2.2. prepare and submit accurate, valid, supported, timely Charges;
 - 5.2.3. monitor, record and manage Participant movement through the Programme;
 - 5.2.4. ensure that Participant eligibility evidence is collected to support the Charges;
 - 5.2.5. identify Participants who have left the Services through withdrawal or deferral to prevent over Charges;
 - 5.2.6. carry out effective monitoring of Sub-contractors; and
 - 5.2.7. respond to PIPs, Compliance Monitoring and Contractor Assurance Reviews ("CARs") with an appropriate action plan.
- 5.3. The Authority will undertake Contractor Assurance Reviews ("CARs") at a frequency determined by the Authority from time to time to provide the Authority with an assurance that payments to the Contractor are in accordance with the Authority's requirements and HM Treasury policies, that public funds are protected and that value for money has been obtained.
- 5.4. The objectives of the CARs shall be to review the Contractor's internal control systems related to
- 5.4.1. Governance Arrangements – Contractor's systems for tracking and reporting performance including anti-fraud measures
 - 5.4.2. Service Delivery – Contractor's systems for starting, ending and moving Participants through the Programme including withdrawals and deferrals
 - 5.4.3. Claim Procedures and Payment – Contractor's systems to support claims for payment, including appropriate segregation of duties

6. PERFORMANCE RECORDS

- 6.1. The Contractor shall keep appropriate documents and records (including but not limited to Participant eligibility records, attendance sheets, training records, complaints received) in relation to the Services being delivered. The records and documents of the Contractor shall be available for inspection by the Authority and/or its nominee at any time and the Authority and/or its nominee may make copies of any such records and documents.
- 6.2. In addition to the requirement in Paragraph 5.1 to maintain appropriate documents and records, the Contractor shall provide to the Authority such supporting documentation as the Authority may reasonably require in order to verify the level of the performance of the Contractor both before and after the Service Commencement Date.

7. PROGRAMME EVALUATION

- 7.1. The Contractor shall co-operate fully with any evaluation of the Programme that is undertaken by the Authority or a third party acting on behalf of the Authority. This may include but not be limited to:
 - 7.1.1. access to Participant and Sub-Contractors' contact details and records; and
 - 7.1.2. visits and interviews with Participants and Contractor Staff.

8. MARKETING MEETINGS

- 8.1. The Contractor shall attend bi-annual Marketing Meetings with the Authority to discuss marketing strategy and planning and shall provide suitable representatives with the necessary responsibility and authority for such meetings.

SCHEDULE 15 CONTRACTOR'S SOLUTION

2.1 Overarching Delivery Method

Technical Information Required

Please set out your approach and strategy for the delivery of the Career Changer Programme demonstrating how you will meet the Service requirements set out in paragraphs 2.1 – 2.5 of the Specification.

Your response should cover the following criteria and include supporting evidence and rationale:

- 1) An overarching delivery method that meets the Service requirements and the supporting rationale for that delivery method. This should include a description of the roles and responsibilities of all organisations involved in delivery including Sub-Contractors;
- 2) Details of any proposed Technology Solution that will be used to deliver the Services, including a solutions diagram* (see section 16 of the Service Specification);
- 3) A description of the Participant journey throughout the recruitment period and the two-year Programme (including a process map)**;
- 4) Names and details of any proposed Sub-Contractors that you intend to use for delivery of the Programme. Please provide a provisional list of Sub-Contractors (responses should include names and details and not simply a list or commentary on those elements of the Services that the Tenderer intends to subcontract).

*The solutions diagram will not contribute towards the word count and can be provided as additional annex.

**The process map can be embedded as a graphic within your response. The words in the process map graphic will not contribute to the word count, however any detailed supporting or explanatory text should be included in the main body of the response and will count towards the word count.

Please upload as **Annex A**, a list of named Sub-Contractors using the template provided in Jaggaer. Please note that Annex A should include any and all proposed supply chain partners, even if these are provisional.

Please name this document as follows:

Career Changer Annex A [Your company name] (e.g. ABC Ltd)

Please upload as **Annex B** a document containing signed declarations on letter headed paper for any Sub-Contractor who will deliver a significant element of the Service, confirming their in-principle agreement to their proposed involvement. (The Authority will consider a significant element to be the provision of Services with a value that exceeds 10% of the forecast cost base for the Contract). These organisations will be listed as Key Sub-contractors in Schedule 7 of the Contract.

Please name this document as follows:

Career Changer Annex B [Your company name] (e.g. ABC Ltd)

A response to this question is limited to 1500 words. If your response exceeds this limit, your response will be assessed up to the number of words permitted only.

