

## INFORMATION, ADVICE AND SUPPORT PROGRAMME CONTRACT

This contract is made on:

1 THE SECRETARY OF STATE FOR EDUCATION of Sanctuary Buildings, 20 Great Smith Street, London, SW1P 3BT ("**DFE**"); and

2 The National Children's Bureau (NCB) Charity Registration Number 258825 Company number 952717 whose registered office is National Children's Bureau, WeWork, 115 Mare Street, London E8 4RU (the "**Contractor**")

each a "**Party**" and together the "**Parties**".

It is agreed that:

1. this contract, together with the attached schedules and annexes, collectively form the "**Contract**"; and
2. if there is a conflict between the provisions of the clauses of the Contract and the provisions of the schedules, the following order of precedence shall apply:
  - (a) schedule 2 (Terms and Conditions);
  - (b) schedule 1 (Specification);
  - (c) schedules 3 to 9; and
  - (d) schedule 10 (Contractor's Solution).

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

**EXECUTED** by the parties on the first date in this Agreement.

**Authorised to sign for and on  
behalf of the Secretary of State for Education**

**Authorised to sign for and on  
behalf of The National Children's  
Bureau**

Signature

STUART MILLER  
Deputy Director, Department for Education  
Sanctuary Buildings  
Great Smith Street  
London SW1P 3BT

Signature

Christine Lenehan  
Director  
Council for Disabled Children  
Wework  
115 Mare Street LONDON E8 4RU

Date

Date

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**Schedule 1**  
**The Specification**

**1.1 Contract Requirement 1 – To develop clear minimum standards for local services, based on those already developed by the IASSN and legal requirements set out in the SEND Code of Practice.** For example, but not limited to:

- minimum staffing requirements and opening times;
- the types of information, advice and support that each service would be required to provide as a minimum, but to incentivise local services (linked potentially to increased funding) to provide additional services in response to local need;
- How they will ensure their services are accessible to a wide range of families that represent their local area, and how they will demonstrate that; and
- self-evaluation and ongoing improvement.

The requirements will need to be developed early in 2018-19 so that local services are clear what to aim for to qualify for funding.

**1.2 Contract Requirement 2 – By 31 March 2019, to have in place sub-contractual agreements with local services, in each of the 152 local authority areas, to provide information, advice and support to children and young people with SEND and their families. Services must comply with the legal requirements set out in Chapter 2 of the SEND Code of Practice.**

We are looking for the successful bidder to:

- Ensure that on 2 April 2018, any existing arrangements in local areas can continue in place until new arrangements have been agreed.
- Develop a transition plan, agreed with the Department as soon as possible, and no later than the end of May 2018, that allows, between April 2018 and March 2019, for existing local services – predominantly Independent Supporter agencies and statutory IASS – to migrate to the new arrangements. The plan, which the successful bidder will be responsible for delivering, must:
  - include costed national rollout arrangements, agreed with the Department, to which the contractor will be held accountable;
  - ensure there is a viable and sustainable approach developed for each local area, which takes account of existing cultural and organisational arrangements and the views of children, young people and parents, and provides value for money;
  - ensure they contractor can effectively manage the necessary contractual arrangements so that existing organisations can smoothly transition to any new arrangements during the course of the year – April 2018 to March 2019;
  - include how the arrangements for making payments to sub-contractors will effectively deliver the plan aims

- include effective arrangements for appropriate training, networking and sharing good practice

### **1.3 – Contract requirement 3: Develop and implement practical arrangements to ensure a fair distribution of money to sub-contractor organisations, which provides value for money.**

We need the successful bidder to:

- Ensure support is made available in each local area initially by the end of April 2018, so that a level of continuity of existing provision can be maintained.
- Design and implement an approach that incentivises local areas to move quickly to make the most effective arrangements that meet minimum standards.
- Incentivise local areas to strive for high quality local services, and reward local areas for services which have strong positive feedback from users.

### **1.4 – Contract requirement 4: Ongoing support and challenge to local services**

It is important that local services are able to access high quality training, networking and good practice sharing opportunities.

We would like the successful bidder to:

- ensure appropriate training is developed - based on current training provided by IASSN - covering legal and service delivery requirements, and that that it is available to all local services during 2018-2019;
- make arrangements for the training to be delivered;
- ensure each service is offered opportunities for networking and sharing good practice;
- ensure they have the capacity to regularly challenge local areas to improve their services, and continue to offer best value for money.

### **1.5 – Contract requirement 5: Provide a national helpline service for families who have children and young people with SEND.**

The Government has funded a national helpline for families who have children and young people with SEND for several years. Demands on the service have been consistently high, and so the Government proposes to continue to provide resources for this service. In recent years, innovations in technology has helped to develop the service beyond phoneline support. The national helpline already works well with a range of other support services, including local information, advice and support services, but further synergies could be achieved. Bringing together the helpline activity with activity to support families locally will help to further improve those synergies.

We would like the successful bidder to:

- Ensure that, from 2 April 2018, the existing helpline service remains available to families so that there is continuity of service until any new arrangements are developed.
- By July 2018, develop proposals, and agree them with the department, for how the national helpline can complement more effectively local IAS services,

and other national helplines aimed at families who have children and young people with SEND, for example, by considering:

- What the helpline could offer by way of 'out of hours' services
- Whether the helpline could offer a 'front desk'/triage for callers nationally, which they can direct locally, or to other helplines, as required.
- Latest technology and innovation in customer service – e.g. use of online chat, video calling – to maximise effectiveness
- During the autumn/winter of 2018, to trial new approaches.
- By December 2018, to put proposals to the Department for how the helpline could be improved.
- From 2 April 2019, to implement new proposals once agreed with the Department.

## **1.6 – Contract requirement 6: Quality Assurance and Programme Evaluation.**

It is important that the programme is quality assured and evaluated and that feedback is incorporated in delivery.

We would like the successful bidder to:

- Undertake quality assurance monitoring and commission an independent evaluation of the programme, its delivery, outcomes and impact
- Ensure there is independent oversight of the programme from a range of relevant partners including parents and young people
- Develop and maintain electronic systems for the collection, management and presentation of key programme statistical data
- Undertake periodic review and update of all programme content to ensure it is reflective of the latest research and wider environment

## **1.7 Contract requirement 7: Costs and value for money**

The proposed budget will be up to £12.5m in 2018-19; and up to £10.5m in 2019-20. Funding is inclusive of all VAT that may be chargeable.

The contract may be extended for up to two years should it continue to align with Government priorities and should funding be available.

We will require monthly reporting against spending and achievement of KPIs and quarterly reviews. Please note that the contract is intended to be inclusive of VAT costs and that further amounts will not be available should a vatable supply claim be made at any later stage. No additional costs will be charged to the Department unless agreed with the contract manager prior to expenditure.

The successful bidder is required to ensure that Value for Money is achieved through this contract and wherever possible seek economies of scale.

Bidders will need to demonstrate that proposed costs are based on efficient models of delivery and provide good value for public money. You must ensure that all

estimated costs are real, auditable and can be justified. Be sure you separately identify and include all expenditure that you expect to incur in relation to proposed activities, i.e. costs associated with:

- overheads i.e. premises/facilities/licences; and
- staffing i.e. management, delivery and administration.

There are restrictions on all paid for communications and marketing activities funded by the Department. You should set out any planned expenditure on these activities with supporting information on the nature of the planned activities.

All payments are to be triggered by the Department's acceptance of milestone deliverables. Bidders are required to propose a series of milestone deliverables in their bid. An invoice for each milestone deliverable – which may actually comprise various goods and services - may be submitted after the Department has communicated its acceptance of that milestone deliverable to the successful contractor. The payment profile proposed must be spread over the entire contract term, and be fair and reasonable to both the successful contractor and the Department. No advance payments will be made. We would expect no more than one invoice a month to be submitted. The final invoice, to be submitted after the Department's acceptance of the final milestone deliverable, must be in the region of 10% to 20% of the contract value. The payment profile suggested will be evaluated as part of each bidder's score in *Contract requirement 7 – costs*. As part of each proposed milestone deliverable that the Department itself will not directly examine or test, bidders must state what independent evidence they could provide to the Department to demonstrate that they have discharged their contractual obligations successfully.

It is the responsibility of tenderers to check the VAT position with HMRC before submitting a bid.

Payments of costs to the supplier will be made monthly by BACS transfer following receipt of a valid invoice.

### **1.8 – Contract requirement 8: Security of data**

The bidder should demonstrate their security plan for ensuring that departmental or personal data will be protected

### **1.9 – Contract requirement 9: Overall delivery and programme management**

Bidders should describe the staffing and management structure of the team required to deliver the contract.

Bidders should think about any specific risks and issues they foresee. They should describe what contingencies and countermeasures they might put in place to mitigate these risks. They should also describe the structures and governance arrangements required to keep oversight of the contract and proposed reporting

mechanisms and measures.

Bidders will be expected to demonstrate how the skills and experience of key staff will ensure the successful delivery of the contract.

The bidder should provide details of the proposed staffing structure that will be employed to deliver the outcomes, including key roles identified to lead the activity as well as other roles to support delivery.

The bidder should indicate: whether staff are already in place, or would need to be recruited, what they will be responsible for, how much time they are expected to dedicate to the activity (on a Full Time Equivalent basis) and how, if at all, this will change during the contract.

**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:

**“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.

**“Business Days”** means Mondays to Fridays (inclusive) in each week, excluding bank and other public holidays in England.

**“CCN”** means a Change Control Note in the form set out in schedule 6.

**“Charges”** means the fees subject to clause 8 payable to the Contractor for the provision of the Services calculated in accordance with schedule 3.

**“Commercially Sensitive Information”** means the information set out in schedule 9 comprising the information of a commercially sensitive nature relating to:

- (a) the Price;
- (b) details of the Contractor’s Intellectual Property Rights; and
- (c) the Contractor’s business and investment plans

which the Contractor has indicated to DFE that, if disclosed by DFE, would cause the Contractor significant commercial disadvantage or material financial loss.

**“Confidential Information”** 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 DPA. Confidential Information shall not include information which:

- (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”** means an association of 2 or more persons acting together to deliver the Services but excludes Sub-Contractors.

**“Consortium Agreement”** means, if the Contractor is a Consortium, an agreement:

- (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

which sets out, amongst other things, how the Consortium Members will work together to deliver the Services.

**“Consortium Member”** means a member of a Consortium (if any).

**“Contractor Equipment”** means the Contractor’s ICT equipment.

**“Contractor’s Solution”** means the Contractor’s proposal submitted in response to the DFE’s invitation to tender attached at schedule 10.

**“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.

**“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 in either the form set out in schedule 10 or in any other form approved by DFE 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 Personnel in connection with the subject-matter of the Contract and in respect of which such Party is liable to the other.

**“DFE Premises”** means any premises owned by, leased or hired to or otherwise controlled by DFE or which DFE nominates as such by notice in writing to the Contractor.

**“DFE Security Standards”** means the security standards as set out in schedule 8.

**“DFE Trade Marks”** means proprietary trade mark rights of DFE including those notified to the Contractor by DFE from time to time.

**“Dispute”** means any dispute between the Parties in connection with the Contract.

**“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.

**“DPA”** means the Data Protection Act 1998 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice published by the Information Commissioner or relevant government department in relation to such legislation.

**“Effective Date”** means **2 April 2018**

**“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”** 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:

- (a) the 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),

and all wages, holiday pay and employment benefit costs due in respect of (a) or (b) above, including claims for protective awards.

**“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”** means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take reasonable preventative action by that Party, including fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; or any other disaster, natural or man-made, but excluding:

- (a) any industrial action occurring within the Contractor’s or any of its Sub-Contractor’s organisation, or otherwise involving the Personnel; or
- (b) the failure by any Sub-Contractor of the Contractor to perform its obligations under any sub-contract.

**“General Anti-Abuse Rule”** means:

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

**“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.

**“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 Term”** means the period from the Effective Date to **31 March 2020**.

**“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”** means any materials used or developed for the purposes of the Contract including any programme materials, guidance, papers and research data, results, specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models and designs.

**“KPIs”** means the key performance indicators in relation to the Services set out in schedule 4 which the Contractor shall comply with.

**“Key Personnel”** means any of the Personnel identified as such in schedule 7 or otherwise identified as such by DFE pursuant to clause 6.

**“Key Sub-Contractor”** means any Sub-Contractor identified as such in schedule 7 or otherwise identified as such by DFE.

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

- (a) a substantial portion of the Contract; or
- (b) any of the obligations set out in clauses 9, 10, 12, 15, 17 and 33 and in schedule 8.

**“NICs”** means National Insurance Contributions.

**“Occasion of Tax Non-Compliance”** means:

- (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:
  - (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 the Commencement Date or to a civil penalty for fraud or evasion.

**“Performance Measures/Standards”** means the standards which the Contractor will be measured against in respect of the delivery of the Services aligned to defined Key Performance Indicators (KPIs)

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

**“Prohibited Act”** means:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the DFE a financial or other advantage to:
  - (i) induce that person to perform improperly a relevant function or activity; or
  - (ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract;
- (c) an offence:
  - (i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act;
  - (ii) under legislation or common law concerning fraudulent acts; or
  - (iii) the defrauding, attempting to defraud or conspiring to defraud the DFE;
- (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.

**“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.

**“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 DFE.

**“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 Contractor”** means any third party supplier appointed by the DFE to supply any services which are substantially similar to any of the Services in substitution for the Contractor following the expiry, termination or partial termination of the Contract.

