

- 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 Either Party may terminate the Contract (or any part of it) at any time by giving at least [3]³ months' prior written notice to the other Party.
- 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]⁴ 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 unavoidability 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),

³ To be agree at contract fine tuning stage

⁴ To be agree at contract fine tuning stage

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).

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 33 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**

1. The DFE shall pay the Contractor the Charges in accordance with the Contract, subject to successful delivery of the Services against the KPIs or Service Levels set out in schedule 4. The Charges are inclusive of all expenses incurred by the Contractor in relation to its provision of the Services and unless agreed otherwise between the Contractor and the DFE, the Contractor shall not be entitled to claim any expenses in addition to the Charges.
2. The Contractor will distribute a tax free Bursary as part of the Programme. The Contractor will pay directly to first year Trainees the Bursary. The Bursary will be £15,950 per Trainee. The Bursary payments are not subject to VAT
3. All charges will be fixed and firm for the Initial term and until the expiry of any extended period of the Contract. The maximum value of the Contract for the Initial Term will be (course fees and Bursaries) £503,885 [Details can be found in Table 1]
4. This contract is VAT exempt. Unless otherwise stated, all amounts expressed as payable in this Contract are inclusive of VAT, at the rate applicable at the time.
5. The DFE may review the detailed costs set out in the Implementation Plan to ensure that the Contract is value for money.
6. Indexation shall not apply to the Charges.

Table 1 Detailed Cost Matrix**Fixed costs (no VAT)**

Salaries: assumed 1% increase per annum, plus incremental uplift per annum. Costs include NI and pension contributions.

	2017/18	2018/19	2019/20	2020/21	2021/22
Senior Lecturer (October 2017 – end of contract) @ 0.5 fte					
Lecturer (July 2018 – end of contract) @ 0.5 fte					
Lecturer (July 2019 – August 2020 @ 0.5 fte					
PGR Coordinator (administrator) (September 2017 – end of contract) @ 0.6 fte					
Total					

Total salary costs**£338,305**

Fixed costs (VAT to be added)

	2017/18	2018/19	2019/20	2020/21	2021/22
Audit fee (required for financial reporting)					
VAT @ 20%					
Total					

Variable costs (VAT not charged)

	2017/18	2018/19	2019/20	2020/21	2021/22
Bursary payments 10 @ [REDACTED]					
Occupational health checks 10 @ [REDACTED]					
Placement travel costs (placement visits) 10 @ [REDACTED]					
Total					

Total contract price £503,885

Invoicing and payment schedule

1. DfE will pay the Bursary to the Contractor for distribution in three instalments, as follows:
 - 1.1. September– the first payment of three months Bursary
 - 1.2. December– the second payment of four months Bursary
 - 1.3. April – third payment of five months Bursary
2. DfE will pay the course fees to the Contractor, in arrears, as follows:
 - 2.1. December – three months Course fees
 - 2.2. March - four months Course fees
 - 2.3. September – five months Course fees

A payment schedule can be found in table 2.

1 Invoicing Arrangements

The Provider shall be entitled to invoice the Charges following acceptance by the DfE of satisfactory completion of the Services or, where performance of the Services will continue, either monthly in arrears or on satisfactory completion of milestones as specified in the delivery milestones, Outputs or Outcomes. Each invoice shall detail the Charges.

- 2 Funds allocated to a particular expenditure heading in the table are available for that expenditure heading only. Funds allocated to a particular accounting year are available for that accounting year only. The allocation of funds in the Table may not be altered except with the prior written consent of the DfE.
- 3 The provider shall maintain full and accurate accounts for the Service against the expenditure headings in the Table. Such accounts shall be retained for at least 6 years after the end of the financial year in which the last payment was made under this Contract. Input and output VAT shall be included as separate items in such accounts.

