

CONTRACT FOR PRISONER AND NON-PRISONER FOOD SUPPLY

SCHEDULE 22

CHANGE CONTROL PROCEDURE

Change Control Procedure

1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

“Authority Change Manager”	the person appointed to that position by the Authority from time to time and notified in writing to the Supplier or, if no person is notified, the Authority's Operational Contract Manager;
“Change Request”	a written request for a Contract Change which shall be substantially in the form of Annex 1;
“Change Communication”	any Change Request, Impact Assessment, Change Authorisation Note or other communication sent or required to be sent pursuant to this Schedule;
“Fast-track Change”	any Contract Change which the Parties agree to expedite in accordance with Paragraph 8;
“Impact Assessment”	an assessment of a Change Request in accordance with Paragraph 5;
“Receiving Party”	the Party which receives a proposed Change; and
“Supplier Change Manager”	the person appointed to that position by the Supplier from time to time and notified in writing to the Authority or, if no person is notified, the Supplier Operational Contract Manager.

2 GENERAL PRINCIPLES OF CHANGE CONTROL PROCEDURE

2.1 This Schedule sets out the procedure for dealing with Changes.

2.2 Operational Changes shall be processed in accordance with Paragraph 9 and Catalogue Changes shall be processed in accordance with Paragraph 10. If either Party is in doubt about whether a change falls within the definition of an Operational Change, then it must be processed as a Contract Change and dealt with in accordance with Paragraph 2.3.

2.3 The Parties shall deal with Contract Change as follows:

- (a) either Party may request a Contract Change which they shall initiate by issuing a Change Request in accordance with Paragraph 4;
- (b) unless this Agreement otherwise requires, the Supplier shall assess and document the potential impact of a proposed Contract Change in accordance with Paragraph 5 before the Contract Change can be either approved or implemented;
- (c) the Authority shall have the right to request amendments to a Change Request, approve it or reject it in the manner set out in Paragraph 6;
- (d) the Supplier shall have the right to reject a Change Request solely in the manner set out in Paragraph 7;
- (e) save as otherwise provided in this Agreement, no proposed Contract Change shall be implemented by the Supplier until a Change Authorisation Note has been signed and issued by the Authority in accordance with Paragraph 6.2; and

- (f) if a proposed Contract Change is a Fast-track Change, it shall be processed in accordance with Paragraph 8.
- 2.4 Until a Change Authorisation Note has been signed and issued in accordance with Paragraph 6.2, then:
 - (a) unless the Authority expressly agrees (or requires) otherwise in writing, the Supplier shall continue to supply the Products and Services in accordance with the existing terms of this Agreement as if the proposed Contract Change did not apply; and
 - (b) any discussions, negotiations or other communications which may take place between the Authority and the Supplier in connection with any proposed Contract Change, including the submission of any Change Communications, shall be without prejudice to each Party's other rights under this Agreement.
- 2.5 Unless the Authority directs otherwise, the Supplier shall:
 - (a) within ten (10) Working Days of the Authority's signature and issue of a Change Authorisation Note, deliver to the Authority a copy of this Agreement updated to reflect all Contract Changes agreed in the relevant Change Authorisation Note and annotated with a reference to the Change Authorisation Note pursuant to which the relevant Contract Changes were agreed; and
 - (b) thereafter provide to the Authority such further copies of the updated Agreement as the Authority may from time to time request.

3 COSTS

- 3.1 Subject to Paragraph 3.3:
 - (a) the costs of preparing each Change Request shall be borne by the Party making the Change Request; and
 - (b) the costs incurred by the Supplier in undertaking an Impact Assessment shall be borne by the Supplier (unless agreed otherwise).
- 3.2 The cost of any Contract Change shall be calculated and charged in accordance with the principles (as applicable) set out in Schedule 15 (*Charges and Invoicing*). The Supplier shall be entitled to increase the Charges or change any cost of any Contract Change only if it can demonstrate in the Impact Assessment that the proposed Contract Change requires additional resources and, in any event, any charge for any Contract Change or any change to the Charges resulting from a Contract Change (whether the change will cause an increase or a decrease in the Charges) will be strictly proportionate to the increase or decrease in the level of resources required for the provision of the Products and Services as amended by the Contract Change.
- 3.3 Both Parties' costs incurred in respect of any use of this Change Control Procedure as a result of any error or Default by the Supplier shall be paid for by the Supplier.