**“Request for Information”** means a request for information under the FOIA or the EIR.

**“Restricted Country”** means:

- a) any country outside the European Economic Area; and
- b) any country not deemed adequate by the European Commission pursuant to Article 25(6) of Directive 95/46/EC

**“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.

**“Services”** means the services described in the Specification.

**“Services Commencement Date”** means 2 April 2018.

**“Service Credits”** means the service credits specified in schedule 4 which shall be payable to the DfE by the Contractor in the event that the Service Levels are not met in respect of Services.

**“Service Level”** means the levels of Service defined in schedule 4.

**“Service Period”** means the following:

- (a) the first Service Period of the Contract shall begin on the Services Commencement Date and shall expire at the end of the calendar month in which the Service Commencement Date falls; and
- (b) after the first Service Period of the Contract a Service Period shall be a calendar month during the Contract save that the final Service Period of the Contract shall commence on the first day of the calendar month in which the Contract expires or terminates and shall end on the expiry or termination of the Contract.

**“Service Users”** means those receiving the Services.

**“Specification”** means the description of the Services to be supplied under the Contract set out in schedule 1.

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

**“Sub-Contract”** means a contract between 2 or more suppliers, at any stage of remoteness from DfE 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 and **“Sub-Contractor”** shall be construed accordingly.

**“Term”** means the period from the Effective Date until the date the Contract ends for whatever reason.

**“TFEU”** means the Treaty on the Functioning of the European Union.

**“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.

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 clause or schedule is a reference to a clause or schedule of the Contract and references in any schedule to paragraphs relate to the paragraphs in that schedule;
- 1.2.6 the clause headings are included for convenience only and shall not affect the interpretation of the Contract; and
- 1.2.7 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.

## **2. TERM**

- 2.1 The Contract commences on the Effective Date and, subject to any provision of this Contract for earlier termination, or extension set out in this clause 2, will terminate at the end of the Initial Term.
- 2.2 DFE may extend the Initial Term for such further period as the DFE may choose by giving not less than 3 months' written notice to the Contractor prior to the expiry of the Initial Term.

## **3. THE SERVICES**

- 3.1 The Contractor shall provide the Services in the Area in accordance with the Specification and undertake and be responsible for all obligations of the Contractor in respect of the Services.
- 3.2 The DFE 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 DFE specified by the DFE 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 personnel;
  - 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 KPIs, Service Levels 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 DFE from time to time within 14 days of the same being brought to the attention of the Contractor by the DFE;
  - 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 Personnel, employees of the DFE, 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 DFE from time to time notified to it and procure that the Personnel also comply.
- 3.4 The DFE 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 DFE Premises shall be at the Contractor's own risk and the DFE 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 DFE.
- 3.6 Any land or DFE Premises made available from time to time to the Contractor by the DFE 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 DFE 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 DFE 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 Personnel and no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to the Contract, the DFE retains the right at any time to use any DFE Premises in any manner.

#### **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 DFE 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 DFE.
- 4.4 The Contractor shall promptly inform the DFE 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 DFE.
- 5.2 If the DFE 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 value per annum not exceeding £10,000 without the DFE’s consent.
- 5.4 Where the DFE has consented to a Sub-Contract, copies of each Sub-Contract shall, at the request of the DFE, be sent by the Contractor to the DFE as soon as reasonably practicable.
- 5.5 The Contractor shall not terminate or materially amend the terms of any Sub-Contract without the DFE’s prior written consent.
- 5.6 The DFE may require the Contractor to terminate a Sub-Contract if the acts or omissions of the Sub-Contractor have given rise to the DFE’s right of termination pursuant to clause 23 unless the Sub-Contractor can remedy the breach to the DFE’s satisfaction within 21 days of receipt by the Contractor of written notice from the DFE requiring the Sub-Contract to be terminated.
- 5.7 The Contractor shall remain responsible for all acts and omissions of its Sub-Contractors as if they were its own.
- 5.8 If the DfE believes there are:
- 5.8.1 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
  - 5.8.2 non-compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the DfE may require the Contractor to replace or not appoint the Sub-Contractor and the Contractor shall comply with such requirement.

## **6. PERSONNEL**

- 6.1 The DFE may refuse admission to DFE Premises and/or direct the Contractor to end the involvement in the Services of any Personnel whom the DFE believes is a security risk.
- 6.2 If the DFE require the removal of any Personnel pursuant to clause 8.1, any Employment Liabilities and any other costs connected with that removal shall be at the Contractor’s cost.
- 6.3 The Contractor shall use its reasonable endeavours to ensure continuity of Personnel and to ensure that the turnover rate of Personnel is at least as good as the prevailing industry norm for similar services, locations and environments.
- 6.4 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 DFE’s prior written consent.

- 6.5 For each of the Personnel 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 DFE 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 an inappropriate record.
- 6.6 The Contractor acknowledges that Key Personnel and Key Sub-Contractors are essential to the proper provision of the Services. The Parties have agreed to the appointment of Key Personnel and Key Sub-Contractors listed in schedule 7 as at the Effective Date.
- 6.7 Key Personnel shall not be released from supplying the Services without the DFE's consent except by reason of long-term sickness, maternity leave, paternity leave or termination of employment or other similar reason.
- 6.8 Any replacements of Key Personnel shall be subject to DFE consent and shall be of at least equal status, experience and skills to Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.
- 6.9 The DFE shall not unreasonably withhold consent under clauses 6.7 or 6.8. Such agreement 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 Personnel or Key Sub-Contractors.
- 6.10 DFE may require the Contractor to remove any Key Personnel who the DFE considers in any respect unsatisfactory.
- 6.11 The DFE shall not be liable for the cost of replacing any Key Personnel and the Contractor shall indemnify the DFE against all Employment Liabilities that may arise in this respect.
- 6.12 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 either 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 staff of the other Party.

## **7. TUPE**

- 7.1 No later than 6 Months prior to the end of the Term the Contractor shall fully and accurately disclose to the DFE, within 30 days of the request, all information that the DFE may reasonably request in relation to the Staff including the following:
- 7.1.1 the total number of Staff whose employment/engagement shall terminate at the end of the Term;
  - 7.1.2 the age, gender, salary or other remuneration, future pay settlements and redundancy and pensions entitlement of the Staff referred to in clause 7.1.1;
  - 7.1.3 the terms and conditions of employment/engagement of the Staff referred to in clause 7.1.1, their job titles and qualifications;
  - 7.1.4 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; and
  - 7.1.5 details of all collective agreements with a brief summary of the current state of

negotiations with any such bodies and with details of any current industrial disputes and claims for recognition by any trade union

(together the “**TUPE Information**”).

- 7.2 At intervals determined by the DFE (which shall not be more frequent than once every 30 days) the Contractor shall give the DFE updated TUPE Information.
- 7.3 Each time the Contractor supplies TUPE Information to the DFE it shall warrant its completeness and accuracy and the DFE may assign the benefit of this warranty to any Replacement Contractor.
- 7.4 The DFE may use TUPE Information for the purposes of any retendering process.
- 7.5 If TUPE applies to the transfer of the Services on termination of the Contract, the Contractor shall indemnify and keep indemnified the DFE, the Crown and any Replacement 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:
  - 7.5.1 the provision of TUPE Information;
  - 7.5.2 any claim or demand by any Returning 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 Contractor or any Sub-Contractor in respect of any Returning Employee on or before the end of the Term;
  - 7.5.3 any failure by the Contractor or any Sub-Contractor to comply with its obligations under regulations 13 or 14 of TUPE or any award of compensation under regulation 15 of TUPE save where such failure arises from the failure of the DFE or a Replacement Contractor to comply with its duties under regulation 13 of TUPE;
  - 7.5.4 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 Returning 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; and
  - 7.5.5 any claim by any person who is transferred by the Contractor to the DFE and/or a Replacement Contractor whose name is not included in the list of Returning Employees.
- 7.6 If the Contractor becomes aware that TUPE Information it provided has become inaccurate or misleading, it shall promptly notify the DFE and provide the DFE with up to date TUPE Information.
- 7.7 This clause 7 applies during the Term and indefinitely thereafter.
- 7.8 The Contractor undertakes to the DFE that, during the 12 Months prior to the end of the Term the Contractor shall not (and shall procure that any Sub-Contractor shall not) without written approval of DFE (such approval not to be unreasonably withheld or delayed):
  - 7.8.1 amend or vary (or purport to amend or vary) the terms and conditions of employment or engagement (including, for the avoidance of doubt, pay) of any Personnel (other than where such amendment or variation has previously been agreed between the Contractor and the Personnel in the normal course of business and where any such amendment or variation is not in any way related to the transfer of the Services);
  - 7.8.2 terminate or give notice to terminate the employment or engagement of any Personnel (other than in circumstances in which the termination is for reasons of misconduct or lack of capability);

- 7.8.3 transfer away, remove, reduce or vary the involvement of any other Personnel from or in the provision of the Services (other than where such transfer or removal: (i) was planned as part of the individual's career development; (ii) takes place in the normal course of business; and (iii) will not have any adverse effect on the delivery of the Services, (provided that any such transfer, removal, reduction or variation is not in any way related to the transfer of the Services); or
- 7.8.4 recruit or bring in any new or additional individuals to provide the Services who were not already involved in providing the Services prior to the relevant period.

## 8. CHARGES

- 8.1 Except where otherwise expressly stated in the Contract the only payments to be paid by the DFE 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 DFE shall pay the Charges in accordance with the schedule 3 subject to the receipt of correct invoices pursuant to clause 8.7 being issued by the Contractor.
- 8.3 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.
- 8.4 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 DFE 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.
- 8.5 Payment of the Charges by the DFE shall be without prejudice to any rights the DFE 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 DFE by reason of such payment.
- 8.6 The DFE 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.
- 8.7 Invoices shall be submitted to [APinvoices-DFE-U@sscl.gse.gov.uk](mailto:APinvoices-DFE-U@sscl.gse.gov.uk) and/or sent, within 30 days of the end of the relevant invoicing date, to SSCL Accounts Payable Team, Room 6124, Tomlinson House, Norcross, Blackpool, FY5 3TA. An invoice is a "**Valid Invoice**" if it is legible and includes:
  - 8.7.1 the date of the invoice;
  - 8.7.2 Contractor's full name and address;
  - 8.7.3 Contract reference number;
  - 8.7.4 the charging period;
  - 8.7.5 a detailed breakdown of the appropriate Charges including deliverables or milestones achieved (if applicable);
  - 8.7.6 days and times worked (if applicable);
  - 8.7.7 Service Credits (if applicable); and

8.7.8 VAT if applicable.

- 8.8 The DFE shall not pay an invoice which is not a Valid Invoice.
- 8.9 The DFE intends to pay Valid Invoices within 10 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 8.9 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.
- 8.10 The DFE 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.
- 8.11 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 DFE. The final invoice shall be submitted not later than 30 days after the end of the Term.
- 8.12 The DFE shall not be obliged to pay the final invoice until the Contractor has carried out all of the Service.
- 8.13 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.
- 8.14 If the DFE disputes any amount specified in a Valid Invoice it shall pay such amount of the invoice as is not in dispute and within 10 Business Days notify the Contractor of the reasons for disputing the invoice. The DFE may withhold the disputed amount pending resolution of the dispute.
- 8.15 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 36.

## **9. TAX and VAT**

- 9.1 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.
- 9.2 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.
- 9.3 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.
- 9.4 The DFE may ask the Contractor to provide information which demonstrates how the Contractor complies with clauses 9.1 to 9.3 or why those clauses do not apply to it.
- 9.5 A request under clause 9.4 may specify the information which the Contractor must provide and the period within which that information must be provided.
- 9.6 The DFE may terminate this Contract if:
- 9.6.1 in the case of a request mentioned in clause 9.4 the Contractor:

- (i) fails to provide information in response to the request within a reasonable time; or
- (ii) provides information which does not demonstrate either how the Contractor complies with clauses 9.1 to 9.3 or why those clauses do not apply to it;

9.6.2 it receives information which demonstrates that, if clauses 9.1 to 9.3 apply, the Contractor is not complying with those clauses.

9.7 The DFE may supply any information which it receives under clause 9.4 to HMRC.

9.8 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.

9.9 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 DFE 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 DFE in connection with any such assessment or claim.

9.10 The Contractor authorises the DFE 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 DFE is obliged as a matter of law to comply with such request.

9.11 If, during the Term, an Occasion of Tax Non-Compliance occurs, the Contractor shall:

9.11.1 notify the DFE in writing of such fact within 5 Business Days of its occurrence; and

9.11.2 promptly give the DFE:

- (i) 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
- (ii) such other information in relation to the Occasion of Tax Non-Compliance as the DFE may reasonably require.

## **10. PREVENTION OF CORRUPTION**

10.1 The Contractor represents and warrants that neither it, nor to the best of its knowledge any Personnel, have at any time prior to the Effective Date:

10.1.1 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

10.1.2 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.

10.2 The Contractor shall not:

10.2.1 commit a Prohibited Act; or

- 10.2.2 do or suffer anything to be done which would cause the DFE 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.
- 10.3 The Contractor shall:
- 10.3.1 and 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
- 10.3.2 keep appropriate records of its compliance with its obligations under clause 10.3.2 and make such records available to the DFE on request.
- 10.4 The Contractor shall immediately notify the DFE in writing if it becomes aware of any breach of clauses 10.1 and/or 10.2, or has reason to believe that it has or any of the Personnel have:
- 10.4.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
- 10.4.2 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
- 10.4.3 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.
- 10.5 If the Contractor notifies the DFE pursuant to clause 10.4, the Contractor shall respond promptly to the DFE's enquiries, co-operate with any investigation, and allow the DFE to audit any books, records and any other relevant documentation.
- 10.6 If the Contractor is in Default under clauses 10.1 and/or 10.2, the DFE may by notice:
- 10.6.1 require the Contractor to remove from performance of the Contract any Staff whose acts or omissions have caused the Default; or
- 10.6.2 immediately terminate the Contract.
- 10.7 Any notice served by the DFE under clause 10.6 shall specify the nature of the Prohibited Act, the identity of the party who the DFE believes has committed the Prohibited Act and the action that the DFE has taken (including, where relevant, the date on which the Contract shall terminate).