- 4 The Provider shall permit duly authorised staff or agents of the DFE or the National Audit Office to examine the accounts at any reasonable time and shall furnish oral or written explanations of the account if required. The DFE reserves the right to have such staff or agents carry out examinations into the economy, efficiency and effectiveness with which the Provider has used the DFE's resources in the performance of this Contract.
- 5 Invoices shall be prepared by the Provider on the invoice dates specified in the Table in arrears and shall be detailed against the expenditure headings set out in the Table. The Provider or his or her nominated representative or accountant shall certify on the invoice that the amounts claimed were expended wholly and necessarily by the Provider on the Service in accordance with the Contract and that the invoice does not include any costs being claimed from any other body or individual or from the DFE within the terms of another contract.
- 6 Invoices shall be 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., quoting the Contract reference number. The DFE undertakes to pay correctly submitted invoices within 10 days of receipt. The DFE is obliged to pay invoices within 30 days of receipt from the day of physical or electronic arrival at the nominated address of the DFE. Any correctly submitted invoices that are not paid within 30 days are subject to interest at the rate of a maximum of 3% above the base rate from time to time of Barclays Bank. The Parties agree that this paragraph 8 is a substantial remedy for late payment of any sum payable under this Contract in accordance with section 8(2) Late Payment of Commercial Debts (Interest) Act 1998. A correct invoice is one that: is delivered in timing in accordance with the contract; is for the correct sum; in respect of services supplied or delivered to the required quality (or which are expected to be at the required quality); includes the date, supplier name, contact details and bank details; includes information as set out in point 6.1 and has been delivered to the nominated address. If any problems arise, contact the DFE's Contract Manager. The DFE aims to reply to complaints within 10 business days. (See Point 14 below) The DFE shall not be responsible for any delay in payment caused by incomplete or illegible invoices.
- 6.1 Invoices shall clearly identify the Contract number for which they are being submitted and the Provider shall provide information with each invoice to enable the DFE to assess the accuracy of the invoice. Such information shall include as a minimum:
 - Invoice date
 - Contract Number **RD1000704**
 - PO Number
 - Invoice number
 - The Charging Period covered
 - A detailed breakdown of the appropriate Charges, including deliverables or milestones achieved, days and times worked
 - Details of any service credits
 - Sums due, and,
 - VAT due.
- 7 The Provider shall have regard to the need for economy in all expenditure. Where any expenditure in an invoice, in the DFE's reasonable opinion, is excessive having due regard to the purpose for which it was incurred, the DFE shall only be liable to reimburse so much (if any) of the expenditure disallowed as, in the DFE's reasonable opinion after consultation with the Provider, would reasonably have been required for that purpose.
- 8 If this Contract is terminated by the DFE due to the Provider's insolvency or default at any time before completion of the Service, the DFE shall only be liable under paragraph 1 to reimburse eligible payments made by, or due to, the Provider before the date of termination.
- 9 On completion of the Service or on termination of this Contract, the Provider shall promptly draw-up a final invoice, which shall cover all outstanding expenditure incurred for the Service. The final invoice shall be submitted not later than 30 days after the date of completion of the Service

- 10 The DFE shall not be obliged to pay the final invoice until the Provider has carried out all the elements of the Service specified as in **Schedule 1**.
- 11 It shall be the responsibility of the Provider to ensure that the final invoice covers all outstanding expenditure for which reimbursement may be claimed. Provided that all previous invoices have been duly paid, on due payment of the final invoice by the DFE all amounts due to be reimbursed under this Contract shall be deemed to have been paid and the DFE shall have no further liability to make reimbursement of any kind.
- 12 Disputes and payments of invoices
 - 12.1 As set out in paragraph 8 above, The DFE undertakes to pay, subject to paragraphs 14.4 and 14.5, correctly submitted invoices within 10 days of receipt for all sums properly invoiced. The DFE shall not be responsible for any delay in payment caused by incomplete and illegible invoices.
 - 12.2 The Provider shall ensure that a term is included in any sub-contract permitted under this Contract which requires the Provider to pay any undisputed sums due to the relevant sub-contractor within a specified period that does not exceed thirty (30) days from the date the Provider receives the sub-contractor's invoice.
 - 12.3 The Provider shall raise any problems regarding invoices or payments with the DFE's contract manager. The DFE shall reply to queries or complaints within 10 Business Days.
 - 12.4 The DFE shall within 10 Business Days of receipt, return to the Provider for correction invoices that it believes are incorrect together with an explanation of the need for correction.
 - 12.5 The DFE may dispute, in good faith, any amount specified in an invoice. In these circumstances, the DFE shall:
 - 12.5.1 Pay in accordance with paragraph 14.1 such amount of the invoice as is not in dispute;
 - 12.5.2 Within 10 Business Days of receipt by it of the disputed invoice notify the Provider of the reasons for disputing the disputed amount; and
 - 12.5.3 Be entitled to withhold the disputed amount pending resolution of the dispute.
 - 12.6 The DFE and the Provider 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 the dispute resolution procedure in **clause 20 of Schedule 2**.
 - 12.7 Where a disputed amount is withheld in accordance with paragraph 14.5.3 and the dispute is subsequently resolved:
 - 12.7.1 The Provider shall within 10 Business Days re-submit a corrected invoice; or
 - 12.7.2 If the original invoice is resolved to have been correct, for the purposes of paragraph 14.1, the date of receipt of the invoice shall be taken to be the date on which the dispute is agreed by the Parties to have been resolved.