4 CHANGE REQUEST

- 4.1 Either Party may issue a Change Request to the other Party at any time during the Term. A Change Request shall be substantially in the form of Annex 1 and state whether the Party issuing the Change Request considers the proposed Contract Change to be a Fast-track Change.
- 4.2 If the Supplier issues the Change Request, then it shall also provide an Impact Assessment to the Authority as soon as is reasonably practicable but in any event within ten (10) Working Days of the date of issuing the Change Request.

4.3 If the Supplier requires any clarification in relation to the Change Request before it can deliver the Impact Assessment, then it shall promptly make a request for clarification to the Authority and provided that sufficient information is received by the Authority to fully understand:

- (a) the nature of the request for clarification; and
- (b) the reasonable justification for the request,

the time period to complete the Impact Assessment shall be extended by the time taken by the Authority to provide that clarification. The Authority shall respond to the request for clarification as soon as is reasonably practicable.

5 IMPACT ASSESSMENT

5.1 Each Impact Assessment shall be completed in good faith and shall include:

- (a) details of the proposed Contract Change including the reason for the Contract Change;
- (b) details of the impact of the proposed Contract Change on the Products and Services and the Supplier's ability to meet its other obligations under this Agreement;
- (c) any variation to the terms of this Agreement that will be required as a result of that impact, including changes to:
 - (i) the Specification, the Performance Indicators and/or the Target Performance Levels;
 - (ii) the format of Authority Data, as set out in the Specification;
 - (iii) other products or services provided by third party contractors to the Authority;
- (d) details of the cost of implementing the proposed Contract Change;
- (e) details of the ongoing costs required by the proposed Contract Change when implemented, including any increase or decrease in the Charges, any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;
- (f) a timetable for the implementation, together with any proposals for the testing of the Contract Change;
- (g) details of how the proposed Contract Change will ensure compliance with any applicable Change in Law; and
- (h) such other information as the Authority may reasonably request in (or in response to) the Change Request.

5.2 If the Contract Change involves the processing or transfer of any Personal Data outside the UK, in the event of the Personal Data being subject to UK GDPR, or the EU, in the event of the Personal Data being subject to EU GDPR, the preparation of the Impact Assessment shall also be subject to Clause 26 (*Protection of Personal Data*).

5.3 Subject to the provisions of Paragraph 5.4, the Authority shall review the Impact Assessment and respond to the Supplier in accordance with Paragraph 6 within fifteen (15) Working Days of receiving the Impact Assessment.

5.4 If the Authority is the Receiving Party and the Authority reasonably considers that it requires further information regarding the proposed Contract Change so that it may properly evaluate the Change Request and the Impact Assessment, then within five (5) Working Days of receiving the Impact Assessment, it shall notify the Supplier of this fact and detail the further

information that it requires. The Supplier shall then re-issue the relevant Impact Assessment to the Authority within ten (10) Working Days of receiving such notification. At the Authority's discretion, the Parties may repeat the process described in this Paragraph 5.4 until the Authority is satisfied that it has sufficient information to properly evaluate the Change Request and Impact Assessment.

5.5 The calculation of costs for the purposes of Paragraphs 5.1(d) and (e) shall:

- (a) be based on the Financial Model;
- (b) facilitate the Financial Transparency Objectives;
- (c) include estimated volumes of each type of resource to be employed and the applicable rate card;
- (d) include full disclosure of any assumptions underlying such Impact Assessment;
- (e) include evidence of the cost of any assets required for the Change; and
- (f) include details of any new Sub-contracts necessary to accomplish the Change.

