

**Reducing Parental Conflict Programme
Face to Face Provision
CPA 2 Gateshead**

AGREEMENT FOR THE PROVISION OF SERVICES

Between

**THE SECRETARY OF STATE FOR WORK AND PENSIONS
(the “Authority”) acting as part of the Crown**

and

**RELATE
(the “Contractor”)**

Contract Number: UI_DWP_101975-2

Terms and Conditions

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THIS AGREEMENT is made on 25th day of January 2019

BETWEEN:

- (1) Secretary of State for Work and Pensions acting as part of the Crown of [REDACTED] (the "Authority"); and
- (2) Relate a company registered in [England and Wales] under company number 394221 whose registered office is at [REDACTED] (the "Contractor")

(each a "Party" and together the "Parties").

INTRODUCTION

- (A) The Authority wishes to procure new evidence based face to face support to reduce parental conflict.
- (B) On 27th July 2018 the Authority advertised in the Official Journal of the European Union (reference: 2018/S 145-333300) , inviting prospective suppliers to submit proposals for the Reducing Parental Conflict Face to Face Provision.
- (C) On the basis of the Contractor's response to the advertisement and a subsequent tender process, the Authority selected the Supplier as its preferred supplier.
- (D) Following the tender process, the Parties have agreed to contract with each other in accordance with the Contract.

IT IS AGREED as follows:

A GENERAL PROVISIONS

A1 Definitions and Interpretation

A1.1 In this Contract capitalised expressions shall have the meanings as set out below and, to the extent not set out below, in the Specification or the ITT (as applicable):

"Action Plan" means the Intervention Plan agreed between the Contractor and an individual Participant in relation to the Services. Such action plan must detail activities linked to the requirements of the Contract, set out clear goals and must be agreed and signed by the Participant and Contractor, or otherwise as required by the Specification.

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

"Admin Fees" means the costs incurred by the Authority in dealing with MI Failures calculated in accordance with the tariff of administration charges published by the Crown Commercial Service at the following link (or such other place as the Authority notifies the Contractor from time to time):

<http://gps.cabinetoffice.gov.uk/i-am-supplier/management-information/admin-fees>

"Affiliate" means in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time.

“Anticipated Contract Value” means the sum set out at paragraph 10.2 of the Specification for the Contract Package Area (as defined in the Specification) which relates to this Contract.

“Apportioned Unable to Validate Outcomes” in respect of each Payment Validation Period, shall be calculated as follows:

$(A \times B) / (B + C)$ where:

A = the number of Paid Unable to Validate Outcomes in the Outcomes Sample for that Payment Validation Period (as determined by the Authority)

B = the number of Outcome Fails in the Outcomes Sample for that Payment Validation Period (as determined by the Authority)

C = the number of Outcome Passes in the Outcomes Sample for that Payment Validation Period (as determined by the Authority)

“Apprentice” means an individual on an apprenticeship as more particularly described at <https://www.gov.uk/topic/further-education-skills/apprenticeships>.

“Approval” means the prior written consent of the Authority.

“Assets” means all assets and rights used by the Contractor to provide the Services in accordance with the Contract but excluding any and all assets and rights owned by the Authority.

“Audit Agents” means:

- (a) the Authority's internal and external auditors;
- (b) the Authority's statutory or regulatory auditors;
- (c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;
- (d) HM Treasury or the Cabinet Office;
- (e) the European Commission;
- (f) the European Court of Auditors;
- (g) any party formally appointed by the Authority and/or by the Crown and/or by the European Commission and/or by the European Court of Auditors to carry out audit or similar review functions; and
- (h) successors or assigns of any of the above.

“Audit Rights” means the audit and access rights referred to in clause E.

“Authority Data” means the data, guidance, specifications, instructions, toolkits, plans, databases, patents, patterns, models, design, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:

- (i) supplied to the Contractor by or on behalf of the Authority; or
- (ii) which the Contractor is required to generate, process, store or transmit pursuant to this Contract.

“Authority ICT System” means the Authority's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Authority or the Contractor in connection with the Contract which is owned by or licensed to the Authority

by a third party and which interfaces with the Contractor System or which is necessary for the Authority to receive the Services.

“Authority Premises” means Premises which are owned and/ or controlled by the Authority.

“Authority Requirements” means the requirements of the Authority set out in Schedules 1 (the Services), 2 (Tender Minimum Performance Levels (tMPLs), Required Number of Outcomes (RNOs) and Customer Service Standards (CSS)), 3 (Contractor Systems Assurance & Performance Indicators), 4 (Fees and Payment), 6 (Security Requirements and Plan), 10 (Exit Management), 15 (Sub-contractors), 17 (Life Chances), 18 (Business Continuity and Disaster Recovery), 20 (Management Information), 21 (Insurance Requirements) and 22 (Financial Distress Events). 23

“Authority Software” means software which is owned by or licensed to the Authority, including software which is, or will be used by the Contractor for the purpose of providing the Services but excluding the Contractor Software.

“Authority's Representative” means the individual named at clause A6.1 or such other individual as the Authority may notify in writing to the Contractor from time to time and the Authority's Representative is authorised to act on behalf of the Authority on all matters relating to the Contract. For the avoidance of doubt “in writing” for this purpose may include email.

“Backlog” has the meaning set out in paragraph 2 (CSS) in Schedule 2 (Tender Minimum Performance Levels, Required Number of Outcomes (RNOs) and Customer Service Standards).

“BravoSolution Portal” or **“Bravo”** means the "BravoSolution" electronic portal, or such replacement or successor system which the Authority may notify to the Contractor from time to time, which is accessible by the Contractor.

“Breach of Security” means the occurrence of unauthorised access to or use of the Premises, the Authority's Premises, the Services, the Authority ICT System, the Contractor ICT system or any ICT or data (including the Authority's Data), and any Personal Data and any Special Categories of Personal Data used by the Authority or the Contractor in connection with this Contract.

“Bribery Act 2010” means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant Central Government Body concerning the legislation.

“Business Continuity and Disaster Recovery Plan” or **“BCDR Plan”** means any plan prepared as directed in clause H8.6, as may be amended from time to time.

“Central Government Body” means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:

- (a) Government Department;
- (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);
- zz(c) Non-Ministerial Department; or
- (d) Executive Agency.

“Change Authorisation Note” means a written confirmation of a Contract Change which shall be substantially in the form of Appendix 2 of Schedule 13 (Change Control Procedure) or as otherwise determined by the Authority from time to time.

“Change Communication” means any Operational Change Request, Operational Change Confirmation, Change Request, Impact Assessment, Change Authorisation Note or other communication sent or required to be sent pursuant to the Change Control Procedure.

“Change Control Procedure” means the procedure for changing this Contract, as set out in Schedule 13.

“Change in Law” means any change in Law which comes into force after the Commencement Date.

“Change of Control” means a change of control within the meaning of Section 1124 of the Corporation Tax Act 2010.

“Change Request” means a written request for a Contract Change which shall be substantially in the form of Appendix 1 of Schedule 13 (Change Control Procedure) or as otherwise determined by the Authority from time to time.

“Cohort Period” means a calendar month.

“Commencement Date” means the date on which this Contract becomes legally binding. The Contract will be deemed to take effect on the date of the second Party's signature.

“Commercially Sensitive Information” means the information listed in the Commercially Sensitive Information Schedule.

“Commercially Sensitive Information Schedule” means Schedule 5.

“Comparable Supply” means the supply of services to another customer of the Contractor that are the same or similar to the Services.

“Compensation Payment” shall have the meaning given to it in Schedule 11.

“Confidential Information” means:

(a) means any information, which has been designated as confidential by either Party in writing or that ought reasonably to be considered as confidential however it is conveyed, including information that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Contractor, including IPRs, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential; and

(b) all Personal Data and Special Category Personal Data,

but excluding this Contract in accordance with clause E4.11.