## **11. DISCRIMINATION**

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

## **12. INTELLECTUAL PROPERTY**

### **12.1 All Intellectual Property Rights in materials:**

12.1.1 furnished to or made available to the Contractor by or on behalf of the DFE (the “**DFE IP Materials**”) shall remain the property of the DFE (save for Copyright and Database Rights which shall remain the property of the Crown); and

12.1.2 prepared by or for the Contractor on behalf of the DFE in connection with the Contract (the “**Service Specific IP Materials**”) shall vest in the DFE (save for Copyright and Database Rights which shall vest in the Crown)

(together the “**IP Materials**”).

12.2 The Contractor shall not, and shall ensure that Personnel shall not, use or disclose IP Materials without the DFE’s approval save to the extent necessary for the performance by the Contractor of its obligations under the Contract.

12.3 The Contractor hereby assigns to the DFE or undertakes to procure the assignment to the DFE 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 DFE (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 DFE and necessary to execute and perfect these assignments and to otherwise evidence the DFE’s or the Crown’s ownership of such rights.

12.4 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.

12.5 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 DFE a non-exclusive licence or, if itself a licensee of those rights, shall grant to the DFE 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 DFE to sub-licence, transfer, novate or assign to a Replacement Contractor. The Contractor shall notify the DFE 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.

12.6 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 DFE and any Replacement Contractor from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the DFE may suffer or incur as a result of or in connection with any breach of this clause 14, except to the extent that any such claim arises from:

12.6.1 items or materials supplied by the DFE; or

12.6.2 the use of data supplied by the DFE which is not required to be verified by the Contractor under any provision of the Contract.



- 12.7 The DFE shall notify the Contractor in writing of any claim or demand brought against the DFE for infringement or alleged infringement of any Intellectual Property Right in materials supplied and/or licensed by the Contractor.
- 12.8 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 DFE, provided always that the Contractor shall:
- 12.8.1 consult the DFE on all substantive issues which arise during the conduct of such litigation and negotiations;
- 12.8.2 take due and proper account of the interests and concerns of the DFE; and
- 12.8.3 not settle or compromise any claim without the DFE's prior written consent (not to be unreasonably withheld or delayed).
- 12.9 Notwithstanding clause 12.8. the DFE may take any action it deems appropriate with respect to any such claim and shall have exclusive control of such claim. If the DFE takes action the Contractor shall at the request of the DFE afford to the Contractor all reasonable assistance to the DFE for the purpose of contesting such claim.
- 12.10 The DFE 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 DFE 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 DFE on demand and in full for all reasonable costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so.
- 12.11 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 DFE and, at its own expense and subject to the consent of the DFE (not to be unreasonably withheld or delayed), use reasonable endeavours to:
- 12.11.1 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 12 shall apply mutatis mutandis to such modified materials or services or to the substitute materials or services; or
- 12.11.2 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 DFE.
- 12.12 If the Contractor is unable to comply with clauses 12.11.1 and 12.11.2 within 20 Business Days of receipt of the Contractor's notification the DFE may terminate the Contract with immediate effect by notice in writing.
- 12.13 The Contractor grants to the DFE and, if requested by DFE, 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 DFE (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.
- 12.14 The DFE shall comply with the reasonable instructions of the Contractor in respect of the way in which it uses the Contractor IP.

- 12.15 If the Contractor is not able to grant to the DFE 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:
- 12.15.1 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 DFE a licence on the terms set out in clause 12.13; or
- 12.15.2 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 DFE a sub-licence on the terms set out in clause 12.13.
- 12.16 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 DFE IP Materials any act or thing which:
- 12.16.1 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
- 12.16.2 would or might prejudice the right or title of the DFE to any of the DFE IP Materials.
- 12.17 The Contractor shall comply with the DFE's branding guidelines and shall not use any other branding, including its own, other than as set out in the DFE's branding guidelines or as otherwise agreed with the DFE.
- 12.18 When using DFE Trade Marks the Contractor shall observe all reasonable directions given by the DFE 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:
- 12.18.1 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 DFE Trade Mark, or unfairly competes with any DFE Trade Mark; or
- 12.18.2 apply anywhere in the world to register any trade marks identical to or so nearly resembling any DFE Trade Mark as to be likely to deceive or cause confusion.

### **13. DATA, SYSTEMS HANDLING AND SECURITY**

- 13.1 The Parties shall comply with the provisions of schedule 8.

### **14. PUBLICITY AND PROMOTION**

- 14.1 Subject to clause 15.2, without prejudice to the DFE'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.
- 14.2 The Contractor shall use reasonable endeavours to ensure its Personnel comply with clause 14.1
- 14.3 Without prejudice to the generality of clauses 12.18 and 14.1, the Contractor shall not itself, and shall procure that Consortium Members shall not, use the DFE's name, brand or DFE Trade Marks or the Personal Data of the DFE to sell, promote, market or publicise the Contractor's other programmes, courses, services or other activities.
- 14.4 Subject to clauses 12 and 15 DFE 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. CONFIDENTIALITY**

- 15.1 Except to the extent set out in this clause 15 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.
- 15.2 The Contractor hereby gives its consent for the DFE to publish the whole Contract including from time to time agreed changes to the Contract.
- 15.3 The Contractor may only disclose the DFE's Confidential Information to Personnel who are directly involved in the provision of the Services and who need to know the information, and shall ensure that Personnel are aware of and shall comply with these obligations as to confidentiality.
- 15.4 The Contractor shall not, and shall procure that Personnel do not, use any of the DFE's Confidential Information received otherwise than for the purposes of the Contract.
- 15.5 Clause 15.1 shall not apply to the extent that:
- 15.5.1 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;
  - 15.5.2 such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
  - 15.5.3 such information was obtained from a third party without obligation of confidentiality;
  - 15.5.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or
  - 15.5.5 it is independently developed without access to the other Party's Confidential Information.
- 15.6 Nothing in clause 15 shall prevent the DFE disclosing any Confidential Information obtained from the Contractor:
- 15.6.1 for the purpose of the examination and certification of the DFE's accounts;
  - 15.6.2 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 DFE has used its resources;
  - 15.6.3 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
  - 15.6.4 to any consultant, contractor or other person engaged by the DFE provided that in disclosing information under clauses 15.8.3 and 15.8.4 the DFE 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.
- 15.7 Nothing in clauses 15.1 to 15.6 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.

15.8 The DFE shall endeavour to ensure that any government department, employee, third party or sub-contractor to whom the DFE's Confidential Information is disclosed pursuant to clause 15.6 is made aware of the DFE's obligations of confidentiality.

15.9 If the Contractor does not comply with clauses 15.1 to 15.5 the DFE may terminate the Contract immediately on notice to the Contractor.

## **16. FREEDOM OF INFORMATION**

16.1 The Contractor acknowledges that the DFE is subject to the requirements of the FOIA and the EIR.

16.2 The Contractor shall transfer to the DFE all Requests for Information that it receives as soon as practicable and in any event within 2 Business Days of receipt:

16.2.1 give the DFE a copy of all Information in its possession or control in the form that the DFE requires within 5 Business Days (or such other period as the DFE may specify) of the DFE's request;

16.2.2 provide all necessary assistance as reasonably requested by the DFE to enable the DFE to comply with its obligations under the FOIA and EIR; and

16.2.3 not respond to directly to a Request for Information unless authorised to do so in writing by the DFE.

16.3 The DFE 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.

## **17. OFFICIAL SECRETS ACTS AND FINANCE ACT**

17.1 The Contractor shall comply with the provisions of:

17.1.1 the Official Secrets Acts 1911 to 1989; and

17.1.2 section 182 of the Finance Act 1989.

## **18. LIABILITY**

18.1 Neither Party excludes or limits its liability (if any) to the other:

18.1.1 for breach of any obligations arising under section 12 Sale of Goods Act 1979 or section 2 Supply of Goods and Services Act 1982;

18.1.2 for personal injury or death resulting from the its negligence;

18.1.3 under section 2(3) Consumer Protection Act 1987;

18.1.4 any breach of clause 15 or schedule 8;

18.1.5 for its own fraud; or

18.1.6 for any other matter which it would be unlawful for it to exclude or to attempt to exclude its liability.

18.2 Subject to clauses 18.1 and 18.3, the Contractor shall indemnify the DFE and keep the DFE 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 Personnel on the Premises, including in respect of death or personal injury, loss of or damage to property, 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.

- 18.3 The Contractor does not exclude or limit its liability (if any) pursuant to any indemnities given by it in clauses 12 (Intellectual Property) and 9 (Tax).
- 18.4 Subject to clauses 18.1, 18.3 and 18.6, neither Party shall have any liability to the other under or in connection with the Contract, whether in contract, tort (including negligence) or otherwise:
- 18.4.1 for any losses of an indirect or consequential nature;
- 18.4.2 for any claims for loss of profits, revenue, business or opportunity (whether direct, indirect or consequential); or
- 18.4.3 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.
- 18.5 Subject to clauses 18.1 and 18.3, the maximum liability of either Party to the other under the Contract, whether in contract, tort (including negligence) or otherwise:
- 18.5.1 in respect of damage to property is limited to £10 million in respect of any one incident or series of connected incidents; and
- 18.5.2 in respect of any claim not covered by clause 18.5.1, is limited in each calendar year in aggregate to 300% of the sum of the Charges payable in that year.
- 18.6 The DFE may recover from the Contractor the following losses incurred by the DFE to the extent they arise as a result of a Default by the Contractor:
- 18.6.1 any additional operational and/or administrative costs and expenses incurred by the DFE, including costs relating to time spent by or on behalf of the DFE in dealing with the consequences of the default;
- 18.6.2 any wasted expenditure or charges;
- 18.6.3 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;
- 18.6.4 any compensation or interest paid to a third party by the DFE; and
- 18.6.5 any fine or penalty incurred by the DFE and any costs incurred by the DFE in defending any proceedings which result in such a fine or penalty.
- 18.7 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.
- 18.8 All property of the Contractor whilst on the DFE's premises shall be there at the risk of the Contractor and the DFE shall accept no liability for any loss or damage howsoever occurring to it.
- 18.9 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 DFE 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 DFE deems to be appropriate but

not less than £1,000,000 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.

- 18.10 The Contractor shall supply to the DFE on demand copies of the insurance policies maintained under clause 18.9.
- 18.11 The provisions of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract.
- 18.12 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.

## **19. WARRANTIES AND REPRESENTATIONS**

- 19.1 The Contractor warrants and represents that:

- 19.1.1 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;
- 19.1.2 in entering the Contract it has not committed any fraud;
- 19.1.3 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 DFE prior to execution of the Contract;
- 19.1.4 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;
- 19.1.5 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;
- 19.1.6 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 19.1.6 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
- 19.1.7 the use by the DFE 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;
- 19.1.8 in the 3 years (or actual period of existence if the Contractor has been in existence for less time) prior to the Effective Date:
  - (i) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
  - (ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
  - (iii) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract;

19.1.9 it has and will continue to hold all necessary regulatory approvals from the Regulatory Bodies necessary to perform its obligations under the Contract; and

19.1.10 it has notified the DFE 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.

## **20. FORCE MAJEURE**

20.1 If either Party is prevented or delayed in the performance of any of its obligations under the Contract by Force Majeure, that Party shall immediately serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure, and shall subject to service of such notice and to clause 20.3 have no liability in respect of the performance of such of its obligations as are prevented by the Force Majeure events during the continuation of such events, and for such time after they cease as is necessary for that Party, using all reasonable endeavours, to recommence its affected operations in order for it to perform its obligations.

20.2 If either Party is prevented from performance of its obligations for a continuous period in excess of 3 months, the other Party may terminate the Contract forthwith on service of written notice upon the Party so prevented, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

20.3 The Party claiming to be prevented or delayed in the performance of any of its obligations under the Contract by reason of Force Majeure shall use reasonable endeavours to end Force Majeure or to find solutions by which the Contract may be performed despite the Force Majeure.

## **21. MONITORING AND REMEDIATION**

21.1 The DFE 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.

21.2 During such visits, the DFE 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.

21.3 If the DFE 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:

21.3.1 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 DFE (not to be unreasonably withheld) and which, once approved, the Contractor shall implement; and

21.3.2 monitor, supervise, direct and/or guide the Contractor's provision of the Services until the DFE reasonably considers that any such risk has been remedied or removed. The Contractor shall cooperate at all times with the DFE in this regard.

21.4 If the Contractor fails to comply with any provision of the Contract or fails to supply any of the Services in accordance with the provisions of the Contract and such failure is capable of remedy, then the DFE may instruct the Contractor to remedy the failure and the Contractor shall at its own cost and expense remedy such failure (and any damage resulting from such failure) within 21 days or such other period of time as the DFE may direct.

21.5 The DFE may review from time to time the progress of the Contractor against the Implementation Plan. The Contractor shall cooperate with the DFE in this regard and provide any information and evidence reasonably required by the DFE.

21.6 The DFE may instruct the Contractor to take appropriate remedial action where the DFE 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.