6 AUTHORITY'S RIGHT OF APPROVAL

6.1 Within fifteen (15) Working Days of receiving the Impact Assessment from the Supplier or within ten (10) Working Days of receiving the further information that it may request pursuant to Paragraph 5.4, the Authority shall evaluate the Change Request and the Impact Assessment and shall do one of the following:

- (a) approve the proposed Contract Change, in which case the Parties shall follow the procedure set out in Paragraph 6.2;
- (b) in its absolute discretion reject the Contract Change, in which case it shall notify the Supplier of the rejection. The Authority shall not reject any proposed Contract Change to the extent that the Contract Change is necessary for the Supplier or the Products or Services to comply with any Changes in Law. If the Authority does reject a Contract Change, then it shall explain its reasons in writing to the Supplier as soon as is reasonably practicable following such rejection; or
- (c) in the event that it reasonably believes that a Change Request or Impact Assessment contains errors or omissions, require the Supplier to modify the relevant document accordingly, in which event the Supplier shall make such modifications within five (5) Working Days of such request. Subject to Paragraph 5.4, on receiving the modified Change Request and/or Impact Assessment, the Authority shall approve or reject the proposed Contract Change within ten (10) Working Days.

6.2 The Authority may where it deems reasonably necessary seek independent advice in its consideration and evaluation of any Impact Assessment from the Supplier. Any Change Request issued by the Supplier shall be in clear, comprehensive English with any technical language explained. Where the Authority reasonably believes that the Supplier has failed in doing this and therefore deems it reasonably necessary to seek independent advice in accordance with this Paragraph 6.2, then the Supplier shall pay the reasonable costs incurred by the Authority in obtaining such independent advice.

6.3 If the Authority approves the proposed Contract Change pursuant to Paragraph 6.1 and it has not been rejected by the Supplier in accordance with Paragraph 7, then it shall inform the Supplier and the Supplier shall prepare two (2) copies of a Change Authorisation Note which it shall sign and deliver to the Authority for its signature. Following receipt by the Authority of the Change Authorisation Note, it shall sign both copies and return one copy to the Supplier (or if signed electronically, the Supplier shall sign first and the Authority shall sign last). On the Authority's signature the Change Authorisation Note shall constitute (or, where the Authority

has agreed to or required the implementation of a Change prior to signature of a Change Authorisation Note, shall constitute confirmation of) a binding variation to this Agreement.

- 6.4 If the Authority does not sign the Change Authorisation Note within ten (10) Working Days, then the Supplier shall have the right to notify the Authority and if the Authority does not sign the Change Authorisation Note within five (5) Working Days of such notification, then the Supplier may refer the matter to the Expedited Dispute Timetable pursuant to the Dispute Resolution Procedure.

7 SUPPLIER'S RIGHT OF APPROVAL

- 7.1 Following an Impact Assessment, if:

- (a) the Supplier reasonably believes that any proposed Contract Change which is requested by the Authority would:
 - (i) materially and adversely affect the risks to the health and safety of any person; and/or
 - (ii) require the Products to be provided in a way that infringes any Law; and/or
- (b) the Supplier demonstrates to the Authority's reasonable satisfaction that the proposed Contract Change is technically impossible to implement and neither the Supplier Solution nor the Specification state that the Supplier does have the technical capacity and flexibility required to implement the proposed Contract Change,

then the Supplier shall be entitled to reject the proposed Contract Change and shall notify the Authority of its reasons for doing so within five (5) Working Days after the date on which it is obliged to deliver the Impact Assessment pursuant to Paragraph 5.

8 FAST-TRACK CHANGES

- 8.1 The Parties acknowledge that to ensure operational efficiency there may be circumstances where it is desirable to expedite the processes set out above.

- 8.2 If:

- (a) the total number of Contract Changes in relation to which this Fast-track Change procedure has been applied does not exceed four (4) in any twelve (12) month period; and
- (b) both Parties agree the value of the proposed Contract Change over the remaining Term and any Termination Assistance Period may be required does not exceed 10% of the annual Charges and the proposed Contract Change is not significant (as determined by the Authority acting reasonably),

then the Parties shall confirm to each other in writing that they shall use the process set out in Paragraphs 4, 5, 6 and 7 but with reduced timescales, such that any period of fifteen (15) Working Days is reduced to five (5) Working Days, any period of ten (10) Working Days is reduced to two (2) Working Days and any period of five (5) Working Days is reduced to one (1) Working Day.