“Contract” means this contract between the Authority and the Contractor consisting of the Terms and Conditions, the Schedules and any Appendices or Annexes to the Terms and Conditions, the Tender, the Q&A, the Tender Clarification and any other document referred to in the Contract in respect of which either Party has rights and/or obligations.

“Contract Change” means any change, amendment, variation, restatement or supplement to this Contract other than an Operational Change or a Substantial Change.

“Contract Performance Reviews” or **“CPRs”** shall have the meaning as set out in Schedule 3 (Contract Performance Reviews and Contractor Systems Assurance).

“Contract Period” has the meaning set out in Clause A2.

“Contract Year” means a period which falls within the Contract Period, either in whole or in part, ending on 31st March annually.

“Contracts Finder” the Government's publishing portal for public sector procurement opportunities.

“Contracting Authority” means any contracting authority as defined in Regulation 2 of the Public Contract Regulations 2015, for the avoidance of doubt, including the Authority.

“Contractor Software” means software which is owned or licensed to the Contractor, including software which is, or will be, used by the Contractor for the purpose of providing the Services.

“Contractor System” means any such electronic or hard copy system/process utilised in the delivery of the Services and that is used to transfer, disclose, receive or store Authority Data including, but not limited to, any web enabled system, database, electronic media, e-mail or hard copy system.

“Contractor Termination Event” means:

- (a) the occurrence of 3 Defaults in any 6 Month period;
- (b) the Contractor committing a material Default which is irremediable;
- (c) as a result of the Contractor's Default, the Authority incurring Losses in any Contract Year which exceed 80% of the value of the aggregate annual liability cap for that Contract Year as set out in clause G1.7(b);
- (d) the representation and warranties given by the Contractor pursuant to clause D6.1 being materially untrue or misleading;
- (e) the Contractor committing a material Default, whether or not such material Default is capable of remedy, under any of the following clauses:
 - (i) clause E2 (Protection of Personal Data);
 - (ii) clause E4 (Confidential Information);
 - (iii) clause E5 (Freedom of Information); or
 - (iv) clause E7 (Security);
- (f) the Guarantee ceasing to be valid or enforceable for any reason (without the Guarantee being replaced with a comparable guarantee to the satisfaction of the Authority with the Guarantor or with another guarantor which is acceptable to the Authority in accordance with clause 4.7) or the Contractor failing to comply with clause G4.6;
- (g) a failure by the Contractor to comply in the performance of the Services with legal obligations in the fields of environmental, social or labour law; or
- (h) where a right of termination is expressly reserved in this Contract, including (without limitation) pursuant to:
 - (i) Clause A7 (Conflicts of Interest);
 - (ii) Clause A8 (Prevention of Fraud);
 - (iii) Clause B9 (Contractor's Staff);
 - (iv) Clause B16 (Performance Improvement Process);
 - (v) Clause B19 (Step-In Rights);
 - (vi) Clause B21 (Formal Warning Notice);
 - (vii) Clause B22 (Monitoring of Contract Performance);
 - (viii) Clause D1 (Prevention of Bribery and Corruption);

- (ix) Clause D7 (Termination Rights Due to and Occasion of Tax Non-Compliance);
 - (x) Clause E1 (Authority Data);
 - (xi) Clause E3 (Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989);
 - (xii) Clause E4 (Confidential information);
 - (xiii) Clause E8 (Intellectual Property Rights);
 - (xiv) Schedule 3 (CPRs and Contractor Systems Assurance); or
 - (xv) Schedule 22 (Financial Distress).
- (i) an Insolvency Event occurring in respect of the Contractor or the Guarantor;
 - (j) a Change of Control of the Contractor or a Guarantor unless:
 - (i) the Authority has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed; or
 - (ii) the Authority has not served its notice of objection within 6 months of the later of the date on which the Change of Control took place or the date on which the Authority was given notice of the Change of Control;
 - (k) a Change of Control of a Sub-contractor unless, within 6 months of being notified by the Authority that it objects to such Change of Control, the Contractor terminates the relevant Sub-contract and replaces it with a comparable Sub-contract which is approved by the Authority pursuant to paragraph 2 of Schedule 15 (Sub-contractors); or
 - (l) the Authority has become aware that the Contractor should have been excluded under Regulation 57(1) or (2) of the Public Contracts Regulations 2015 from the procurement procedure leading to the award of this Contract.

“Contractor's Group” means Contractor, its ultimate holding company and all subsidiaries of its ultimate holding company, and any company under the Control of the Contractor, its ultimate holding company or any subsidiary of its ultimate holding company (the definitions of holding company and subsidiary being those set out in Section 1159 of the Companies Act 2006).

“Contractor's Representative” means the individual named at clause A6.3 or such other individual as the Contractor may notify in writing to the Authority from time to time and the Contractor's Representative is authorised to act on behalf of the Contractor on all matters relating to the Contract. For the avoidance of doubt “in writing” for this purpose may include email.

“Control” the possession by person, directly or indirectly, of the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and **“Controls”** and **“Controlled”** shall be interpreted accordingly.

“Crown” means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf and **“Crown Body”** shall be construed accordingly.

“CSS Measurement Period” means the period in respect of which the Contractor's achievement of the Customer Service Standards shall be measured by the Authority. Such period could be any Month, 3 Month, 12 Month or other period at the absolute discretion of the Authority.

“CSS Measurement Point” means the point in time at which the Authority measures/reviews:

- (a) the Contractor’s achievement of the Customer Service Standards; and/or
- (b) the Contractor’s compliance with its obligations under clause E13 (Provision of Management Information) and Schedule 20 (Management Information)

which will be the last day of a Month or such other point in time as the Authority selects in its absolute discretion.

“CSS Measurement Review” means the Authority’s review of the Contractor’s achievement of the Customer Service Standards.

“Customer Service Standards” means the service levels to which the Services are to be supplied by the Contractor as set out in Schedule 2 (Tender Minimum Performance Levels (tMPLs), Required Number of Outcomes (RNOs) and Customer Service Standards (CSS)) and which shall include the Specification Customer Service Standards and the Tender Customer Service Standards.

“Data Controller” shall have the same meaning as given in Data Protection Legislation.

“Data Loss Event” any event that results, or may result, in unauthorised access to Personal Data and Special Categories Personal Data held by the Contractor under this Contract and/or actual or potential loss and/or alteration and/or destruction of Personal Data and Special Categories Personal Data in breach of this Contract, including any Personal Data Breach.

“Data Processor” shall have the same meaning as given in the Data Protection Legislation.

“Data Protection Impact Assessment” means an assessment by the Data Controller of the impact of the envisaged processing on the protection of Personal Data and Special Categories Personal Data.

“Data Protection Legislation” means the GDPR, the LED and any applicable national implementing Laws as amended from time to time, the DPA 2018, the Criminal Law Enforcement Data Protection Directive 2016/680, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable Law relating to the processing of Personal Data and Special Categories of Personal Data.

“Data Protection Officer” shall have the same meaning as given in Data Protection Legislation.

“Data Subject” shall have the same meaning as given in Data Protection Legislation.

“Data Subject Access Request” means 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 and Special Categories Personal Data.

“Default” means any breach of the obligations of the Contractor (including but not limited to abandonment of this Contract in breach of its terms) or any other default (including material Default), words, act, omission, negligence or statement of the Contractor, or of its Sub-contractors or any Staff, howsoever arising in connection with or in relation to the subject-matter of this Contract and in respect of which the Contractor is liable to the Authority.

“Deferral” shall have the meaning given in clause C6.5.

“Deferral Notice” means the notice to be issued by the Authority in relation to Deferral of payment of Delivery Fee Periodic Payments.

“Deferred Month” means a Month in which the Contractor commits two or more Service Failures arising from one or more Delivery Fee Deferral Failures.

“Deliverable” means an item, feature or service associated with the provision of the Services or a change in the provision of the Services which is required to be delivered by the Contractor at any stage during the performance of this Contract.