## **22. STEP IN RIGHTS**

22.1 Without prejudice to DFE's rights of termination under clause 23 the DFE may exercise one or more of the rights set out in this clause 22 ("**Step In Rights**") if:

22.1.1 there is a Default by the Contractor which materially prevents or materially delays performance of the Services or any part of the Services;

22.1.2 an event of Force Majeure occurs which materially prevents or materially delays the performance of the Services or any part of the Services;

22.1.3 a Regulatory Body has advised the DFE that exercise by the DFE of its rights under this clause 22 is necessary;

22.1.4 a serious risk exists to the health and safety of persons, property or the environment;

22.1.5 it is necessary to discharge a statutory duty; or

22.1.6 the Contractor becomes insolvent.

22.2 If the DFE has a Step In Right it may serve notice on the Supplier (a "**Step-In Notice**") that it will take action under this clause 22 either itself or with the assistance of a third party.

22.3 The Step-In Notice shall set out:

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

22.3.2 the event triggering the Step In Rights and whether the DFE believes that the Required Action is due to the Contractor's Default;

22.3.3 the date on which it wishes to commence the Required Action;

22.3.4 the time period which it believes will be necessary for the Required Action;

22.3.5 whether the DFE will require access to the Contractor's premises; and

22.3.6 to the extent practicable, the effect the DFE 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.

22.4 Following service of a Step-In Notice, the DFE shall:

22.4.1 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;

22.4.2 keep records of the Required Action taken and provide information about the Required Action to the Contractor;

22.4.3 co-operate wherever reasonable with the Contractor in order to enable the Contractor to continue to provide those Services of which the DFE is not assuming control; and



- 22.4.5 act reasonably in mitigating the cost that the Contractor will incur as a result of the exercise of the Step In Rights.
- 22.5 For as long as and to the extent that the Required Action continues:
- 22.5.1 the Contractor shall not be obliged to provide the Services to the extent that they are the subject of the Required Action; and
- 22.5.2 the DFE shall pay the Contractor the Charges after subtracting any applicable Service Credits and the DFE's costs of taking the Required Action.
- 22.6 If the Contractor demonstrates to the DFE'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 DFE not taken the Required Action, the DFE may adjust the Charges.
- 22.7 Before ceasing to exercise its Step In Rights the DFE shall deliver a written notice to the Contractor (a **"Step-Out Notice"**), specifying:
- 22.7.1 the Required Action it has taken; and
- 22.7.2 the date on which the DFE plans to end the Required Action subject to the DFE being satisfied with the Contractor's ability to resume the provision of the Services and the Contractor's plan developed in accordance with clause 22.8.
- 22.8 The Contractor shall, following receipt of a Step-Out Notice and not less than 20 Business Days prior to the date specified in clause 22.7.2, develop for the DFE'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.
- 22.9 If the DFE 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 DFE for approval. The DFE shall not withhold or delay its approval of the draft plan unreasonably.
- 22.10 The Contractor shall bear its own costs in connection with any Step-In under this clause 22, provided that the DFE shall reimburse the Contractor's reasonable additional expenses incurred directly as a result of any Step-In action taken by the DFE under clauses 22.1.2 to 22.1.5 (insofar as the primary cause of the DFE serving the Step In Notice is identified as not being the result of a Contractor's Default).

## **23. TERMINATION**

- 23.1 The DFE may terminate the Contract with immediate effect and without paying compensation to the Contractor where the Contractor is a company and in respect of the Contractor:
- 23.1.1 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;
- 23.1.2 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);
- 23.1.3 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;
- 23.1.4 a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;

- 23.1.5 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;
  - 23.1.6 it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;
  - 23.1.7 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
  - 23.1.8 any event similar to those listed in clauses 23.1.1 to 23.1.7 occurs under the law of any other jurisdiction.
- 23.2 The DFE may terminate the Contract with immediate effect by notice and without paying compensation to the Contractor where the Contractor is an individual and:
- 23.2.1 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;
  - 23.2.2 a petition is presented and not dismissed within 14 days or order made for the Contractor’s bankruptcy;
  - 23.2.3 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;
  - 23.2.4 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;
  - 23.2.5 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;
  - 23.2.6 he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Capacity Act 2005;
  - 23.2.7 he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business; or
  - 23.2.8 any event similar to those listed in clauses 23.2.1 to 23.2.7 occurs under the law of any other jurisdiction.
- 23.3 The Contractor shall notify the DFE 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 DFE may terminate the Contract with immediate effect by notice and without compensation to the Contractor within 6 months of:
- 23.3.1 being notified that a Change of Control has occurred; or
  - 23.3.2 where no notification has been made, the date that the DFE becomes aware of the Change of Control
- but shall not be permitted to terminate where approval was granted prior to the Change of Control.

- 23.4 The DFE may terminate the Contract with immediate effect and without paying compensation to the Contractor where the Contractor is a partnership and:
- 23.4.1 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;
  - 23.4.2 it is for any reason dissolved;
  - 23.4.3 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;
  - 23.4.4 a receiver, or similar officer is appointed over the whole or any part of its assets;
  - 23.4.5 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
  - 23.4.6 any of the following occurs in relation to any of its partners:
    - 23.4.6.1 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, his creditors;
    - 23.4.6.2 a petition is presented for his bankruptcy;
    - 23.4.6.3 a receiver, or similar officer is appointed over the whole or any part of his assets; or
    - 23.4.6.4 any event similar to those listed in clauses 23.4.1 to 23.4.6 occurs under the law of any other jurisdiction.
- 23.5 The DFE may terminate the Contract with immediate effect and without paying compensation to the Contractor where the Contractor is a limited liability partnership and:
- 23.5.1 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;
  - 23.5.2 it is for any reason dissolved;
  - 23.5.3 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;
  - 23.5.4 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;
  - 23.5.5 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;
  - 23.5.6 a receiver, or similar officer is appointed over the whole or any part of its assets; or
  - 23.5.7 it is or becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
  - 23.5.8 a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or

- 23.5.9 any event similar to those listed in clauses 23.5.1 to 23.5.8 occurs under the law of any other jurisdiction.
- 23.6 References to the Insolvency Act 1986 in clause 23.5.1 shall be construed as being references to that Act as applied under the Limited Liability Partnerships Act 2000 subordinate legislation.
- 23.7 The DFE may terminate the Contract with immediate effect and without paying compensation to the Contractor if the Contractor commits a Default and:
- 23.7.1 the Contractor has not remedied the Default to the satisfaction of the DFE within 21 Business Days or such other period as may be specified by the DFE, after issue of a notice specifying the Default and requesting it to be remedied
- 23.7.2 the Default is not, in the opinion of the DFE, capable of remedy; or
- 23.7.3 the Default is a Material Breach.
- 23.8 The DFE may terminate the Contract with immediate effect and without paying compensation to the Contractor if:
- 23.8.1 the Contractor's warranty in clause 19.1.10 is materially untrue;
- 23.8.2 the Contractor commits a material breach of its obligation to notify the DfE of any Occasion of Non-Tax Compliance;
- 23.8.3 the Contractor fails to provide details of proposed mitigating factors which, in the DfE's reasonable opinion are acceptable; or
- 23.8.4 the Contractor has not, in performing the Services, complied with its legal obligations in respect of environmental, social or labour law.
- 23.9 The DFE may terminate the Contract with immediate effect and without paying compensation to the Contractor if:
- 23.9.1 the Contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;
- 23.9.2 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
- 23.9.3 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.
- 23.10 If the DFE terminates the Contract under clauses 23.7, 23.8 or 23.9:
- 23.10.1 and makes other arrangements for the supply of the Services, the DFE may recover from the Contractor the cost reasonably incurred of making those other arrangements; and
- 23.10.2 the DFE 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 DFE), until the DFE has established the final cost of making the other arrangements envisaged under this clause 23.
- 23.11 DFE may terminate the Contract (or any part of it) at any time by giving at least 3 months' prior

written notice to the Contractor.

- 23.12 If the DFE terminates the Contract under clause 23.11 the DFE shall make no further payments to the Contractor except 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 DFE.
- 23.13 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 cannot reasonably continue the DFE may terminate the Contract (or any part of it) by serving 3 months' written notice on the Contractor.
- 23.14 If the DFE terminates the Contract under clause 23.13 the DFE 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 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 unavailability of such costs.
- 23.15 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 DFE in respect of any charge levied for its transmission and any other costs charged in connection with such Default.
- 23.16 If the DFE fails to pay the Contractor undisputed sums of money when due the Contractor shall give notice to the DFE of its failure to pay. If the DFE fails to pay such undisputed sums within 90 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 DFE exercising its rights under clause 8.6 or to Force Majeure.
- 23.17 Save as otherwise expressly provided in the Contract:
- 23.17.1 termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and
- 23.17.2 termination of the Contract shall not affect the continuing rights, remedies or obligations of the DFE or the Contractor under clauses 8 (Payment), 9 (Tax and VAT), 10 (Prevention of Fraud), 12 (Intellectual Property Rights), 13 (Data), 15 (Confidentiality), 16 (Freedom of Information), 17 (Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989), 180 (Warranties and Representations), 19 (Liability), 23 (Termination) 24 (Retendering and Handover), 25 (Exit Management), 26 (Audit), and 37 (Governing Law and Jurisdiction).
- 23.18 Termination by DfE if monthly Performance Standards not met
- 23.18.1 If the Contractor fails to meet any of the monthly Performance Standards in any two consecutive months, at either party's request to the other party, both parties must meet to work together in good faith to attempt to understand why the monthly Performance Standards have not been achieved and implement strategies jointly agreed between the parties to attempt to enable the Contractor to achieve the monthly Performance Standards.
- 23.18.2 If the parties agree on a strategy under clause 23.18.1 and, in the month following the implementation of the joint strategy under clause 23.18.1 the Contractor fails to achieve any of the monthly Performance Standards, DfE may terminate this agreement on 30 days' notice to Contract.
- 23.18.3 If Contractor fails to meet any of the monthly Performance Standards in any three consecutive months, DfE may terminate this agreement on 10 Business Days' notice to the Contractor.

## **24. RETENDERING AND HANDOVER**

- 24.1 Within 30 days of being requested by the DFE, the Contractor shall provide, and thereafter keep updated, in a fully indexed and catalogued format, all the information reasonably necessary to enable the DFE to issue tender documents for the future provision of replacement services.
- 24.2 The DFE shall take reasonable precautions to ensure that the information referred to in clause 24.1 is given only to potential contractors who have qualified to tender for the future provision of the replacement services.
- 24.3 The DFE 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 DFE; and that they shall not use it for any other purpose.
- 24.4 The Contractor shall allow access to the Premises in the presence of DFE's authorised representative, to any person representing any potential contractor whom the DFE has selected to tender for the future provision of the Services.
- 24.5 If access is required to the Contractor's Premises for the purposes of clause 26.4, the DFE shall give the Contractor 7 days' notice of a proposed visit together with the names of all persons who will be visiting.
- 24.6 The Contractor shall co-operate fully with the DFE 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.
- 24.7 Within 10 Business Days of being requested by the DFE, the Contractor shall transfer to the DFE, or any person designated by the DFE, 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 DFE.

## **25. EXIT MANAGEMENT**

- 25.1 If the DFE requires a continuation of all or any of the Services at the end of the Term, either by performing them itself or by engaging a third party to perform them, the Contractor shall co-operate fully with the DFE and any such third party and shall take all reasonable steps to ensure the timely and effective transfer of the Services without disruption to routine operational requirements.
- 25.2 The Contractor will, within 3 months of the Effective Date, deliver to the DFE, a plan which sets out the Contractor's proposals for achieving an orderly transition of Services from the Contractor to the DFE and/or its Replacement Contractor at the end of the Term (an "**Exit Plan**").
- 25.3 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 36.
- 25.4 The Contractor will review and (if appropriate) update the Exit Plan in the first month of each year of the Term to reflect changes to the Services. Following such update the Contractor will submit the revised Exit Plan to the DFE 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 36.

**25.5 If the Contractor:**

25.5.1 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

25.5.2 reasonably incurs additional costs

the Parties shall agree a variation of the Charges.

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

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

**25.8 The Contractor shall co-operate fully with the DFE in order to enable an efficient and detailed knowledge transfer from the Contractor to the DFE at the end of the Term and shall provide the DFE free of charge with full access to Personnel, copies of all documents, reports, summaries and any other information requested by the DFE. The Contractor shall comply with the DFE's request for information no later than 15 Business Days from the date that that request was made.**

**26. AUDIT**

**26.1 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.**

**26.2 The Contractor agrees to make available to the DFE, free of charge, whenever requested, copies of audit reports obtained by the Contractor in relation to the Services**

**26.3 The Contractor shall permit duly authorised representatives of the DFE 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.**

**26.4 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 DFE and for carrying out examinations into the economy, efficiency and effectiveness with which the DFE has used its resources. The Contractor shall provide such explanations as are reasonably required for these purposes.**

**27. ENTIRE AGREEMENT**

**27.1 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.**

**27.2 Nothing in this clause 27 shall exclude any liability which one Party would otherwise have to the other Party in respect of any statements made fraudulently.**

**28. PARTNERSHIP**

**28.1 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).

## **29. WAIVER**

- 29.1 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.

## **30. CHANGE CONTROL**

- 30.1 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.

## **31. COUNTERPARTS**

- 31.1 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.

## **32. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

- 32.1 The provisions of clauses 7.5 and 12.6 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**”).
- 32.2 Subject to clause 32.1, 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.
- 32.3 A Replacement Contractor may not enforce or take steps to enforce the provisions of clauses 7.5 or 12.6 without DFE's prior written consent.
- 32.4 The Parties may amend the Contract without the consent of any Replacement Contractor.