- 8.3 The Parties may agree in writing to revise the parameters set out in Paragraph 8.2 from time to time or that the Fast-track Change procedure shall be used in relation to a particular Contract Change notwithstanding that the total number of Contract Changes to which such procedure is applied will then exceed four (4) in a twelve (12) month period.

9 OPERATIONAL CHANGE PROCEDURE

- 9.1 Any Operational Changes identified by the Supplier to improve operational efficiency of the provision of the Products and/or Services may be implemented by the Supplier without following the Change Control Procedure for proposed Contract Changes provided they do not:
- (a) have an impact on the business of the Authority;
 - (b) require a change to this Agreement;
 - (c) have a direct impact on delivery, receipt or use of the Products and/or Services; or
 - (d) involve the Authority in paying any additional Charges or other costs.
- 9.2 The Authority may request an Operational Change by submitting a written request for Operational Change (“**RFOC**”) to the Supplier Operational Contract Manager.
- 9.3 The RFOC shall include the following details:
- (a) the proposed Operational Change; and
 - (b) the time-scale for completion of the Operational Change.
- 9.4 The Supplier shall inform the Authority of any impact on the supply of Products and/or Services that may arise from the proposed Operational Change.
- 9.5 The Supplier shall complete the Operational Change by the timescale specified for completion of the Operational Change in the RFOC and shall promptly notify the Authority when the Operational Change is completed.

10 CATALOGUE CHANGE PROCEDURE

- 10.1 The Catalogue Change Procedure shall be as follows:
- 10.1.1 Subject to Clause 10.2, either Party may, from time to time, request a change to the Catalogue in order to:
 - (a) introduce one or more new Products (whether brand new or as a replacement for an existing Product); or
 - (b) amend any information contained in the Catalogue in respect of any Product,
(a “**Catalogue Change Request**”).
 - 10.1.2 Following the receipt or submission of a Catalogue Change Request, the Supplier shall complete an Impact Assessment on the consequences of implementing the Catalogue Change Request, and Paragraph 5 above shall apply (to the extent relevant) in respect of the preparation of such Impact Assessment (provided that any reference to a “Contract Change” in that Paragraph shall be deemed to refer to “Catalogue Change”).
 - 10.1.3 The Authority may identify any Catalogue Change Request as a Fast Track Change in accordance with Paragraph 8 (provided that references to a “Contract Change” in that Paragraph shall be deemed to refer to “Catalogue Change”).
 - 10.1.4 If the Authority wishes to add a product to the Catalogue following a Catalogue Change Request, the Authority shall procure that the Commodity Appraisal Panel shall, where reasonably practicable, test such product in accordance with the process in Schedule 21 (*Governance*) in advance of the next Quarterly Contract Review Meeting. If it is not reasonably practicable to test the products at a Commodity Appraisal Panel Meeting before the next Quarterly Contract Review Meeting, the Authority may elect to use the Mini CAP Process in accordance with Schedule 21 (*Governance*).