“Delivery Fee” means the amount set out in Schedule 4 (Fees and Payment).

“Delivery Fee Deferral Failure” means failure by the Contractor:

- (a) to meet more than one Customer Service Standard in any CSS Measurement Period;
or
- (b) to meet any of its obligations to deliver timely and accurate Management Information to the Authority in accordance with the provisions of clause E13 (Provision of Management Information) and Schedule 20 (Management Information).

“Delivery Fee Periodic Payment” means the periodic payment of the Delivery Fee set out in Schedule 4 (Fees and Payment).

“Delivery Model” means the structures and processes used by the Contractor to deliver the Services as described in Schedule 1.

“Disallowed Financial Contribution” means a direct or indirect contribution which: (a) is valued by the Authority in its absolute discretion at more than £1,000; and (b) is deemed by the Authority in its absolute discretion to be a contribution towards working capital or equipment or to be otherwise an inappropriate method of providing support to a self-employed Participant.

“Disputes” means any dispute, difference or question of interpretation arising out of or in connection with this Contract, including any dispute, difference or question of interpretation relating to the Services, failure to agree in accordance with the Change Control Procedure or any matter where this Contract directs the Parties to resolve an issue by reference to clause 12.

“Dispute Resolution Procedure” means the dispute resolution procedure set out in Schedule 16 (Dispute Resolution Procedure).

“DOTAS” means the Disclosure of Tax Avoidance Schemes rules which require a promoter 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 Contributions (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 2018.

“Due Diligence Information” means any information supplied to the Contractor by the Authority prior to the Commencement Date.

“DWP” or **“Department of Work and Pensions”** means the Authority.

“DWP Offshoring Policy” means DWP’s policy and procedures in relation to hosting or accessing the Authority ICT System or official information outside of the UK including Landed Resources as advised to the Contractor by the Authority from time to time.

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

- (a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- (b) unfair, wrongful or constructive dismissal compensation;
- (c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- (d) compensation for less favourable treatment of part-time workers or fixed term employees;
- (e) outstanding employment debts and unlawful deduction of wages including any PAYE and national insurance contributions;
- (f) employment claims whether in tort, contract or statute or otherwise; or
- (g) any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation.

“Environmental Information Regulations” means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such regulations.

“Equipment” means the Contractor’s equipment, plant, materials and such other items supplied and used by the Contractor in the performance of its obligations under the Contract.

“Exit Plan” means the plan produced and updated by the Contractor during the Contract Period in accordance with Paragraph 4 of Schedule 10 (Exit Management).

“Expiry” means the expiry of this Contract, however arising.

“Financial Distress Escrow Account” means the bank account to be set up in accordance with Schedule 22 (Financial Distress), as detailed therein.

“Financial Distress Event” means the occurrence of one or more of the events listed in paragraphs 3, 4 and 5 of Schedule 22 (Financial Distress).

“Financial Distress Event Service Continuity Plan” means the plan to be submitted by the Contractor to the Authority on the request of the Authority after notification of a Financial Distress Event in accordance with Schedule 22 (Financial Distress)

“Financial Distress Event Service Continuity Plan Escalation Process” the escalation process notified to the Contractor by the Authority, which is to be followed to enable the Authority to approve the Financial Distress Service Continuity Plan.

“Financial Ratios” means the financial ratios detailed in Schedule 22 (Financial Distress) relating to the financial standing of the Contractor and the Guarantor.

“Financial Ratios Calculation Period” means the length of the Contract.

“Fees” means the amounts (exclusive of any applicable VAT) as set out in Schedule 4 (Fees and Payment), payable by the Authority under the Contract, including the Delivery Fee and Outcome Payments, to which the Contractor is entitled for the full and proper performance by the Contractor of its obligations under the Contract.

“FOIA” means the Freedom of Information Act 2000 and any subordinate legislation made under such Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation.

“Force Majeure Event” means any event outside the reasonable control of either Party affecting its performance of its obligations under this Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Contractor or the Staff or any other failure in the Contractor’s or a Sub-contractor’s supply chain.

“Force Majeure Notice” a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event.

“Formal Warning Notice” means notice issued by the Authority under clause B21 in respect of a Non Service Failure Default.

“Fraud” means any offence under Laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to this Contract or defrauding or attempting to defraud or conspiring to defraud the Crown.

“GDPR” means the General Data Protection Regulation (*Regulation (EU) 2016/679*). For the avoidance of doubt, the Contractor shall not be required to ensure that its provision of the Services or its other obligations under the Contract comply with the provision of the GDPR until 25 May 2018, although it may expressly elect or agree in writing to be compliant before that date.

“General Anti-Abuse Rule” means:

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

“General Change in Law” a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Contractor) or which affects or relates to a Comparable Supply.

“Good Industry Practice” means at any time the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected at such time from a leading and expert supplier of services similar to the Services to a customer like the Authority, such supplier seeking to comply with its contractual obligations in full and complying with all applicable laws.

“Group” means in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company.

“Guarantee” means the deed of guarantee in favour of the Authority entered into by the Guarantor on or about the Commencement Date (which is substantially in the form set out in Schedule 9 (Parent Company Guarantee) or such similar form acceptable to the Authority from time to time).

“Guarantor” means the body acceptable to the Authority, at the Authority’s discretion, as guarantor which has agreed to guarantee the due performance of the Contract by the Contractor and has entered into the Guarantee.

“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.

Parties and used by the Authority to determine and to verify Outcomes.

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

“ICT” means information and communications technology.

“ICT Environment” means the Authority ICT System and the Contractor System.

“Impact Assessment” means an assessment of a Change Request in accordance with paragraph 6 of Schedule 13.

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

“Ineligible Outcome” means any Outcome Payment, or part thereof, which has been paid to the Contractor by the Authority which is determined by the Authority not to have been eligible for payment for an Outcome in accordance with any provision of the Contract including, for the avoidance of doubt, clause C4 (Validation and Extrapolation of Outcomes).

“Information” has the meaning given under section 84 of the FOIA.

“Insolvency Event” means:

- (a) the other Party suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or:
 - (i) (being a company or a LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or
 - (ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986;
- (b) the other Party commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, a LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;
- (c) a person becomes entitled to appoint a receiver over the assets of the other Party or a receiver is appointed over the assets of the other Party;
- (d) a creditor or encumbrancer of the other Party attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of the other Party's assets and such attachment or process is not discharged within 14 days;
- (e) the other Party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- (f) where the other Party is a company, a LLP or a partnership:
 - (i) a petition is presented (which is not dismissed within 14 days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other Party other than for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;

- (ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over the other Party;
 - (iii) (being a company or a LLP) the holder of a qualifying floating charge over the assets of that other Party has become entitled to appoint or has appointed an administrative receiver; or
 - (iv) (being a partnership) the holder of an agricultural floating charge over the assets of that other Party has become entitled to appoint or has appointed an agricultural receiver; or
- (g) any event occurs, or proceeding is taken, with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above.

“Intellectual Property Rights” or **“IPRs”** means patents, inventions, trademarks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

“International Organisation” shall have the same meaning as given in Data Protection Legislation.

“Irregularity” means:

- (a) directly, or indirectly,
- (b) submitting a claim for, or agreeing to receive, or accepting,
- (c) any Outcome Payment, or Delivery Fee, or financial, or other advantage,
- (d) in connection with a Programme Contract,
- (e) which becomes the subject of an investigation by the Audit Agents and
- (f) which the Audit Agents find was more likely than not,
- (g) deliberately, or negligently,
- (h) based on invalid, or erroneous, or false information, or documentation.

“ITT” means the suite of documents issued by the Authority through the Bravo portal which formed the invitation to participate in the competition for the award of this Contract for the provision of Services to the Authority.

“Key Personnel” means those persons named Schedule 14 (Key Personnel).