## **33. CONFLICTS OF INTEREST**

- 33.1 The Contractor shall:
- 33.1.1 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
- 33.1.2 take appropriate steps to ensure that neither the Contractor nor any of the Personnel is placed in a position where, in the reasonable opinion of the DFE, 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 Personnel and the duties owed to the DFE under the provisions of the Contract in either case, referred to in this clause 33 as a “**Conflict of Interest**”.
- 33.2 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 35 the Contractor shall forthwith provide full particulars to the DFE.
- 33.3 In performing its obligations under the Contract the Contractor shall conduct its business, operations and activities in a politically neutral fashion.



33.4 Without prejudice to the foregoing provisions of this clause 33, if any Conflict of Interest (or potential Conflict of Interest) arises or is likely to arise, the Contractor shall:

33.4.1 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 DFE (acting reasonably); and

33.4.2 give the DFE a comprehensive and detailed written statement of the action it had taken.

33.5 If the DFE is not satisfied with the Contractor's actions, the Contractor shall, on request by the DFE 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).

33.6 Without prejudice to any other right or remedy it may have, the DFE 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 DFE, there is any continuing breach by the Contractor of the provisions of this clause 33.

#### **34. FURTHER ASSURANCE**

34.1 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.

#### **35. NOTICES**

35.1 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).

35.2 The notice, demand or communication shall be deemed to have been duly served:

35.2.1 if delivered by hand, when left at the proper address for service;

35.2.2 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;

35.2.3 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).

35.3 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.

#### **36. DISPUTE RESOLUTION**

36.1 Any Dispute shall be dealt with in accordance with this clause 36.

36.2 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.

- 36.3 If a Dispute cannot be resolved by negotiation as referred to in clause 36.2 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.

### **37. GOVERNING LAW AND JURISDICTION**

- 37.1 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.
- 37.2 The courts of England shall have exclusive jurisdiction to settle any dispute which arises out of or in connection with the Contract.
- 37.3 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.

## Schedule 3 – Financials

### Breakdown of costs

#### Overall costs

	2018-19	2019-20	Total
<b>Staff (salaries, NI &amp; Pension)</b>			
<b>Other direct costs</b>			
<b>Overheads</b>			
<b>Sub-total project costs (net)</b>			
VAT @ 20%			
<b>Total</b>			

### By organisation

#### Council for Disabled Children

	2018-19	2019-20	Total
<b>Staff (salaries, NI &amp; Pension)</b>			
Programme Manager			
Training coordinator			
Finance Support Officer			
Contracts and Finance Manager			
Project Assistant			
Senior Development Officer			
IASSN Manager			
Development Officer			
P&P Director			
E&E Assistant Director			
Contracts and Monitoring Officer			
<b>Sub Total (net)</b>			
<b>Programme costs (other direct costs)</b>			
Conduit funding to IS agencies			
Conduit funding to IAS services			
Strategic support and intervention			
Training and development			
New Minimal standards			
Network			
Programme independent evaluation			
IT per capita charge			
Training			
Recruitment			
Programme governance			

<b>Sub total (net)</b>	
<b>Overheads</b>	
Hosting / accommodation	
Management support costs /internal accountability	
<b>Sub total (Net)</b>	
<b>Sub-total project costs (net)</b>	
VAT @ 20%	
<b>Total (gross)</b>	

## Contact

	2018-19	2019-20	Total
<b>Staff (salaries, NI &amp; Pension)</b>			
Helpline manager (1 FTE)			
Senior Helpline Advisers (2 FTE)			
Parent Advisers (3.9 FTE)			
Bank Helpline staff			
Web manager (0.5 FTE)			
Content and community manager 0.5 FTE)			
Information officer 0.5 FTE)			
Director of family support (0.4 FTE)			
<b>Sub Total (net)</b>			
<b>Programme costs (other direct costs)</b>			
Staff Training			
Recruitment			
Travel			
Volunteer costs			
Web fees, hosting, language line, development costs			
Printing			
internal accountability			
<b>Sub Total (net)</b>			
<b>Overheads</b>			
Office costs			
Accommodation costs			
<b>Sub Total (net)</b>			
Management support costs /internal accountability			
<b>Sub-total project costs ( NET)</b>			
VAT @ 20%			
<b>Total (GROSS)</b>			

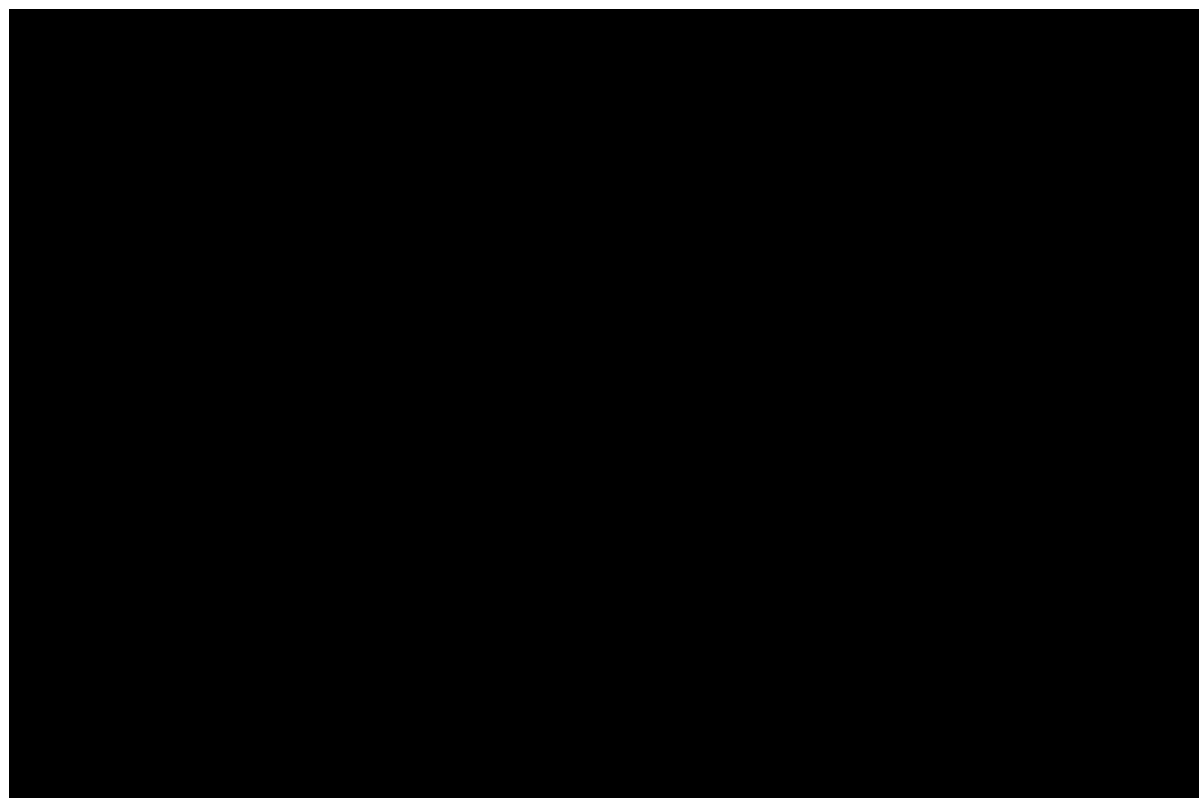
## **Payment Schedule**

### **Year 1 (2018-19)**



### **Year 2 (2019-20)**

Payment schedule for Year 2 will be subject to a review no later than December 2018, before finally agreed with the funder.



**Schedule 4 KPIs, Service Levels, Service Credits and Performance Measures.**

**YEAR 1(2018-19) – INFORMATION, ADVICE AND SUPPORT PROGRAMME**

Objective [Ref]	Key Performance Indicator (including targets for success)	Activity ref no	Activities/Actions	By When (end of)	Break down on conduit funding	Total cost for objective (excluding VAT)
<b>KPI 1</b> To be accountable for the administration of conduit funding to <b>Independent Support agencies</b> during the period: 1 June – 31 July 2018.  Actions will seek to ensure parents and young people have access to an Independent Support service across 152 local authority areas.	Contract arrangements are developed, negotiated with subcontractors (IS agencies), which ensure: <ul style="list-style-type: none"> <li>Minimum of 75% of local authority areas retain an Independent Support offer – evidence of which is provided through management reports submitted in light of a previous 2 months variation offer at the end of May 2018.</li> <li>The local referral arrangement and partnership developed through the ‘Memorandum of understanding’ continues to flourish – ensuring service users continue to have access to information, advice leading to Independent Support.</li> <li>A requirement for subcontractors (IS agencies) to agree on a transitional arrangement with local partners - so ‘service users’ are not confused about service change or find themselves disadvantaged.</li> </ul> Programme leadership overseeing contracting matters ensure integrity of the contract management process and monitoring compliance process – where progress is reported monthly to the funder and quarterly to the Advisory Board for challenge on process and progress.  Quarterly monitoring of contract and obligation performance with subcontractors demonstrate compliance with specified term - where progress is reported monthly to the funder and quarterly to the Advisory Board for challenge on	<b>1.1</b>	Negotiate price and process contracts with a set of Key Performance Indicators - with up to 50 subcontractors (IS agencies)	June 2018		
		<b>1.2</b>	Ensure all contracting matters are complete and signed by both parties.	June 2018		
		<b>1.3</b>	Make first payment to suppliers where an upfront arrangement has been agreed.	June 2018		
		<b>1.4</b>	Make a final payment for services rendered, following review of management reports and quality assurance outcomes data.	July 2018		
		<b>1.5</b>	Submit report on the overall outcomes and deliverables achieved by suppliers under contract through the extension period	Aug 2018		

	<p>process and progress.</p> <p>Financial management processes provides reassurance that conduct spend remains within the envelope price agreed with the funder and presents no risk to delivery.</p>		
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Objective [Ref]	Key Performance Indicator (including targets for success)	Activity ref no	Activities/Actions	By When (end of)	Break down on conduit funding	Total cost for objective (excluding VAT)
<b>KPI 2</b> To be accountable for the administration of conduit funding to <b>Information, Advice and Support Services</b> during the period: 1 June 2018 – 31 March 2019.	<p>Contract arrangements are developed, negotiated with subcontractors (IAS Services), which ensure:</p> <ul style="list-style-type: none"> <li>Purposeful key performance indicators are set.</li> <li>A self-review exercise is undertaken to establish perceived service priorities - which inform the programme travel of direction.</li> <li>EHCP assessments and Annual Reviews are supported</li> <li>Routes for children, parents and young people to access support and advice is clearly defined and accessible</li> <li>Delivery of a 2 year strategy service-led operational plan (intended to be implemented on 1 April 2019) with service priorities linked to new minimum standards - by Dec 2018.</li> </ul> <p>Programme leadership overseeing contracting matters ensure integrity of the contract management process and monitoring compliance process – where progress is reported monthly to the funder and quarterly to the Advisory Board for challenge on process and progress.</p> <p>Quarterly monitoring of contract and obligation performance with subcontractors demonstrate compliance with specified term - where progress is reported monthly to the funder and quarterly to the Advisory Board for challenge on process and progress.</p>	2.1	Process contracts with a set of Key Performance Indicators - with up to 152 subcontractors (IAS services) no later than.	June 18		
		2.2	Ensure contracting with subcontractors is complete and signed by both parties no later than.	July 18		
		2.3	Administer payment to subcontractors where an upfront fee has been agreed no later than.	July 18		
		2.4	Administer final payment where evidence of deliverables has been provided and KPIs met.	Mar 19		
		2.5	Devise and quality assure a new funding formula to be applied from year 2 onwards.	Nov 19		
		2.6	Set up and manage a review group to quality assure development plans submitted by IAS services against CDCs proposals their funding allocation at the start of year 2.	Dec 18		
		2.7	Individual funding allocation for each eligible IAS services agreed.	Feb 19		

	<p>Effective financial management processes and reporting provides reassurance that conduit spend remains within the envelope price and presents no risk to delivery.</p> <p>Effective stakeholder management ensures appropriate action is taken when a subcontractor has opted to exit the programme early, or it becomes known there is a change of local IAS service provider – which reduces the risk of negative influences affecting the programme.</p> <p>New funding formula devised ensures a fair distribution and effectively directs resources to where they are most needed, helping to ensure that parents, children and young people with SEND have access to high quality support, wherever they live.</p> <p>The review panel and evaluation criteria devised to review IAS service led plans and value of financial incentives applied to plans - provides the funder with reassurance that a fair system has been applied in its operations to seek the best outcomes.</p>				
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Objective [Ref]	Key Performance Indicator (including targets for success)	Activity ref no	Activities/Actions	By When (end of)	Break down	Total cost for objective (excluding VAT)
<b>KPI 3</b> To ensure the sector have access to strategic intervention and support which then aims to standards and expectations of IAS services and results in a richer service offer	Strategic intervention results in up to 40 LA areas being supported to develop a IAS service led operational plan with a 2 year trajectory - which is then used to set local priorities, focus energy and resources, strengthen operations, and ensure employees and local stakeholders are involved and working toward common goals for service improvement and outcomes.  Actions to promote and encourage joint commissioning results in up to more LA areas agreeing to consider a strategic joint approach	3.1	1st tranche of 15 LA areas receive one-to-one intervention and support.	Sept 18		
		3.2	Delivery of 9 regional workshops - where participation data indicates learning objectives have been met (upper quarter positive survey results).	Oct 18		
		3.3	2nd tranche of 15 LA areas receive one-to-one intervention and support.	Dec 18		



to families, young people with SEND.	<p>– which leads to an holistic, joined-up service offer that delivers efficiencies and better outcomes for local parents, children and young people with SEND.</p> <p>The planning and facilitation of 9 regional strategic workshops targeting LA commissioners and IAS service managers results in operational readiness ahead of year 2 - where evaluation indicates:</p> <ul style="list-style-type: none"> <li>• no less than 75% of IAS services attended</li> <li>• there is an improved understanding of programme purpose and direction of travel</li> <li>• it's clear how a service plan could lead to a financial incentives from year 2.</li> </ul> <p>Strategic intervention and constructive challenge and support results in an action plan agreed with local authorities who have been identified as not fulfilling its duty to provide information, advice and support to disabled children and young people, and those with SEN, and their parents.</p> <p>To ensure learning from strategic support and intervention is reported back to DfE and the Advisory Board and where it's appropriate to do so, with case studies disseminated to support service practice across England.</p>				
		3.4	Ongoing strategic support and guidance with interventions informs DfE and the Advisory Board and deemed value added.	Jan 19	
		3.5	3rd tranche of 10 LA areas receive one-to-one intervention and support.	Mar 19	
		3.6	On-going constructively challenge on service compliance results an agreed plan of action.	Feb 19	