Table 2 Payment Schedule

	2017/18				2018/19				2019/2020				2020/2021				2021/2022				TOTAL
	April	Sept	Dec	March	April	Sept	Dec	March	April	Sept	Dec	March	April	Sept	Dec	March	April	Sept	Dec	March	
East of England + 10 places																					
Cost per student = [REDACTED]																					
Yr 1 Bursary per student =																					
£15,950																					
Course Fees																					
2018 cohort																					
Bursaries																					
Year 1																					
Total																					£503,885
Financial year total																					

Schedule 4

KPIs, Service Levels and Service Credits

- 1 The objectives of the Service Levels are to:
 - 1.1 ensure that the Services are of a consistently high quality and meet the requirements of the DFE;
 - 1.2 provide a mechanism whereby the DFE can attain meaningful recognition of inconvenience and/or loss resulting from the Contractor's failure to deliver the Services; and
 - 1.3 incentivise the Contractor to meet the Service Levels and to remedy any failure to meet the Service Levels expeditiously.

KEY PERFORMANCE INDICATORS (KPIs) AND SERVICE LEVELS (SLs)

- 2 This schedule 4 sets out the KPIs and Service Levels against which the Contractor shall measure its performance.
- 3 The Contractor shall monitor its performance against of each of the KPIs and Service Levels in and send the DFE a report detailing the KPIs and Service Levels which were achieved in accordance with the provisions of this schedule 4.

PERFORMANCE STANDARDS/MEASURES

- 4 The Contractor must meet the Performance Measure for each identified KPI as set out in table 3 below within the agreed Service Period (defined Schedule 2 and within table 1)
- 5 If during a Service Period the Contractor achieves a KPI/Service Level, no Service Credit ("reduction in total amount of charges payable to the Contractor") will accrue to the Contractor in respect of that KPI/Service Level.
- 6 The Contractor confirms that it has taken Performance Measures and Service Credits into account in calculating the Charges. Both Parties agree that the Performance Measures and Service Credits are a reasonable method of adjusting the Charges to reflect poor Contractor performance.
- 7 The Contractor will be expected to meet/comply with all Service Levels as set out within table 4 below.

SERVICE CREDITS

- 8 A failure to meet at least the required performance level will be considered a "Service Failure" in respect of the KPIs set out in Table 5 below
- 9 If performance level is a Service Failure in one or more of the KPIs listed in Table 3 in any given service period/calendar month, DfE will be entitled at its sole discretion, to reduce the total amount of charges payable to the Contractor ("Service Credit") for that period/month by the amounts in Table 3.
- 10 Accrual of Service Credits shall entitle the DFE to a reduction in the Charges. The Contractor shall set-off the value of any Service Credits against the appropriate invoice in accordance with schedule 3. The mechanism for recovery of any Service Credits will be developed and agreed with the Contractor within the first 3 months of the Contract.
- 11 A failure to meet the required performance level for the other KPIs will not be considered a Service Failure in the context of paragraph 8 but expects to meet the required performance levels and will

consider repeated failures as breaches of this contract

- 12 In addition to its rights under paragraph 8, if there are one or more Service Failures in 3 (three) consecutive Service Periods/calendar months, will be entitled, as its sole discretion, to terminate this contract on 30 days written notice.