“Key Role” means the roles of Staff identified as key to the performance of the Contract as part of the ITT and/or Tender, as set out in Schedule 14 (Key Personnel).

“Law” means any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any Regulatory Body.

“Landed Resources” means when the Contractor or its Sub-contractor causes foreign nationals to be brought to the United Kingdom to provide the Services.

“LED” Law Enforcement Directive (*Directive (EU) 2016/680*).

“Liquidation” means the appointment of a Liquidator who collects in and distributes the company’s assets and dissolves the company. The company can also be put into provisional Liquidation before a final winding up order is granted.

“Loss” means direct losses, liabilities, claims, damages, costs, charges, outgoings and expenses (including legal expenses) of every description, provided in each case that such losses are reasonable, direct, proper and mitigated.

“Malicious Software” means any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence.

“Management Information” means the management information specified in clause E13 and Schedule 20 (Management Information).

“Merlin Standard” means:

- (a) the Authority's standard and accreditation process in respect of supply chain management as further described at:
 - (i) <http://www.merlinstandard.co.uk/>;
 - (ii) <http://www.dwp.gov.uk/docs/merlin-standard.pdf>; and
 - (iii) <http://www.dwp.gov.uk/docs/sub-contracting-merlin-guidance.pdf>,as may be updated and amended from time to time; and/or
- (b) any equivalent policy of the Authority, as notified to the Contractor from time to time as such equivalent policy may be updated and/or replaced by the Authority from time to time.

“Merlin Accreditation” means accreditation in relation to the Merlin Standard in accordance with the requirements specified by any organisation(s) from time to time appointed by the Authority to administer the Merlin Standard assessment and accreditation service. For the avoidance of doubt, such requirements include any terms and conditions agreed between such appointed organisation(s) and the Contractor.

“MI Failure” means when an MI Report:

- (a) contains any material errors or material omissions or a missing mandatory field; or
- (b) is submitted using an incorrect MI Reporting Template; or
- (c) is not submitted by the Reporting Date (including where a Nil Return should have been filed).

“MI Report” means a report containing Management Information submitted to the Authority in accordance with clause E13 and Schedule 20 (Management Information).

“Month” means a calendar month. **“Nil Return”** has the meaning given in paragraph 3.3 of Schedule 20 (Management Information).

“Non Service Failure Default” means a Default other than a Service Failure.

“Occasion of Tax Non-Compliance” means where:

- (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 in any jurisdiction 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 a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or
- (b) any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 which 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.

“Open Book Data” means complete and accurate financial and non-financial information which is sufficient to enable the Authority to verify the Fees (including but not limited to any Outcome Payment(s)) already paid or payable and the Fees (including but not limited to any Outcome Payment(s)) forecast to be paid during the remainder of the Contract Period and the Contractor’s performance under this Contract, including, but not limited to, details and all assumptions relating to:

- (a) the Contractor’s costs broken down against each service category and/or deliverable under the Contract, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all hardware and software; and
- (b) operating expenditure relating to the supply of the Services including an analysis showing:
 - (i) the unit costs and quantity consumables and bought-in services;
 - (ii) manpower resources broken down into the number and grade/role of all Staff (free of any contingency) together with a list of agreed rates against each manpower grade;
 - (iii) a list of costs underpinning those rates for each manpower grade, being the agreed rate less the Contractor’s profit margin;
 - (iv) reimbursable expenses (such as reasonable out of pocket travel and subsistence expenses properly and necessarily incurred in the supply of the Services);
 - (v) overheads;
 - (vi) all interest, expenses and any other third party financing costs incurred in relation to the supply of the Services;
 - (vii) the Contractor’s profit margin achieved over the Contract Period and on an annual basis;
 - (viii) confirmation that all methods of cost apportionment and overhead allocation are consistent with and not more onerous than such methods applied generally by the Contractor; and
 - (ix) an explanation of the type and value of risk and contingencies associated with the supply of the Services, including the amount of money attributed to each risk and/or contingency; and
- (c) the Contractor’s most up-to-date management accounts and annual accounts.

“Open Source Software” means computer software that is released on the internet for use by any person, such release usually being made under a recognised open source licence and stating that it is released as open source.

“Operational Change” means any change in the Contractor's operational procedures which in all respects, when implemented:

- (a) will not affect the Fees and will not result in any other costs to the Authority;
- (b) may change the way in which the Services are delivered but will not adversely affect the output of the Services or increase the risks in performing or receiving the Services; and
- (c) will not adversely affect the interfaces or interoperability of the Services with any of the Authority ICT System.

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

“Operational Change Request” means a written request for an Operational Change which may be sent by electronic mail or by letter in accordance with clause A5.

“Outcome” means for Moderate Intensity Interventions the Completion of the Intervention and for High Intensity Interventions completion of the mid-point (when a minimum of 50% attendance by the Participant has been achieved and has been documented in the Intervention Plan and signed by both Provider and the Participant) and the Completion of the Intervention, as detailed in the Specification.

“Outcome Aggregate Error Amount” shall have the meaning set out in clause C4.5.

“Outcome Error Rate” means in respect of each Payment Validation Period, the percentage of failures, errors and/or over-claims which the Authority shall be entitled to assume have been made in respect of all of the Outcome Payments which have been paid by the Authority to the Contractor (in respect of the Contract) in that Payment Validation Period and which shall be calculated as follows:

$(A/B) \times 100$ where:

A = Total Outcome Fails for that Payment Validation Period in respect of Outcomes (as determined by the Authority); and

B = the number of Outcome Payments comprised in the Outcomes Sample,

expressed as a percentage.

“Outcome Fail” means an Outcome in respect of which the Authority in its absolute discretion determines that not all of the relevant qualifying criteria and requirements (in respect of that Outcome) have been satisfied.

“Outcome Payment” means the fee as set out in Schedule 4 (Fees and Payment) payable by the Authority to the Contractor on achievement of an Outcome and which shall be payable in accordance with the requirements of the Contract.

“Outcomes Sample” shall have the meaning given to it in clause C4.3.

“Paid Unable To Validate Outcome Payment” means an Outcome in respect of which the Authority has paid an Outcome Payment to the Contractor but which the Authority was unable to verify that all of the relevant qualifying criteria and requirements in respect of that Outcome have been satisfied prior to making the relevant Outcome Payment.

“Partial Termination” shall have the meaning given to it in clause H1.2.

“Participant” means an individual in respect of whom the Contractor provides Services who has been Referred to the Contractor by the Authority pursuant to the Contract.

“Participant Personal Data” means the Personal Data of each Participant, where such Personal Data is processed by either Party under, or in connection with, this Contract.

“Participant Start” means, in respect of each Participant, the date on which the initial face to face meeting between the Contractor and a Participant takes place (as more particularly defined in the Specification).

“Party” means the Authority or the Contractor, and **“Parties”** shall be construed accordingly.

“Payment Tail Period” means the period of 3 months starting immediately after the Services Cessation Date.

“Payment Validation Period” means such period of time as the Authority notifies the Contractor from time to time for which period the Authority shall validate payments made to the Contractor in accordance with clause C4. For the avoidance of doubt such notification may be made before or after the Authority takes any action pursuant to clause C4.

“Performance Improvement End Date” means the date set out in the Performance Improvement Notice.

“Performance Improvement Notice” means a written notice given by the Authority to the Contractor pursuant to clause B16.

“Performance Improvement Period” means the period from the date of issue of the Performance Improvement Notice until the Performance Improvement End Date.

“Performance Improvement Plan” means the plan agreed in accordance with clause B16.

“Performance Improvement Plan Failure” has the meaning set out in clause B16.10

“Performance Improvement Process” means the process set out in clause B16.

“Performance Indicator(s)” means the indicators set out in paragraph 3 of Schedule 3 (Contract Performance Reviews & Contractor Systems Assurance & Performance Indicators).

“Performance Indicator Review” means a review carried out in accordance with paragraph 3 of Schedule 3.