Objective [Ref]	Key Performance Indicator (including targets for success)	Activity ref no	Activities/Actions	By When (end of)	Break down	Total cost for objective (excluding VAT)
<b>KPI 4</b> To provide training and resources that meet the needs of the workforce and enhance the skills and ensures a high quality service to parents and young people.	Develop and deliver a suite of online and face to face training, available in every region enabling services to give high quality IAS to children, young people and parents.  By March 2019 over 90% of IASS staff report being more knowledgeable and confident.  Ensure independent accredited legal training from our sub-contractor, IPSEA (beginner, intermediate and advanced) is offered to all IAS Services in order for them to provide accurate information on SEND law to parents, carers, children, and young people. 98% of contracted services to have 2 members of staff having completed all 3 levels.  Develop further training or resources where a learning gap has been identified in light of feedback or intelligence (SEND advisors, DfE, Advisory Board, trainers or surveys conducted with IS workforce). The nature and scope of any such training to be agreed with DfE.  Continue with the provision of online and face to face IS training for current and new IS and for IASS and other interested professionals	4.1	7 days training on supporting children and young people and their families with mental health issues - where participation data indicates learning objectives have been met (upper quarter positive survey results).	July 19		
		4.2	9 training sessions on new minimum standards and operational planning - where participation data indicates learning objectives have been met (upper quarter positive survey results).	Sept 19		
		4.3	24 days of legal training delivered across England - where participation data indicates learning objectives have been met (upper quarter positive survey results).	Mar 19		
		4.4	IPSEA hosting of legal online training continues to be easily accessible and of a high standard	June 18		
		4.5	18 new training days and any additional resource (i.e. National Tribunal Trial roll out), agreed with DfE	Mar 19		
		4.6	9 days Independent Support/Annual Review refresher training delivered across England - where participation data indicates learning objectives have been met (upper quarter positive survey results).	Nov 18		
		4.7	4 x 2 days Independent Support core training sessions are delivered - where participation	Jan 19		

			data indicates learning objectives have been met (upper quarter positive survey results).		
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Objective [Ref]	Key Performance Indicator (including targets for success)	Activity ref no	Activities/Actions	By When (end of)	Break down	Total cost for objective (excluding VAT)
<b>KPI 5</b> To develop new minimal standards based on those already developed by IASSN	Establish and convene a small group of IASS, LAs parents and YP to review and revise the current Quality Standards to establish: <ul style="list-style-type: none"> <li>• minimum standards</li> <li>• approval ratings</li> <li>• options for grading, for the provision of statutory IASS</li> <li>• Examples of good practice</li> </ul> Share the draft standards with interested parties (all IASS, LAs, parents, CYP, DfE, etc) for comment/revision  Finalise and publish the minimum standards	<b>5.1</b>	Agree membership of working group and arrange meeting details.	Jun 18		
		<b>5.2</b>	2 day meeting with working group to discuss new minimum standards.	Jun 18		
		<b>5.3</b>	Draft new consultation document covering new minimum standards.	Jul 18		
		<b>5.4</b>	Consultation period – share consultation document with IASS and key partners and receive feedback.	Sep 18		
		<b>5.5</b>	Finalize, publish and print new minimum standards.	Oct 18		

Objective [Ref]	Key Performance Indicator (including targets for success)	Activity ref no	Activities/Actions	By When (end of)	Break down	Total cost for objective (excluding VAT)
<b>KPI 6</b> To continue and enhance the work of the Information, Advice and Support Service Network	Ensure the established Network and other support for IAS services remains in place and to encourage collaborative working and information sharing between IAS Services and IASSN  Facilitate a group of organisations working in the area of provision of SEND information and advice - SENDIOG. Group will share best practice and information and will facilitate better working across organisations providing information and advice for parents of children and young people with SEND. Group will also raise issues of implementation across the	<b>6.1</b>	Management, hosting and daily monitoring of online e-forum results in good conduct and behaviours and the sharing of intelligence that is considered useful to the programme and funder.	Mar 19		
		<b>6.2</b>	Network facilitation of 3 SENDIOG Meetings results in meetings being planned, good attendance rates secured and a note with actions shared within 10 days of a	Jul 18, (£7,987.00) Nov 18, (£7,987.00) Mar 19 (£7,987.00)		

	<p>country and will feedback any trends, areas of concern and good practice to DfE.</p> <p>Ensure support and information is provided to all IAS Services through attendance at regional meetings, supporting effective two way communication between IASSN and individual services and ensuring services feel they are part of a bigger picture with national oversight.</p> <p>E-forum remains an effective way of ensuring all services have access to up-to-date information on current policy development – up to 95% of services signed up.</p> <p>Ensure IAS services are kept up to date with latest news, research, trends, and policy.</p> <p>Conduct a yearly survey of IASS to evaluate the work of the IASSN.</p> <p>Ensure parents, children and young people have access to the details of their local IASS through our website.</p> <p>Provide support and guidance to individual IAS Services</p> <p>Provide written briefings, guides and/or guidance when necessary/appropriate</p>		meeting date.		
		6.3	Network attendance at 18 IASS Regional Meetings, 3 NAIASS Meetings and development group meetings - results in identifying meaningful and accessible opportunities that encourage them to realise those opportunities with good effect.	Mar 19	
		6.4	Network support, including email, phone, induction packs, resources, fortnightly bulletins ensures services are equipped, informed and have access to good practice that supports service delivery.	Mar 19	
		6.5	Network annual survey and data collection activities emphasize the importance of assessing the outcomes of the work done by services - whilst presenting the most up to date intelligence to inform the direction of travel.	Mar 19	
		6.6	Network website management ensures information remains up to date and relevant with a 25% increase in the number of hit rates reported by Mar 19 to that reported in Mar 18.	Mar 19	

Objective [Ref]	Key Performance Indicator (including targets for success)	Activity ref no	Activities/Actions	By When (end of)	Break down	Total cost for objective (excluding
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					VAT)
<b>KPI 7</b> To ensure families of children and young people with SEND have a national bespoke telephone support service which complements support available locally	To provide Information, advice and support to at least 7,116 families of children and young people with SEND. 100% of enquiries will be categorised by Issue. 70% of enquiries will include issue detail - on the nature of IAS provided  To provide 3 case studies per quarter detailing: <ul style="list-style-type: none"> <li>the nature of the queries presented by families,</li> <li>the information provided by Contact</li> <li>signposting to local information.</li> </ul>	7.1	Provision of a free national telephone, email and social media helpline service for families of children and young people with SEND  Provision of relevant resources and signposting to include information on local and online sources of support  All enquiries will be recorded on Contact database  Helpline team to access ongoing updates and training throughout the contract Review all data and compile monitoring reports	Mar 19	
<b>KPI 8</b> To ensure families of children and young people with SEND have access to appropriate information and signposting via online channels information	To provide Information, advice and support to at least 600,000 unique users through digital channels, which include Contact website, Social media- Facebook/ Twitter, U Tube and central e bulletins  25% of central news, advice and information e-bulletin respondents will open the newsletter  Throughout year 1, 30 information, advice and support news stories will be published on Contact's website promoting IAS resources	8.1	Provision of information and advice service through digital channels for families of children and young people with SEND  Ongoing updating and maintenance of website information  Create and publish monthly newsletters, signposting to IAS resources  Research, create and publish 3 news stories a month promoting IAS resources and signposting to local sources of support Review all data and compile monitoring reports	Mar 19	
<b>KPI 9</b> To ensure a high level of	Customer Satisfaction scores indicate a minimum of <ul style="list-style-type: none"> <li>80% customer</li> </ul>	9.1	Create, promote and disseminate through telephone and digital	Sept 18	

customer satisfaction rates across telephone and digital channels	<p>satisfaction with the service they received</p> <ul style="list-style-type: none"> <li>80% would recommend Contact services to other families of children and young people with SEND</li> </ul>		<p>channels a biannual survey to quality assure telephone enquiries and digital channels</p> <p>Collate and review feedback to develop and inform service improvements</p> <p>Review all data and compile monitoring reports for September 2018 and March 2019</p>	Mar 19	
<p><b>KPI 10</b></p> <p>To review existing helpline / online provision and make proposals to integrate national offer with local IAS services, IS and other national SEND helplines more effectively</p> <p>To identify potential technology developments that would improve the quality our helpline service, enable us to meet unmet demand and improve our reach to more families by using staff resources more efficiently</p>	<p>Through the project advisory panel of Contact an CDC representatives:</p> <ul style="list-style-type: none"> <li>Develop a reciprocal referral process with local IAS services and IS (1)</li> <li>Develop guidelines for producing new information so it fits new integration model. (2)</li> </ul> <p>Identify and propose a set of technology changes (3)</p> <p>Produce a report making recommendations on points 1, 2 and 3 and agree with the Department new approaches to take forward.</p>	10.1	<p>Comprehensive review of helpline / online service identifying new channels of delivery.</p> <p>Carry out content audit of Contact, IAS services and IS resources to identify areas of crossover</p> <p>Establish process for regular intelligence sharing with IAS services and IS for ongoing holistic understanding of family needs and issues</p> <p>Propose a set of technology changes to trial, including how they will enhance our helpline-online service, the impact on our current offer and associated costs and monitoring processes.</p>	Sept 18	
<p><b>KPI 11</b></p> <p>To trial new approaches for how the national helpline / online service can complement</p>	<p>New approaches are tested and evaluated with families of children and young people with SEND</p> <p>A report is with recommendations on service improvements is produced, shared and agreed with the Department</p>	11.1	<p>Pilot agreed new channels</p> <p>Liaise with IAS service to evaluate new approaches</p> <p>Collect monitoring and feedback from</p>	Mar 19	

local IAS services more effectively, and other national services aimed at families who have children and young people with SEND			families of children and young people with SEND		
<b>KPI 12</b> To begin the process of implementation of the new service improvements as agreed with the Department	Establish revised targets and KPIs where appropriate to measure the impact of new model in year 2 Establish a quarterly monitoring and reporting system for the Department	12.1	New developments are launched as part of helpline online service Communication plan developed with all IAS services	Jan 19	

Objective [Ref]	Key Performance Indicator (including targets for success)	Activity ref no	Activities/Actions	By When (end of)	Break down	Total cost for objective (excluding VAT)
<b>KPI 13</b> <b>To tender and appoint independent programme evaluation to evidence and demonstrate impact and value for money</b>	Joint CDC and DfE approach to evaluation is agreed where evaluation activities commence no later than 4 months from the start of the programme.	<b>13.1</b>	Joint approach and a tendering process is agreed with DfE	<b>July 18</b>		
		<b>13.2</b>	Tendering complete and evaluator appointed	<b>Oct 18</b>		
	DfE agrees specification of an evaluation criterion to assess all programme activities.	<b>13.3</b>	Evaluator commences an agreed programme of work	<b>Oct 18</b>		
	DfE are reassured that evaluation activities are beneficial and arrangements take place in a timely manner	<b>13.4</b>	Evaluator interim report submitted	<b>Mar 19</b>		

Objective [Ref]	Key Performance Indicator (including targets for success)	Activity ref no	Activities/Actions	By When (end of)	Break down	Total cost for objective (excluding VAT)
<b>KPI 14</b> <b>To set up and facilitate an Advisory Board to offer advice, challenge and support;</b>	Independently chaired Advisory Board includes membership from a range of SEND partners.	<b>14.1</b>	1 <sup>st</sup> board meeting + mgt reports	<b>May 18</b> (invoice in June)		
	Advisory Board provides strategic oversight of the programme including exit arrangements.	<b>14.2</b>	2 <sup>nd</sup> board meeting+ mgt reports	<b>Oct 18</b>		
		<b>14.3</b>	3 <sup>rd</sup> board meeting+ mgt reports	<b>Jan 19</b>		
	Advisory Board to meet a					

<b>identify priorities through effective group discussions; help identify risks and mitigation action; maintain a broad overview of contract and financial performance</b>	<p>minimum of 4 times per year.</p> <p>Quarterly management reports and data submitted to DfE and Advisory Board provides reassurance the programme remains on track to deliver its objectives and any risks are identified early on and mitigated in a timely manner.</p>	<b>14.4</b>	4 <sup>th</sup> board meeting+ mgt reports	<b>Mar 19</b>	
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## YEAR 2 (2019-20) – INFORMATION, ADVICE AND SUPPORT PROGRAMME