Note: Format requirements and word limits do not apply to Annex A and Annex B.

Now Teach Response [1,484 words]

Now Teach has an established delivery method to exceed the requirements and KPIs of the Career Changer programme. To date, we have brought over 500 CareerChangers into teaching, exceeding DfE contract recruitment and retention KPIs and delivering added value in schools. We are ready to

deploy the core principles, processes, mechanisms and technology to deliver the new national Career Changer programme.

1)

Now Teach will attract, recruit and support Career Changers with significant previous industry experience to make a successful transition into teaching, deliver added value in schools and retain them once trained. We will do this by continuing to structure our organisation around the core functions of [Redacted]

Now Teach place Career Changers at the centre of the programme. We obtain significant volumes of regular feedback from termly surveys, feedback on all events and networking sessions and one-to-one cohort conversations with Programme Managers. This comprises thousands of data points each year. We gather, analyse, and interpret this feedback to shape the design, development and delivery of the programme. These insights have generated [Redacted]. This enables flexible, national delivery that works around the existing commitments and busy lives of the Career Changer demographic while keeping costs low to ensure value for taxpayer money. These insights are also enabling us to understand the full impact of Career Changers in classrooms and staffrooms with the support of educational impact consultancy, ImpactEd.

We will not engage sub-contractors to deliver the career changer programme contract.

As a charity with high-profile Career Changer teacher as co-founder, Lucy Kellaway OBE, we can:

1. Raise significant amounts of voluntary funding to supplement contract funding from the DfE
2. Secure pro-bono operational support from corporate partners including [Redacted]
3. Obtain exceptional value for money from core suppliers
4. Employ a highly capable workforce at very competitive cost
5. Ensure every penny of DfE income is focused on attracting, recruiting and supporting Career Changers into teaching rather than delivering an operating profit

Now Teach benefits from operational support services (finance, HR, IT, governance) offered by [Redacted]. We have an exceptionally experienced and skilled board of trustees including the General Counsel of the Bank of England, the CEO of Ark, the Executive Director of Corporate Services for The Samaritans, the CEO of Visa Europe and a Senior Partner at Bain & Company.

2)

Our delivery model is [Redacted] to minimise costs ensuring value for taxpayer money. As such Now Teach utilises high quality technology solutions obtained cost-effectively with charitable discounts.

Now Teach uses [Redacted] as its Customer Relationship Management (CRM) system. When a Candidate completes an Expression of Interest (EOI) form on the website a new Candidate record is created on [Redacted]. From this point, all interactions are tracked on [Redacted]. These include:

- [Redacted]

- [Redacted]
- [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Our in-house recruitment team switched to using [Redacted] for all phone calls to Candidates in 2020, because:

- Teams was established as our primary internal communications tool and was well understood by our workforce
- Teams enables efficient management of incoming phone calls working around staff availability
- It is an ideal solution in a world where staff are often working from home and not co-located
- It offers a granular level of insight on call volume by day used to plan resourcing

Now Teach's technology solutions and IT infrastructure are Cyber Essentials certified and we have a comprehensive cybersecurity insurance policy.

Redacted

3)

The process map enclosed covers the Participant journey in detail, in summary the six main phases are:

1. [Redacted]
2. [Redacted]
3. [Redacted]
4. [Redacted]
5. [Redacted]
6. [Redacted]

Each phase of the Participant journey, and every Now Teach activity is defined by being bespoke to Career Changers [Redacted]

[Redacted] If Candidates are eligible to teach, but not experienced Career Changers, we refer them to Get into Teaching (GiT). In total we referred over 2,000 Candidates to GiT in 2020/21.

Candidates and Participants access a range of quality content, and events with Now Teach. [Redacted]

[Redacted] educational luminaries such as [Redacted] alongside a host of Now Teacher led sessions. Our programme content is designed to complement but not duplicate the Early Career Framework, reflecting our role as a wrap-around to ITT courses.

Training to teach is hard, but we manage those at risk of withdrawing carefully. Participants may need to defer but they are supported through our established and successful deferral process by their [Redacted]

We are working with Network specialists [Redacted] (at no cost to the DfE) to further understand how to build an even stronger Network of Career Changers, to aid retention in teaching long-term and maximise added value over many years.

The graphic details a carefully sequenced offer to support rapid success as a teacher and long-term engagement as a cohort member. It links seamlessly with the DfE golden thread of ECF without duplication to enable further choice and progression.

Redacted

Redacted