“Performance Indicator Course of Action” means the actions, set out by the Authority in the Performance Indicator Course of Action Notice, which the Authority requires the Contractor to take to satisfy the Authority that the Contractor can ensure compliance with its contractual obligations in relation to Performance Indicators.

“Performance Indicator Course of Action Notice” means a notice issued by the Authority in accordance with paragraph 3 of Schedule 3 (Contract Performance Reviews and Contractor Systems Assurance).

“Performance Measurement Period” means the period in respect of which the Contractor’s achievement of the RNOs shall be measured by the Authority. Such period could be any Month, 3 Month, 12 Month or other period at the absolute discretion of the Authority.

“Performance Measurement Point” means the last day of the Performance Measurement Period or such other day as the Authority in its absolute discretion selects.

“Personal Data” shall have the same meaning as given in Data Protection Legislation.

“Personal Data Breach” shall have the same meaning as given in Data Protection Legislation.

“Plans” means any Action Plan, BCDR Plan, Diversity & Equality Delivery Plan, Exit Plan, Financial Distress Service Continuity Plan, Implementation Plan, PAT Action Plan, Performance Improvement Plan, Security Plan, Step-Out Plan, Sustainable Development Plan and any other plan referred to in the Contract which the Contractor is required to submit in connection with this Contract.

“PRaP” means DWP’s prescribed provider referral and payments system, which DWP uses to refer Participants and pay providers, and/or any equivalent Authority provider referral and payments system, from time to time. For the avoidance of doubt, where PRaP is not available, a clerical system may be adopted by the Authority in its place.

“Premises” means any location from which the Services are delivered; Premises as at the Commencement Date are set out within the Tender a copy of which is at Schedule 1.

“Project Specific Intellectual Property Rights” means IPRs in items created by the Contractor (or by a third party on behalf of the Contractor) specifically for the purposes of the performance by the Authority or the Contractor of their obligations under this Contract including, any Deliverables and all updates and amendments of these items.

“Programme Contract” means any Contract entered into between the Authority and the Contractor which was advertised under the ITT.

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

“Protective Measures” means appropriate technical and organisational measures which shall be sufficient to secure that the Data Processor will meet the requirements of GDPR and ensure the protection rights of the Data Subject and may include (without limitation):

- Pseudonymisation and encrypting Personal Data and Special Categories Personal Data;
- ensuring on-going confidentiality, integrity, availability and resilience of systems and services used for data processing;
- measures to restore the availability and access to Personal Data and Special Categories Personal Data in a timely manner in the event of a physical or technical incident;
- ensuring that availability of and access to Personal Data and Special Categories Personal Data can be restored in a timely manner after an incident; and
- regularly assessing and evaluating the effectiveness of such measures adopted by it.

“Provider Guidance” means the instructions and recommended practices, including any instructions of an operational nature, and/or relating to sustainable development and promotion of race equality and non-discrimination, copies of which have been provided by the Authority to the Contractor prior to the Commencement Date, and any other instructions and recommended practices as updated by the Authority to the Contractor from time to time, which includes the Generic Provider Guidance (as updated from time to time) and the RPC Provider Guidance.

“Pseudonymisation” shall have the same meaning as given in Data Protection Legislation.

“Purchase Order” means any purchase order issued by the Authority to the Contractor in relation to the Services, as referred to in Schedule 4.

“Q&A” means the response to the Q&A Log (as defined in Schedule 1 (Services)) published.

“Quality Standards” means the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent body, (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Contractor would reasonably and ordinarily be expected to comply with, and as may be further detailed in the Specification.

“Receiving Party” means the Party which receives a proposed Contract Change.

“Records Retention End Date” has the meaning set out in clause E14.

“Referral” means the referral of an individual by the Authority to the Contractor under the Contract which takes place at the point when a human representative of the Authority enters the referral into PRaP ready for automated transmission to the Contractor, with the intention

that the individual will become a Participant at the point of Participant Start, and “**Referred**” shall be construed accordingly.

“**Referral Group**” mean all the Referrals in respect of this Contract in any Month.

“**Referral Period**” means the period from and including the Referral Period Start Date until the Referral Period End Date when the Authority may make Referrals.

“**Referral Period Start Date**” means no later than 3 months from the Commencement Date for Phase One Intervention Types and no later than 9 months from the Commencement Date for Phase Two Intervention Types.

“**Referral Period End Date**” means:

- (a) 31st March 2021; or
- (b) such later date no more than 2 years later than (a) following any extension of the Referral Period End Date pursuant to clause F3.3(a).

“**Regulatory Body**” means those government departments and regulatory, statutory and other entities, committees, ombudsmen, and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of the Authority.

“**Relevant Tax Authority**” means HMRC, or, if applicable, the tax authority in the jurisdiction in which the Contractor is established.

“**Replacement Contractor**” means any third party service provider of Replacement Services appointed by the Authority from time to time (or where the Authority is providing replacement Services for its own account, the Authority).

“**Replacement Services**” means any services which are substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the expiry of end of provision of the Services or the termination of the Contract, whether those services are provided by the Authority internally and/or any third party.

“**Reporting Date**” means the seventh (7th) day of each Month following the Month to which the relevant Management Information relates, or such other date as may be agreed between the Authority and the Contractor from time to time.

“**Requests for Information**” means a request for information or an apparent request under the FOIA or the Environmental Information Regulations.

“**Required Action**” has the meaning set out in B19.1.

“**RNOs or Required Number of Outcomes**” means the number of Outcomes which the Contractor is required to achieve in a Performance Measurement Period as calculated by the Authority on the basis of the Tender Cohort Profiles in the tMPLs set out in Schedule 2

“**Schedule**” means a Schedule attached to, and forming part of, the Contract.

“**Security Plan**” means the Contractor’s security plan prepared pursuant to Schedule 6 (Security Requirements and Plan).

“**Security Policy**” means the Contractor’s security plan prepared pursuant to Schedule 6 (Security Requirements and Plan).

“**Security Tests**” means tests of the processes and countermeasures contained in the Security Plan.

“Service Failure” means a failure by the Contractor to:

- (a) supply any part of the Services in accordance with the Tender Minimum Performance Levels (tMPLs); and/or
- (b) supply any part of the Services in accordance with any of the Customer Service Standards; and/or
- (c) achieve the RNOs.

“Services” means any and all of the services to be supplied by the Contractor in accordance with this Contract, including those described in Schedule 1 (The Services).

“Services Cessation Date” means 31st July 2021 (subject to clause F3.4).

“Services Delivery Period” means the period from and including the Commencement Date until the Services Cessation Date during which the Contractor shall supply the Services.

“SME” means an enterprise falling within the category of [micro, small and medium-sized enterprises](#) defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises

“Special Categories of Personal Data” shall have the meaning given in Data Protection Legislation.

“Specific Change in Law” a Change in Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply.

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

“Specification Customer Service Standards” means any customer service standards set out by the Authority in the Specification for the Contract.

“Staff” means all persons employed or engaged by the Contractor (and/or each Sub-contractor) to perform its obligations under this Contract together with the Contractor’s (and/or each Sub-contractor’s) servants, consultants, agents, volunteers, contractors and sub-contractors used in the performance of its obligations under this Contract.

“Staff Vetting Procedures” means the Authority’s procedures for the vetting of personnel as detailed in the Baseline Personnel Security Standard (available at <https://www.gov.uk/government/publications/guide-for-dwp-contractors-hmg-baseline-personnel-security-standard>), the Provider Guidance, the Security Plan and/or as advised to the Contractor by the Authority from time to time.

“Start Cohort” means the Participant Starts recorded on the PRaP System in each Cohort Period.

“Step-In Notice” has the meaning set out in clause B19.1.