Objective [Ref]	Key Performance Indicator (including targets for success)	Activity ref no	Activities/Actions	By When (end of)	Break down on conduit funding	Total cost for objective (excluding VAT)
<b>KPI 15</b> To be accountable for the administration of conduit funding to <b>Information, Advice and Support Services</b> during the period: 1 April 2019 – 31 March 2020.	<ul style="list-style-type: none"> <li>Contract awards are conducted in a timely manner with each IAS Service - which ensures service led operational plans are put into practice from 1 April 2019 onwards.</li> <li>Contracts awarded are linked to individual development plans and an agreed funding formula - which can evidence service improvements over time and drive up performance in the local family service offer to parents, carers, children, and young people.</li> <li>An Independent Support offer is part of the service design.</li> <li>Mgt outcome reports from IAS Services provide evidence that funding has been used for the purpose it was intended and local partnership arrangements have been maintained with the local authority, IS agency and Parent Carer Forum.</li> <li>Quality of the service provided is evidenced by a minimum of 300 parents and young people (new 'users' to the service) completing a quality assurance survey with at least 75% of respondents providing positive feedback.</li> <li>Data of the workforce and diversity data on service reach that is provided alongside timely management reports enable DfE and the Advisory Board to understand service use, reach and take up by different groups of families and young people.</li> </ul>	15.1	Pre-contract negotiations with up to 152 subcontractors (IAS services) to be completed.	April 19		
		15.2	Ensure contracting with subcontractors is complete and signed by both parties no later than.	April 19		
		15.3	Administer payment to subcontractors where an upfront fee has been agreed no later than.	July 18		
		15.4	Administer final payment where evidence of deliverables has been provided and KPIs met.	Mar 20		
		15.5	Magt report and data analysis on end of year outcomes to ensure compliance and accountably	Mar 20		
Objective [Ref]	Key Performance Indicator (including targets for success)	Activity	Activities/Actions	By When	Break down on	Total cost for

		y ref no		(end of)	conduit funding	objective (excluding VAT)
<b>KPI 16</b> To ensure the sector continues to have access to strategic intervention and support which then aims to improve standards and expectations of IAS services and results in a richer service offer to families.	Strategic intervention results in up to 30 LA areas being supported who are identified as struggling to deliver their IAS service led operational plan with a 2 year trajectory - which is then used to set local priorities, focus energy and resources, strengthen operations, and ensure employees and local stakeholders are involved and working toward common goals for service improvement and outcomes.  Strategic intervention and constructive challenge and support results in an action plan agreed with local authorities who have been identified as not fulfilling their duty to provide information, advice and support to disabled children and young people, and those with SEN, and their parents.  To ensure learning from strategic support and intervention is reported back to DfE and the Advisory Board and where it's appropriate to do so, with case studies disseminated to support service practice across England.	16.1	1st tranche of 10 LA areas receive one-to-one intervention and support.	Sept 19		
		16.2	2nd tranche of 10 LA areas receive one-to-one intervention and support.	Dec 19		
		16.3	3rd tranche of 10 LA areas receive one-to-one intervention and support.	Mar 20		
		16.4	Innovation fund allocation and strategic support and guidance with interventions informs DfE and the Advisory Board and deemed value added.	Mar 20		

Objective [Ref]	Key Performance Indicator (including targets for success)	Act ivit y ref no	Activities/Actions	By When (end of)	Break down on conduit funding	Total cost for objective (excluding VAT)
<b>KPI 17</b> To provide training and resources that meet the needs of the workforce and enhance	<ul style="list-style-type: none"> <li>Training offer is targeted regionally and designed to meet the training needs of service workers - which up skills and improves the quality of support being offered to parents, carers, children, and young people.</li> <li>Ongoing access to 24 days of</li> </ul>	17.1	18 days allocation for IPSEA legal training across England	Jan 20		
		17.2	IPSEA hosting of legal online training continues to be easily accessible and of a high standard	April 19		

<p>the skills and ensures a high quality service to families.</p> <p>[Year 2 training plan and costs to be finalised and agreed with the funder no later than Nov 2018]</p>	<p>IPSEA accredited legal training (beginner, intermediate and advanced) raises skills levels – where participation data indicates</p> <ul style="list-style-type: none"> <li>➤ Learning objectives have been met (upper quarter positive survey results).</li> <li>➤ Constant level of: At least 95% of contracted services to have a member of staff complete all L1-2 training (online modules &amp; 1 day face to face training).</li> <li>➤ At least 80% of contracted services to have a member of staff completed L3 online training.</li> <li>➤ At least 70% of services to have a member of staff complete all L3 training (online modules &amp; 1 day face to face training).</li> </ul>	<p>17.3</p> <p>17.4</p> <p>17.5</p> <p>17.6</p> <p>17.7</p>	<p>a) 2 new online training packages developed to meet the training needs of the sector</p> <p>b) 2 new face to face training packages to meet the training needs of the sector</p>	<p>June 19</p>
			<p>18 training days allocated to deliver current or new training packages across England</p>	<p>Feb 19</p>
			<p>Accreditation of new training devised</p>	<p>Sept 19</p>
			<p>Hosting and maintenance costs of online training</p>	<p>April 19</p>
			<p>5<sup>st</sup> board meeting + mgt reports</p>	<p>May 19</p>
			<p>6<sup>th</sup> board meeting+ mgt reports</p>	<p>Oct 19</p>
			<p>7<sup>th</sup> board meeting+ mgt reports</p>	<p>Jan 20</p>
			<p>8<sup>th</sup> board meeting+ mgt reports</p>	<p>Mar 20</p>
	<ul style="list-style-type: none"> <li>• New training devised is first agreed with the funder and CPD accredited to support the continuing professional development of trainees.</li> <li>• New training devised (online and face to face) are independently 'quality assured' to ensure consistency, high standards in both content and delivery.</li> <li>• Access to new training devised is extended to LA staff and other local family support services - where it adds value and deemed appropriate to do so.</li> <li>• Training stats collected through evaluation activities indicate that over 85% of trainees who under take training felt the learning equipped them with the skills required to support parents, carers, children, and young people.</li> <li>• Training and resources devised and hosted online are made readily available to the</li> </ul>			

	<p>workforce, Helpline and made accessible to other key professionals, including local authority staff.</p> <ul style="list-style-type: none"> <li>Through update reports on training outcomes DfE and the Advisory Board are satisfied that the training offer has added value and helped to upskill the workforce – improving the standard of support offered to parents and young people.</li> </ul>				
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Objective [Ref]	Key Performance Indicator (including targets for success)	Activity ref no	Activities/Actions	By When (end of)	Break down on conduit funding	Total cost for objective (excluding VAT)
<b>KPI 18</b> To continue and enhance the work of the Information, Advice and Support Service Network	Ensure the established Network and other support for IAS services remains in place and to encourage collaborative working and information sharing between partners.  Facilitate a group of organisations working in the area of provision of SEND information and advice - SENDIOG. Group will share best practice and information and will facilitate better working across organisations providing information and advice for parents of children and young people with SEND. Group will also raise issues of implementation across the country and will feedback any trends, areas of concern and good practice to DfE.  Ensure support and information is provided to all IAS Services through attendance at regional meetings, supporting effective two way communication between IASSN and individual services and ensuring services feel they are part of a bigger picture with national oversight.  E-forum remains an effective way of ensuring all services have access to up-to-date information on current policy development – up to 95% of services signed up.	<b>18.1</b>	Management, hosting and daily monitoring of in-house enhanced new online e-forum results in good conduct and behaviours and the sharing of intelligence that is considered useful to the programme and funder.	Mar 20		
		<b>18.2</b>	Network facilitation of 3 SENDIOG Meetings results in meetings being planned, good attendance rates secured and a note with actions shared within 10 days of a meeting date.	Jul 19,  Nov 19  Mar 20		
		<b>18.3</b>	Network attendance at 18 IASS Regional Meetings, 3 NAIASS Meetings and development group meetings - results in identifying meaningful and accessible opportunities that encourage to realise those opportunities with good effect.	Mar 20		
		<b>18.4</b>	Network support,	Mar 20		

	Ensure IAS services are kept up to date with latest news, research, trends, and policy.		including email, phone, induction packs, resources, fortnightly bulletins ensures services are equipped, informed and have access to good practice that support service delivery.		
	Conduct a yearly survey of IASS to evaluate the work of the IASSN.				
	Ensure parents, children and young people have access to the details of their local IASS through our website.				
	Provide support and guidance to individual IAS Services	18.5	Network annual survey and data collection activities emphasize the importance of assessing the outcomes of the work done by services - whilst presenting the most up to date intelligence to inform the direction of travel.	Sept 19	
	Provide written briefings, guides and/or guidance when necessary/appropriate	18.6	Network website management ensures information remains up to date and relevant with a 25% increase in the number of hit rates reported by Mar 20 to that reported Mar 18.	Oct 19	

Objective [Ref]	Key Performance Indicator (including targets for success)	Activity ref no	Activities/Actions	By When (end of)	Break down on conduit funding	Total cost for objective (excluding VAT)
<b>KPI 19</b> To ensure families of children and young people with SEND have a national bespoke telephone support which complements support available locally	To provide Information, advice and support to at least 8,500 families of children and young people with SEND 100% of enquiries will be categorised by the nature of IAS provided  70% of enquiries will detail notes on the nature of IAS provided To provide 3 case studies per quarter detailing: <ul style="list-style-type: none"> <li>the nature of the queries presented by families,</li> <li>the information provided by Contact,</li> </ul>	19.1	Provision of a free national telephone ,email and social media helpline service for families of children and young people with SEND  Provision of relevant resources and signposting to include information on local and online sources of support  All enquiries will be	Mar 20		

	<ul style="list-style-type: none"> <li>signposting to local information</li> </ul>		<p>recorded on Contact database</p> <p>Helpline team to access ongoing updates and training throughout the contract</p> <p>Review all data and compile monitoring reports</p>		
<p><b>KPI 20</b></p> <p>To ensure families of children and young people with SEND have access to appropriate information and signposting via online channels information and signposting</p>	<p>To provide Information, advice and support to at least 800,000 unique users through digital channels, which include Contact website, social media - Facebook/ Twitter, YouTube and central news, information, advice and support e-bulletins</p> <p>25% of people receiving Contact's central news, information, advice and support e-bulletin open the newsletter</p> <p>Throughout year 2, 36 information, advice and support news stories will be published on Contact's website promoting IAS resources</p>	20.1	<p>Provision of information and advice service through digital channels for families of children and young people with SEND</p> <p>Ongoing updating and maintenance of the website information</p> <p>Create and publish monthly newsletters, signposting to IAS resources</p> <p>Research, create and publish 3 news stories a month promoting IAS resources and signposting to local sources of support</p> <p>Review all data and compile monitoring reports</p>	Mar 20	
<p><b>KPI 21</b></p> <p>To ensure a high level of customer satisfaction rates across telephone and digital channels</p>	<p>Customer Satisfaction scores indicate a minimum of 80% customer satisfaction with the service they received</p> <p>80% would recommend Contact services to other families of children and young people with SEND</p>	21.1	<p>Create, promote and disseminate through telephone and digital channels a biannual survey to quality assure, the telephone enquiries and digital channels</p> <p>Collate and review feedback to develop and inform service improvements</p> <p>Review all data and</p>	Mar 20	

			compile monitoring reports for September 2019 and March 2020		
<b>KPI 22</b> To implement new service improvements as agreed with the Department	Service is reviewed each quarter using the targets established in year 1.  Evaluate service developments and information content ensuring it is relevant to families' needs and gaps are identified and addressed	22.1	Review helpline online developments  Evaluate new channels provided and referral process with local IAS services and IS  Ongoing content review to establish gaps in resources between Contact, IAS services and IS  Continue to share intelligence IAS services and IS for ongoing holistic understanding of family needs and issues  Undertake a comprehensive review of the service at the end of year 2.	Mar 20	

Objective [Ref]	Key Performance Indicator (including targets for success)	Activity ref no	Activities/Actions	By When (end of)	Break down	Total cost for objective (excluding VAT)
<b>KPI 23</b> <b>To contract manage the independent programme evaluation to evidence and demonstrate impact and value for money</b>	Contract management of the evaluator ensures evaluation activities remain on track to deliver the desired outcomes. DfE are reassured that evaluation activities are beneficial and arrangements take place in a timely manner	<b>23.1</b>	Ongoing contract management of evaluator	Mar 20		
		<b>23.2</b>	Evaluator final report submitted	Jan 20		

Objective [Ref]	Key Performance Indicator (including targets for success)	Activity ref no	Activities/Actions	By When (end of)	Break down	Total cost for objective (excluding VAT)
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					VAT)
<b>KPI 24</b> <b>To set up and facilitate an Advisory Board to offer advice, challenge and support; identify priorities through effective group discussions; help identify risks and mitigation action; maintain a broad overview of contract and financial performance</b>	Independently chaired Advisory Board includes membership from a range of SEND partners.	<b>24.1</b>	5 <sup>st</sup> board meeting + mgt reports	May 19	
	Advisory Board provides strategic oversight of the programme including exit arrangements.	<b>24.2</b>	6 <sup>th</sup> board meeting+ mgt reports	Oct 19	
	Advisory Board to meet a minimum of 4 times per year.	<b>24.3</b>	7 <sup>th</sup> board meeting+ mgt reports	Jan 20	
	Quarterly management reports and data submitted to DfE and Advisory Board provides reassurance the programme remains on track to deliver its objectives and any risks are identified early on and mitigated in a timely manner.	<b>24.4</b>	8 <sup>th</sup> board meeting+ mgt reports	Mar 20	



#### **Schedule 5 – 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 DFE 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 DFE 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 DFE. If the Contractor accepts the Variation it shall confirm it in writing within 21 days of receiving the Change Control Note.
5. If the Contractor is unable to accept the Variation or where the Parties are unable to agree a change to the Charges, the DFE 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 36.
6. If the Contractor wishes to introduce a change to the Contract it may request a Variation by serving the Change Control Note on DFE.
7. The DFE shall evaluate the Contractor's proposed Variation in good faith, taking into account all relevant issues.
8. The DFE shall confirm in writing within 21 days of receiving the Change Control Note if it accepts or rejects the Variation.
9. The DFE may at its absolute discretion reject any request for a Variation proposed by the Contractor.