- 10.1.5 In advance of the first Quarterly Contract Review Meeting following the Catalogue Change Request, the Parties shall discuss the Catalogue Change Request via email (including the Impact Assessment and the results of the Commodity Appraisal Panel or the Mini CAP Process) and work together to decide whether the product(s) subject to the Catalogue Change Request shall be added to the Catalogue (such agreement not to be unreasonably withheld or delayed by the Supplier). Following such agreement, the Supplier shall:
- (a) add the Product to the Catalogue and make the Product available for the Authority to Order in accordance with the timescales agreed between the Parties in writing in the relevant controlled document register; and
 - (b) at the same time as making the Products available for Order, update the Online Ordering System and any Documentation to reflect the updated Products (including the addition, amendment or removal of any allergen information, nutritional information and pricing, as relevant to the change).
- 10.1.6 For the avoidance of doubt, as set out in Paragraph 6.6(a)(iv) of Schedule 21 (*Governance*), where the Authority elects to use the Mini CAP Process in accordance with Paragraph 10.1.4 above, the Products will be subject to the full Commodity Appraisal Panel testing process at the next scheduled Commodity Appraisal Panel Meeting. If the Products pass the Mini CAP Process but subsequently fail the full Commodity Appraisal Panel testing process, the Authority may require the Supplier to immediately remove such Products from the Catalogue.
- 10.2 The Authority reserves the right to require the Supplier to make changes to the Catalogue at any time in order to:
- 10.2.1 correct errors and/or inaccuracies (as determined at the Authority's sole discretion) in the Catalogue;
 - 10.2.2 introduce a new Product or pack size into the Catalogue to replace a Product or pack size that has become permanently unavailable; and/or
 - 10.2.3 remove a Product that has become permanently unavailable,
- and the Supplier shall make such changes promptly and to the Authority's reasonable satisfaction. For the avoidance of doubt, the Catalogue Change Procedure in Paragraph 10.1 shall not apply to any changes required by the Authority in accordance with this Paragraph 10.2.
- 10.3 The Supplier shall ensure that the Catalogue contains all Products in the Product Range at all times. In the event of any conflict or inconsistency between the agreed Catalogue and the Product Range, the Product Range shall take priority. The Authority and the Supplier acknowledge that changes to the Catalogue will require corresponding changes to be made to the Product Range to ensure consistency between the two. Only the Authority may initiate any such changes to the Product Range, which shall be subject to the Change Control Procedure set out in this Schedule 22 (*Change Control Procedure*).
- 10.4 The Supplier shall, at all times, maintain and make available to the Authority on request a full record of all changes to the Catalogue, including the dates on which all changes are agreed and implemented.

11 COMMUNICATIONS

- 11.1 For any Change Communication to be valid under this Schedule, it must be sent to either the Authority Change Manager or the Supplier Change Manager, as applicable. The provisions of Clause 50 (*Notices*) shall apply to a Change Communication as if it were a notice.

ANNEX 1: CHANGE REQUEST FORM

CR NO.:	TITLE:	TYPE OF CHANGE:
CONTRACT:		REQUIRED BY DATE:
ACTION:	NAME:	DATE:
RAISED BY:		
AREA(S) IMPACTED (<i>OPTIONAL FIELD</i>):		
ASSIGNED FOR IMPACT ASSESSMENT BY:		
ASSIGNED FOR IMPACT ASSESSMENT TO:		
SUPPLIER REFERENCE NO.:		
FULL DESCRIPTION OF REQUESTED CONTRACT CHANGE (INCLUDING PROPOSED CHANGES TO THE WORDING OF THE CONTRACT):		
DETAILS OF ANY PROPOSED ALTERNATIVE SCENARIOS:		
REASONS FOR AND BENEFITS AND DISADVANTAGES OF REQUESTED CONTRACT CHANGE:		
SIGNATURE OF REQUESTING CHANGE OWNER:		
DATE OF REQUEST:		

ANNEX 2: CHANGE AUTHORISATION NOTE

CR NO.:	TITLE:	DATE RAISED:
CONTRACT:	TYPE OF CHANGE:	REQUIRED BY DATE:
DETAILED DESCRIPTION OF CONTRACT CHANGE FOR WHICH IMPACT ASSESSMENT IS BEING PREPARED AND WORDING OF RELATED CHANGES TO THE CONTRACT:		
PROPOSED ADJUSTMENT TO THE CHARGES RESULTING FROM THE CONTRACT CHANGE:		
DETAILS OF PROPOSED ONE-OFF ADDITIONAL CHARGES AND MEANS FOR DETERMINING THESE (E.G. FIXED PRICE BASIS):		
SIGNED ON BEHALF OF THE AUTHORITY:		SIGNED ON BEHALF OF THE SUPPLIER:
Signature:_____		Signature:_____
Name:_____		Name:_____
Position:_____		Position:_____
Date:_____		Date:_____