“Step-In Trigger Event” means:

- (a) any event which gives the Authority the right to terminate the Contract in accordance with clause G4.6;
- (b) a Default by the Contractor that is materially preventing or materially delaying the supply of the Services or any material part of the Services;
- (c) the Authority considers that the circumstances constitute an emergency despite the Contractor not being in breach of its obligations under the Contract;

- (d) the Authority being advised by a regulatory body that the exercise by the Authority of its rights under clause B19 is necessary;
- (e) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Services; and/or
- (f) a need by the Authority to take action to discharge a statutory duty.

“**Step-Out Date**” has the meaning set out in clause B19.5.

“**Step-Out Notice**” has the meaning set out in clause B19.5.

“**Sterling**” and “**£**” means the lawful currency of the United Kingdom from time to time.

“**Sub-contract**” means any contract or agreement or proposed contract or agreement between the Contractor and any third party whereby that third party agrees to provide to the Contractor the Services (or any part thereof) or facilities or services necessary for the provision of the Services (or any part thereof) or necessary for the management, direction or control of the Services (or any part thereof).

“**Sub-contractor**” any third party with whom:

- (a) the Contractor enters into a Sub-contract; or
- (b) the employees, staff, servants or agents of that third party; or
- (c) a third party under (a) above enters into a Sub-contract, or the servants or agents of that third party.

“**Sub-processor**” means any third party appointed to process Personal Data and Special Categories Personal Data on behalf of the Contractor under this Contract.

“**Substantial Change**” means a modification to the terms of this Contract that is substantial, where, for the purposes of this definition, “**substantial**” has the meaning ascribed to it by Regulation 72(8) of the Public Contracts Regulations 2015.

“**Supplier Code of Conduct**” means HM Government’s Supplier Code of Conduct or any replacement code published from time to time by the Crown on its website or other online portal.

“**Tender**” means the ITB and the Contractor’s response to the ITT including but not limited to the Stage 1 Selection Questionnaire Response, the Best and Final Offer, the Final Contract Cost Register (CCR), the Final Financial Viability Risk Assessment Responses and which, for the avoidance of doubt, includes any Tender Clarification.

“**Tender Clarification**” means any responses provided by the Contractor to any clarification question made by the Authority, the Q&A Log and any post-tender clarifications made by the Contractor to the Authority prior to the Commencement Date.

“**Tender Cohort Profiles**” means the tables in the tMPLs set out in Schedule 2 which profile the number of Outcomes that the Contractor predicts it will achieve and the point in time when the Contractor predicts it will achieve such Outcomes, based on (a) an assumed number of Participant Starts and (b) an assumed point in time when each Participant Start will occur.

“**Tender Customer Service Standards**” means any customer service standards proposed by the Contractor in the Tender which must be equal to or greater than the Specification Customer Service Standards.

“**Termination Date**” means the date set out in a Termination Notice on which this Contract (or a part of it as the case may be) is to terminate.

“**Termination Notice**” means a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Contract on a specified date and setting out the grounds for termination.

“Termination Payment” shall have the meaning given to it in Schedule 10.

“Terms and Conditions” means these terms and conditions of contract and its accompanying schedules and any appendices or annexes to the terms and conditions and schedules which together form part of the Contract.

“Third Party Software” means software which is proprietary to any third party (other than an Affiliate of the Contractor) or any Open Source Software which in any case is, will be or is proposed to be used by the Contractor for the purposes of providing the Services.

“tMPL” or **“Tender Minimum Performance Levels”** means the performance levels offered by the Contractor in the Final Offer which are set out in Schedule 2 (Tender Minimum Performance Levels (tMPLs), Required Number of Outcomes (RNOs) and Customer Service Standards (CSS)).

“Total Outcome Fails” means in respect of Outcome Payments, and for each Payment Validation Period, shall be calculated as follows:

A + B where:

A = the number of Outcome Fails in the Outcomes Sample for that Payment Validation Period (as determined by the Authority)

B = the number of Apportioned Paid Unable to Validate Outcomes in the Outcomes Sample for that Payment Validation Period (as determined by the Authority)

“Transferee” means any person to whom the Authority assigns, novates or otherwise disposes of its rights and obligations under the Contract pursuant to Clause F1.7.

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

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

“Unsupported Services” shall have the meaning set out in Clause C10.2.

“Variation” means any change to this Contract other than an Operational Change.

“VAT” means value added tax in accordance with the provisions of the Value Added Tax Act 1994.

“VCSE” means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.

“Working Days” means any day other than a Saturday, Sunday or public holiday in England and Wales.

A1.2 In this Contract, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) a reference to one gender shall include a reference to the other genders;
- (c) references to a clause or schedule are references to the clauses and schedules of this Contract unless otherwise provided;
- (d) reference to any statute, law, order, regulation or other similar instrument shall be construed as a reference to the statute, law, order, regulation or instrument as subsequently amended, extended, consolidated or re-enacted from time to time;

- (e) a reference to this Contract (or any provision of it) or to any other agreement or document referred to in this Contract is a reference to this Contract, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this Contract) from time to time;
- (f) a reference to a Party shall include that Party's successors, permitted assigns and permitted transferees and this Contract shall be binding on, and enure to the benefit of, the Parties to this Contract and their respective successors, permitted assigns and permitted transferees;
- (g) references to any person include all individual, company, body, corporate, corporation, unincorporated association, firm, partnership, or other legal entity or other Government Body;
- (h) the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "without limitation"; and
- (i) headings are for ease of reference only and shall not affect the interpretation or construction of the Contract.

A2 Contract Period

- A2.1 This Contract shall commence on the Commencement Date; and unless terminated at an earlier date in accordance with Clause G4.6 or otherwise by operation of law, shall expire on the last day of the Payment Tail Period ("**Contract Period**").

This clause A2 shall be without prejudice to clause E14 (*Records Relating to the Provision of the Services*) and clause H4 (*General Provisions on Expiry or Termination*).

A3 Contractor's Status

At all times during the Contract Period the Contractor shall be an independent contractor and nothing in this Contract shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and accordingly neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of this Contract.

A4 Authority's Obligations

Save as otherwise expressly provided in this Contract, the obligations of the Authority under this Contract are obligations of the Authority in its capacity as a contracting counterparty and nothing in this Contract shall operate as an obligation upon, or in any other way constrain the Authority in any other capacity, nor shall the exercise by the Authority of its duties and powers in any other capacity lead to any liability, under this Contract (however arising), on the part of the Authority to the Contractor.

A5 Notices

- A5.1 Except as otherwise expressly provided within this Contract, no notice or other communication from one Party to the other shall have any validity under this Contract unless explicitly made in writing by or on behalf of the Party concerned.
- A5.2 Any notice or other communication which is to be given by either Party to the other shall be given by electronic mail or by letter (sent by hand, post, registered post or by the recorded delivery service) or through Bravo. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two (2) Working Days after the day on which the letter was posted, or four (4) hours, in the case of electronic mail and Bravo or sooner where the other Party acknowledges receipt of such letters or item of electronic mail or communication via Bravo [or via PRaP]. Such letters shall be addressed to the other Party in the manner referred to in clause A5.3.
- A5.3 For the purposes of clause A5.2, the address of each Party shall be:

(a) For the Authority:

Address: Department for Work and Pensions
[REDACTED]

For the attention of: [REDACTED]

Email: [REDACTED]

(b) For the Contractor:

Address: [REDACTED]

For the attention of: [REDACTED]

Email: [REDACTED]

A5.4 Either Party may change its address for service by serving a notice in accordance with this clause.

A6 Representatives of the Parties

A6.1 The following person is the Authority's Representative:

Name [REDACTED]

Title: [REDACTED]

A6.2 The Authority's Representative may approve deputy Authority's Representatives to exercise the Authority's Representative's powers on his/her behalf. The Authority's Representative shall notify the Contractor of any such deputy in accordance with clause A5.