### Change Control Note

:

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

Variation Requested	
Originator of Variation (tick as appropriate)	DFE <input type="checkbox"/> Contractor <input type="checkbox"/>
Date	
Reason for Variation	
Summary of Variation (e.g. specification, finances, contract period)	
Date of Variation commencement	
Date of Variation expiry (if applicable)	
Total Value of Variation £ (if applicable)	

<b>Payment Profile (if applicable)</b>  e.g. milestone payments			
<b>Revised daily rate (if applicable)</b>			
<b>Impact on original contract</b>  (if applicable)			
<b>Supporting Information</b>  (please attach all supporting documentation for this Change Control)			
<b>Terms and Conditions</b>	Save as herein amended all other terms and conditions of the Original Contract shall remain in full force and effect.		
<b>Variation Agreed</b>  <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <b>For the Contractor:</b>   Signature.....    Full Name.....    Title.....    Date..... </td> <td style="width: 50%; vertical-align: top;"> <b>For the DFE:</b>   Signature.....    Full Name.....    Title.....    Date..... </td> </tr> </table>		<b>For the Contractor:</b>  Signature.....   Full Name.....   Title.....   Date.....	<b>For the DFE:</b>  Signature.....   Full Name.....   Title.....   Date.....
<b>For the Contractor:</b>  Signature.....   Full Name.....   Title.....   Date.....	<b>For the DFE:</b>  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.

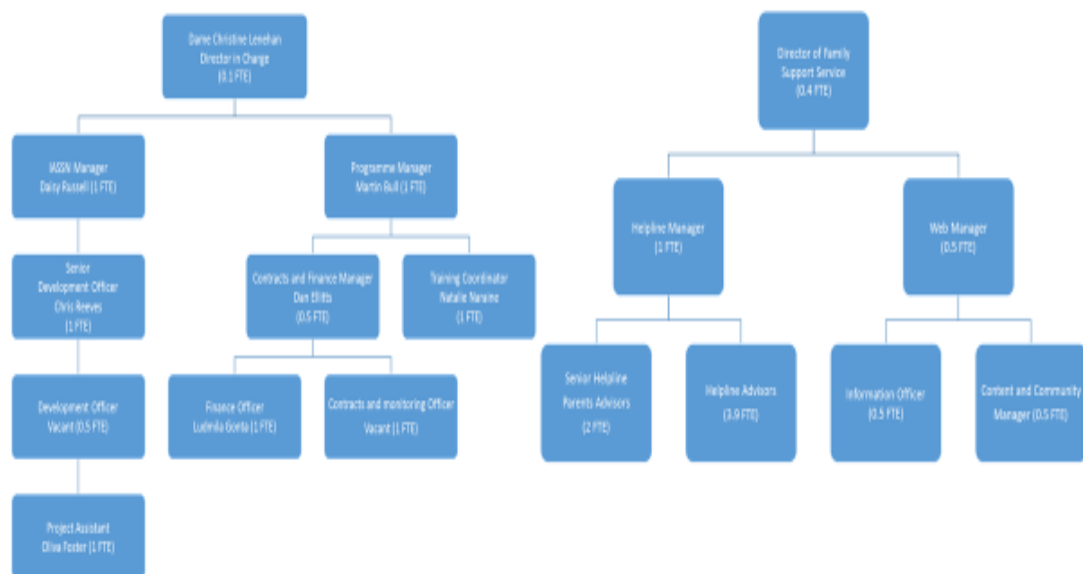
<b>To be entered by the Commercial department:</b>			
<b>Commercial Contact</b>		<b>Reference Number</b>	

Date received		EC Reference	
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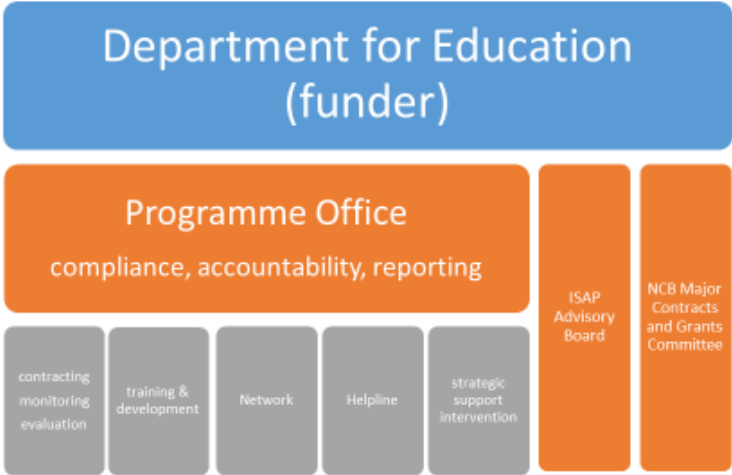
## Schedule 6: Key Personnel and Key Sub-Contractors

The lead organisation and sub-contractors are set out in schedule 3.

### Staffing structure



Governance structure



## Schedule 8

### **Data, Systems Handling and Security Definitions**

<b>"Control"</b>	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 <b>"Controls"</b> and <b>"Controlled"</b> are interpreted accordingly;
<b>"Data Loss Event"</b>	any event that results, or may result, in unauthorised access to Personal Data held by the Contractor 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.
<b>"DPA"</b>	Data Protection Act 2018
<b>"Data Protection Impact Assessment"</b>	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
<b>"Data Protection Legislation"</b>	(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 [subject to Royal Assent] 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;
<b>"Data Subject Access Request"</b>	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.
<b>"Controller", "Processor," "Data Subject", "Personal Data", "Personal Data Breach", "Data Protection Officer"</b>	shall have the meanings given in the GDPR;
<b>"GDPR"</b>	the General Data Protection Regulation (Regulation (EU) 2016/679)
<b>"LED"</b>	Law Enforcement Directive (Directive (EU) 2016/680)
<b>"Protective Measures"</b>	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 the such measures adopted by it.

**“Sub-processor”**

any third Party appointed to process Personal Data on behalf of the Contractor related to this Contract

1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Department is the Controller and the Contractor is the Processor. The only processing that the Contractor is authorised to do is listed in Schedule 8 Annex 2 by the Department and may not be determined by the Contractor.

1.2 The Contractor shall notify the Department immediately if it considers that any of the Department's instructions infringe the Data Protection Legislation.

1.3 The Contractor shall provide all reasonable assistance to the Department in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Department, 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 Contractor 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 Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Department before processing the Personal Data unless prohibited by Law;
- (b) ensure that it has in place Protective Measures, which have been reviewed and approved by the Department as appropriate to protect against a Data Loss Event 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 Contractor Personnel do not process Personal Data except in accordance with this Contract (and in particular Schedule 8 Annex 2);
- (ii) it takes all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that they:

- (A) are aware of and comply with the Contractor's duties under this clause;



- (B) are subject to appropriate confidentiality undertakings with the Contractor 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 Department 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 EU unless the prior written consent of the Department has been obtained and the following conditions are fulfilled:

- (i) the Department or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Department;
- (ii) the Data Subject has enforceable rights and effective legal remedies;
- (iii) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Department in meeting its obligations); and
- (iv) the Contractor complies with any reasonable instructions notified to it in advance by the Department with respect to the processing of the Personal Data;

(e) at the written direction of the Department, delete or return Personal Data (and any copies of it) to the Department on termination of the Contract unless the Contractor is required by Law to retain the Personal Data.

1.5 Subject to clause 1.6, the Contractor shall notify the Department immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, 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 Contractor's obligation to notify under clause 1.5 shall include the provision of further information to the Department in phases, as details become available.

1.7 Taking into account the nature of the processing, the Contractor shall provide the Department 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 Department) including by promptly providing:

- (a) the Department with full details and copies of the complaint, communication or request;

- (b) such assistance as is reasonably requested by the Department to enable the Department to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- (c) the Department, at its request, with any Personal Data it holds in relation to a Data Subject;
- (d) assistance as requested by the Department following any Data Loss Event;
- (e) assistance as requested by the Department with respect to any request from the Information Commissioner's Office, or any consultation by the Department with the Information Commissioner's Office.

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

- (a) the Department determines that the processing is not occasional;
- (b) the Department determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
- (c) the Department determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

1.9 The Contractor shall allow for audits of its Data Processing activity by the Department or the Department's designated auditor.

1.10 The Contractor shall designate a 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 Contractor must:

- (a) notify the Department in writing of the intended Sub-processor and processing;
- (b) obtain the written consent of the Department;
- (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 Department with such information regarding the Sub-processor as the Department may reasonably require.

1.12 The Contractor shall remain fully liable for all acts or omissions of any Sub-processor.

1.13 The Contractor may, at any time on not less than 30 Working 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 Department may on not less than 30 Working Days' notice to the Contractor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

## **ANNEXE 1 to Schedule 8**

### **DFE SECURITY STANDARDS**

1. The Contractor shall comply with ISO/IEC/27001 and ISO/IEC27002 or equivalent standards.
2. The Contractor shall apply the Government's Protective Marking Scheme ("**GPMS**") in respect of any DFE Data it handles in the course of providing the Services. If the Contractor has an existing protective marking scheme it may continue to use this but must map the GPMS against it to ensure the correct controls are applied to DFE Data.
3. Any electronic transfer methods across public space or cyberspace must be protected via encryption which has been certified to FIPS140-2 or certified under a CESSG (e.g. CAPS or CPA) or CESSG-endorsed scheme and the method shall be approved by the DFE prior to being used to transfer any DFE Data. If the transfer, handling removable media or handling of portable ICT Equipment involves bulk personal data the encryption shall be certified under a CESSG (e.g. CAPS or CPA) or CESSG-endorsed scheme.
4. Any portable removable media (including but not limited to pen drives, memory sticks, CDs, DVDs, PDPs and USB devices) used to handle, store or process DFE Data, Personal Data and/or Sensitive Personal Data in connection with the Service, shall be under the configuration management of the Sub-Contractor providing that part of the Service, shall be necessary to deliver the Service, and shall be full-disk encrypted using a product certified to FIPS140-2 or under a CESSG (e.g. CAPS or CPA) or CESSG-endorsed scheme. Should the transfer or handling of portable ICT involve bulk Personal Data the encryption shall be certified under a CESSG (e.g. CAPS or CPA) or CESSG-endorsed scheme.
5. All portable ICT (including but not limited to laptops, PDAs, smartphones) which handle, store or process in any way DFE Data to deliver and support the service, shall be under the configuration management of the Sub-Contractor providing that part of the Service, shall be necessary to deliver the Service, and shall be full-disk encrypted using a product which has been certified to FIPS140-2 or under a CESSG (e.g. CAPS or CPA) or CESSG-endorsed scheme. If the transfer or handling of portable ICT involves bulk Personal Data the encryption shall be certified under a CESSG (e.g. CAPS or CPA) or CESSG-endorsed scheme.
6. All paper documents containing DFE Data shall be:
  - a. securely protected whilst in the Contractor's care and securely destroyed when no longer required using a cross-cutting shredder and/or a professional secure waste paper organisation; and

- b. transmitted, both within and outside the Contractor's premises, in such a way as to ensure that no unauthorised person has access.
- 7. At the end of the Term or if ICT fails or becomes obsolete, all ICT holding DFE Data shall be securely cleansed or destroyed using a CESG approved product or method. If this is not possible for legal, regulatory or technical reasons the Contractor shall protect the ICT until such time as it can be securely cleansed or destroyed.
- 8. Access by Personnel to DFE Data shall be confined to Personnel who need to know because their access is essential for the delivery of the Service. All Personnel with direct or indirect access to DFE Data must be subject to pre-employment checks equivalent to or higher than the BPSS.
- 9. Personnel who handle DFE Data must have annual awareness training in protecting information.
- 10. The Contractor shall have robust business continuity arrangements and processes including disaster recovery plans and procedures compliant with ISO22301 to ensure that the delivery of the Contract is not adversely affected if there is an incident.
- 11. Any non-compliance with DFE Security Standards, or any suspected or actual breach of the confidentiality or integrity of DFE Data being handled in the course of providing the Services, shall be immediately escalated to the DFE.
- 12. The Contractor shall ensure that any systems and hosting environments that are used to hold DFE Data being handled, stored or processed in the course of providing the Services are subject to IT Security Health Checks at least annually. The Contractor shall inform the DFE if there are any results of IT Security Health Checks which are relevant to the Service and shall promptly complete any necessary remedial work which is identified.
- 13. The Contractor shall keep an audit trail of where the DFE's Data is held, including all ICT. The DFE may audit the Contractor with 24 hours' notice in respect of the Contractor's compliance with this schedule 8.

## SCHEDULE 8 ANNEX 2

### Processing, Personal Data and Data Subjects

The Contractor shall comply with any further written instructions with respect to processing by the Department.

Any such further instructions shall be incorporated into this Schedule.

Description	Details
Subject matter of the processing	<i>[This should be a high level, short description of what the processing is about i.e. its subject matter]</i>
Duration of the processing	<i>[Clearly set out the duration of the processing including dates]</i>
Nature and purposes of the processing	<i>[Please be as specific as possible, but make sure that you cover all intended purposes. The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc. The purpose might include: employment processing, statutory obligation, recruitment assessment etc]</i>
Type of Personal Data	<i>[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]</i>
Categories of Data Subject	<i>[Examples include: Staff (including volunteers, agents, and temporary workers), Departments/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]</i>
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	<i>[Describe how long the data will be retained for, how it be returned or destroyed]</i>