Table 3 KPIs

KPI	Measure	Monitoring method	Financial Consequence
1.Recruitment	100% of training places are filled	AEP to provide DFE with recruitment data	Yes
2.Adherence to schedule	Monthly accurate and complete trainee reports to be completed confirming:	Adherence to schedule	Yes
3.Perceptions of fairness, rigour and robustness of the training	90% of respondents, to the annual survey of final year trainees on qualification, will rate the training as good or above. This will include all aspects of training and is consistent with other contractual arrangements within DFE. Training provider(s) will be asked to support this process	Perceptions of fairness, rigour and robustness of the training	Yes
4. Completion of Training	At least 90% of trainees will qualify upon completion of the course	DFE monitoring through the collection of graduation data	Yes
5.Completion of Training	At least 90% of trainee will find employment within 2 months of qualifying	DFE monitoring through the collection of destination data	
6.Sustainability	The training provider will have and is implementing a strategy for ensuring the quality of training is maintained as the contract comes to an end, for the final intake.	Reporting to DFE	
7.Contract Management	Training provider will attend at least one contract management meeting a year at the nearest or most convenient DFE office subject to availability (http://www.education.gov.uk/help/contactus/a0022/where-to-find-us).	At DFE request	

Table 4 Service Levels

Service Level	Measure	Compliance
Reporting and Meetings	Monthly reporting: submit a monthly programme report by the third Business Day of the month, including any exception events within this report.	100% - DFE monitoring
	Contractor meetings – monthly	
	Development and operations meetings – as required	
	Contractor to gain compliance with GDPR (General Data Protection Regulation) by May 2018	
Administration/Communication	In delivering the Services offer a responsive and supportive service to trainees and their facilitators.	
	Respond to 100% of queries and correspondence within 3 Business Days of receipt.	
Finance	Ensure that invoices are submitted to DFE within 10 Business Days of the end of the relevant charging period/completion of the activity	
Commercial Management	Ensure that Change Control Notes are signed by both Parties prior to any additional work being undertaken (DFE or Contractor to ensure paperwork is issued in a timely fashion when change required).	
Complaints	Ensure that all administrative Personnel are aware of and abide by relevant complaints procedures.	
	Main management contact to report all complaints orally and in writing to DFE within 3 Business Days.	
Records and questionnaires	Ensure that all records are maintained and kept up to date throughout the Term. Records must be updated within 5 Business Days of a request being made or an event taking place (subject to system availability).	
	Support the DFE to ensure appropriate questionnaires are completed throughout the Term.	
Delivery	Supply appropriate equipment to support the delivery of the Services at any face to face events.	100%- Questionnaire records
	Suitability of venue: events take place in venues and facilities which are relevant to the day.	100%-Event questionnaires
	Training shall take place in rooms which are suitable for the size of groups and set up in the style appropriate to the event	
Workshop Events	ICT should be adequate and meet the minimum specification of the course.	
	Refreshments must be provided and where overnight accommodation is required the facilities must comply with the venue specification.	
Evaluation	Contribute to the evaluation of the effects of its delivery by reviewing Service User satisfaction, learning outcomes, improvements in schools/school systems, and the commissioning of impact studies.	

Service Level	Measure	Compliance

Table 5 Service Credits

Cost at risk for contract	8% of overall contract value

	Contract Year 1	Contract Year 2	Contract Year 3
1 x KPI missed	No Financial consequence	No Financial consequence	No Financial consequence
2 x KPIs missed	3/5 cost at risk	3/5 cost at risk	3/5 cost at risk
3 x KPIs missed	4/5 cost at risk	4/5 cost at risk	4/5 cost at risk
4 or more x KPIs missed	5/5 costs at risk	5/5 costs at risk	5/5 costs at risk

Schedule 5

Implementation Plan

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

Schedule 6

Change Control Procedure

- 1 The Parties acknowledge that minor changes to the Contract may be necessary to reflect operational and administrative procedures during the Term and that such minor changes may be agreed in writing between the Parties' respective contract managers.
- 2 The Contractor shall use reasonable endeavours to incorporate minor changes requested by the 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)	
Payment Profile (if applicable) e.g. milestone payments	
Revised daily rate (if applicable)	

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

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

To be entered by the Commercial department:			
Commercial Contact		Reference Number	
Date received		EC Reference	