A6.3 The following person is the Contractor's Representative:

Name [REDACTED]

Title: [REDACTED]

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

A7 Mistakes in Information

The Contractor shall be responsible for the accuracy of all drawings, documentation and information supplied to the Authority by the Contractor in connection with the supply of the Services and shall pay the Authority any extra costs occasioned by the Authority by any discrepancies, errors or omissions therein except where such discrepancies, errors or omissions originate from documentation supplied by the Authority.

A8 Conflicts of Interest

A8.1 The Contractor shall take appropriate steps to ensure that neither the Contractor nor any Staff are placed in a position where, in the reasonable opinion of the Authority, there is or may be, directly or indirectly, a financial, economic or other personal interest of the Contractor or any Staff which might be perceived to compromise their impartiality and independence in the context of the duties owed to the Authority under the provisions of this Contract. The Contractor will disclose to the Authority full particulars of any such conflict of interest which may arise.

- A8.2 The Authority reserves the right to terminate this Contract immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be, directly or indirectly, a financial, economic or other personal interest of the Contractor or any Staff which might be perceived to compromise their impartiality and independence in the context of the duties owed to the Authority under the provisions of this Contract (and for the avoidance of doubt the provisions of clause H1 **Error! Reference source not found.** shall not apply). The actions of the Authority pursuant to this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.
- A8.3 Without prejudice to clause A8.1 and A8.2, the Contractor may seek Approval for matters which would otherwise constitute Default of Clause A8 and the Authority will consider whether to grant Approval in its absolute discretion.
- A8.4 This clause A88 shall apply during the continuance of this Contract and for a period of two (2) years after its Expiry or termination.

A9 Prevention of Fraud

- A9.1 The Contractor shall establish, maintain and enforce and require that its Staff and Sub-contractors establish, maintain and enforce policies and procedures which are adequate to prevent the occurrence of Fraud and/or Irregularity in connection with any Programme Contract.
- A9.2 The Contractor shall establish, maintain and enforce, and require that its Sub-contractors establish, maintain and enforce:
- (a) a system that enables its Staff, Sub-contractors and any person involved in the supply of the Services to report to the Contractor, the commission or suspected commission of Fraud or Irregularity by any person in connection with this Contract;
 - (b) a personnel performance assessment system for any persons involved in the supply of the Services in which personnel performance targets are appropriately set to ensure the commission of Fraud or Irregularity is not encouraged; and
 - (c) a segregation of duties between those persons directly involved in supplying the Services to Participants and those persons providing the Authority with Management Information under the Contract in respect of compliance with the **Customer Service Standards**.
- A9.3 To the extent permitted by Law, the Contractor shall notify the Authority immediately in writing if it becomes aware of any Fraud or Irregularity, or has reason to believe that any Fraud or Irregularity has occurred, is occurring, or may occur in connection with any Programme Contract.
- A9.4 If the Contractor notifies the Authority under clause A9.3, the Contractor shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority access to the Open Book Data and/or any other relevant records/information in accordance with clause E9.
- A9.5 If the Contractor fails to comply with its obligations under this clause A99, the Authority may terminate this Contract by issuing a Termination Notice to the Contractor.
- A9.6 If the Contractor, its Staff or its Sub-contractors commits Fraud or does something which constitutes an Irregularity, the Authority may:
- (a) terminate this Contract, and any other Programme Contract, by issuing a Termination Notice to the Contractor; and
 - (b) recover from the Contractor the amount of any Loss suffered by the Authority resulting from the termination, including but without limitation, the cost reasonably incurred by the Authority of making other arrangements for the supply of the Services and any additional expenditure incurred by the Authority resulting from any such termination.

B SUPPLY OF SERVICES

B1 The Services

- B1.1 The Contractor shall supply the Services during the Services Delivery Period in accordance with the Supplier Code of Conduct and Authority's requirements as set out in the Contract (including for the avoidance of doubt, in accordance with Schedule 1 and the Specification) in consideration of the payment of the Fees.
- B1.2 The Contractor shall at all times supply the Services with due regard to the need for those in a public service environment to observe the highest standards of efficiency, economy, courtesy, consideration and hygiene.
- B1.3 The Contractor acknowledges that it has made its own enquiries to satisfy itself as to the accuracy and adequacy of the Due Diligence Information.
- B1.4 The Contractor shall not be excused from the performance of any of its obligations under this Contract as a result of any misinterpretation of the Authority's requirements and/or any failure by the Contractor to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information.
- B1.5 The Contractor shall implement the Implementation Plan to the satisfaction of the Authority and satisfy the requirement of clause C9.6 with effect from the Commencement Date in accordance with the terms of the Implementation Plan and in accordance with the timescales set out in the Implementation Plan but in any event prior to the Referral Period Start Date and if the Contractor fails to do so the Authority shall be entitled to terminate this Contract by issuing a Termination Notice to the Contractor.
- B1.6 Timely supply of the Services shall be of the essence of the Contract, including in relation to commencing the supply of the Services within the time agreed or on a specified date including the dates specified in the Specification and the Implementation Plan.
- B1.7 An obligation on the Contractor:
- (a) to do any act or thing shall include an obligation upon the Contractor to procure that all Sub-contractors and Staff also do such act or thing insofar as they are delivering the Services on behalf of the Contractor;
 - (b) to refrain from doing any act or thing shall include an obligation upon the Contractor to procure that all Sub-contractors and Staff also refrain from doing, such act or thing.
- B1.8 The Contractor shall continue to perform all of its obligations under this Contract and shall not suspend the supply of the Services, notwithstanding:
- (a) any cancellation or suspension of the outstanding Delivery Fee or Referrals pursuant to clause C6;
 - (b) any deferral of the Delivery Fee by the Authority pursuant to clause B16.2 or clause C6; or
 - (c) any withholding of Fees by the Authority pursuant to clause H7.3;
 - (d) the existence of an unresolved Dispute; and/or
 - (e) any failure by the Authority to pay any Fees,

unless the Contractor is entitled to terminate this Contract under clause H2 for failure to pay undisputed Fees and does so terminate this Contract.

The Contractor shall not add or remove locations as Premises without having obtained Approval.

- B1.9 The Contractor shall at all times comply with the Provider Guidance when supplying the Services.
- B1.10 In the event of any conflict between this Contract and the Provider Guidance, the Contractor shall notify the Authority of the existence and nature of such conflict without delay.
- B1.11 The Contractor shall at all times prepare and submit all Plans in a timely manner in good faith and with due skill, care and diligence in a form reasonably capable of acceptance by the Authority including in accordance with the Authority's requirements. Any purported Plan which does not comply with the requirements of this clause B1.11 is not a relevant Plan for the purposes of the relevant clause of this Contract.
- B1.12 The Contractor shall not commence delivery of the Services in respect of a potential Participant prior to having received a Referral in respect of that individual save for where the Contract expressly provides for a particular element of the Services to be performed prior to such Referral.

B2 Not used

B3 No Guarantee of Levels, Values or Exclusivity

- B3.1 Subject to clause B3.2 and clause B3.3, the Authority will refer prospective Participants to the Contractor during the Referral Period in accordance with the provisions of the Contract (in particular, the Specification).
- B3.2 The Contractor acknowledges and has submitted its Final Offer on the understanding that no guarantee is given by the Authority in respect of levels or values of Services referred to in the Schedules which are indicative only and shall not be binding on the Authority
- B3.3 The Contractor acknowledges that, in entering the Contract, no form of exclusivity has been granted by the Authority for Services from the Contractor and that the Authority is at all times entitled to enter into other contracts and arrangements with other providers for the provision of any or all services which are the same as or similar to the Services.

B4 Provision and Removal of Equipment

- B4.1 The Contractor shall provide all the Equipment necessary for the supply of the Services.
- B4.2 The Contractor shall not deliver any Equipment nor provide any work on the Authority's Premises without obtaining Approval.
- B4.3 All Equipment brought onto the Authority's Premises shall be at the Contractor's own risk and the Authority shall have no liability for any loss of or damage to any Equipment unless the Contractor is able to demonstrate that such loss or damage was wholly caused by action or inaction the Authority. The Contractor shall provide for the haulage or carriage to the Authority's Premises and the removal of Equipment when no longer required at its sole cost. Unless otherwise agreed, Equipment brought onto the Authority's Premises will remain the property of the Contractor.
- B4.4 The Contractor shall maintain all items of Equipment within the Premises in a safe, serviceable and clean condition.
- B4.5 The Contractor shall, at the Authority's written request, at its own expense and as soon as reasonably practicable:
- (a) remove from the Premises any Equipment which in the reasonable opinion of the Authority is hazardous, noxious or not in accordance with the Contract; and
 - (b) replace such item with a suitable substitute item of Equipment.
- B4.6 On completion of the Services the Contractor shall remove the Equipment together with any other materials used by the Contractor to supply the Services and shall leave the Premises in a clean, safe and tidy condition. The Contractor is solely responsible for making good any

damage to the Premises or any objects contained thereon, other than fair wear and tear, which is caused by the Contractor or any Staff.

- B4.7 The Authority may at its option purchase any item of Equipment from the Contractor at any time, if the Authority considers that the item is likely to be required in the provision of the Services similar to the Services following the expiry or termination of the Contract. The purchase price to be paid by the Authority shall be the higher of the fair market value and the net book value.
- B4.8 The Contractor shall ensure that all items of Equipment brought onto the Authority's Premises shall be marked and branded in a manner agreed with the Authority's office manager at the relevant Authority's Premises.
- B4.9 The Contractor shall indemnify and hold harmless the Authority against all actions, proceeding, losses, claims, damages, costs, charges, expenses, and liabilities suffered or incurred by the Authority as a result of or in connection with or caused by, whether directly or indirectly, the Equipment.

B5 Manner of Carrying Out the Services

- B5.1 The Contractor shall at all times comply with the Quality Standards, and where applicable shall maintain accreditation with the relevant Quality Standards authorisation body. To the extent that the standard of Services has not been specified in the Contract, the Contractor shall agree the relevant standard of the Services with the Authority prior to the supply of the Services and in any event, the Contractor shall perform its obligations under the Contract in accordance with all applicable Law and Good Industry Practice and deliver the Services using efficient business processes and ways of working having regard to the Authority's obligation to ensure value for money.
- B5.2 While not in any way limiting any other provision of this Contract, in delivering the Services, the Contractor and any of its Sub-contractors, shall comply with the DWP Offshoring Policy. The DWP Offshoring Policy shall apply to Landed Resources.
- B5.3 The Contractor shall ensure that all Staff supplying the Services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services.
- B5.4 To the extent required by the Authority, the Contractor shall comply and shall ensure that its Staff comply with the provisions of Schedule 8 (Welsh Language Scheme) in providing the Services in the Welsh language.
- B5.5 The Contractor shall at all times comply and shall ensure that its Staff at all times comply with the provisions of Schedule 17 (Life Chances).

B6 Participant Complaints

- B6.1 The Contractor shall have an internal dispute resolution procedure for dealing with complaints from Participants about the Contractor (and/or any of its Sub-contractors) or any aspect of the supply of the Services.
- B6.2 If the dispute between any Participant and the Contractor (and/or any Sub-contractor) cannot be resolved the dispute shall be referred to the ICE for mediation.
- B6.3 If the dispute cannot be resolved by mediation, ICE will conduct a full investigation. In accordance with ICE's usual procedures, the Contractor shall have the opportunity to present its case and any evidence during the investigation and ICE shall share its draft report with the Contractor for comment before issuing a final version. The decision of ICE shall be final and binding upon the parties to the dispute. The ICE investigation shall carry a £5,000 fee paid by the Contractor or the Sub-contractor, who will also be liable for any financial redress recommended by ICE. In the event that the complaint against the Contractor or Sub-contractor is dismissed, no fee shall be payable. Any fees in respect of complaints that have been upheld against the Contractor (and/or any Sub-contractor) and any financial redress due to the Participant shall be paid within four (4) weeks of the date of the ICE final investigation report.

- B6.4 Without prejudice to clauses B6.1 to B6.3, the Authority shall take all reasonable steps to investigate any complaint it receives regarding:
- (a) the standard of Services;
 - (b) the manner in which any Services have been supplied,
 - (c) the manner in which work has been performed;
 - (d) the materials or procedures the Contractor uses; or
 - (e) any other matter connected with the performance of the Contractor's obligations under the Contract.

B6.5 Without prejudice to its other rights and remedies under the Contract, the Authority may, in its sole discretion, uphold any complaint and take further action in accordance with clause B or clause H of the Contract.

B6.6 The Contractor shall provide Management Information relating to complaints from Participants in accordance with the requirements of Schedule 20 (Management Information).

B7 The Merlin Standard

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

B7.2 Where the Authority has approved the appointment of a Sub-contractor, the Contractor shall, at its own expense, at all times comply with the Merlin Standard (including for the avoidance of doubt, but without limitation, any mediation and/or arbitration arising out of, or in connection with, the Merlin Standard) any other guidance and/or codes of practice issued by the Authority and shall achieve Merlin Accreditation no later than twelve (12) Months after the Commencement date and shall maintain such Merlin Accreditation throughout the Contract Period.

B7.3 For the avoidance of doubt and without prejudice to the rest of this clause B7, the Contractor shall comply with all necessary requirements to maintain Merlin Accreditation which may include, without limitation, notifying the relevant Merlin Standard authorisation body if it changes its name or undergoes a Change of Control.

B7.4 The Contractor acknowledges that all decisions relating to Merlin Accreditation are made by the relevant Merlin Standard authorisation body.

B7.5 The Contractor consents to the publication by and on behalf of the Authority of all its scores relating to the Merlin Standard.

B7.6 Any breach by the Contractor of this clause B7 shall entitle the Authority to terminate the Contract by issuing a Termination Notice to the Contractor.

B8 Key Personnel

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

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

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

- (a) requested to do so by the Authority;
- (b) the person concerned resigns, retires or dies or is on maternity or long-term sick leave;

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

B8.4 The Contractor shall:

- (a) notify the Authority promptly of the absence of any Key Personnel (other than for short-term sickness or holidays of two (2) weeks or less, in which case the Contractor shall ensure appropriate temporary cover for that Key Role);
- (b) ensure that any Key Role is not vacant for any longer than ten (10) Working Days;
- (c) give as much notice as is reasonably practicable of its intention to remove or replace any member of Key Personnel and, except in the cases of death, unexpected ill health or a material breach of the Key Personnel's employment contract, this will mean at least sixty (60) Working Days' notice; and
- (d) ensure that all arrangements for planned changes in Key Personnel provide adequate periods during which incoming and outgoing personnel work together to transfer responsibilities and ensure that such change does not have an adverse impact on the performance of the Services.

B8.5 Any replacements to the Key Personnel shall be subject to Approval. Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

B8.6 The Authority will not unreasonably withhold its Approval under clauses B8.3 or B8.5. Such Approval shall be conditional on appropriate arrangements being made by the Contractor to minimise any adverse impact on the Contract which could be caused by a change in Key Personnel.

B8.7 The Contractor shall have a continuing obligation to provide to the Authority an up to date organogram of Key Personnel which shall include contact details of all Key Personnel and show the first point of contact in relation to any issues arising with the Contract and further points of escalation.

B9 Contractor's Staff

B9.1 The Authority may, by written notice to the Contractor, refuse to admit onto, or withdraw permission to remain on, the Authority's Premises:

- (a) any member of the Staff; or
- (b) any person employed or engaged by any member of the Staff,

whose admission or continued presence would, in the reasonable opinion of the Authority, be undesirable.

B9.2 At the Authority's written request, the Contractor shall provide a list of the names and business addresses of all persons who may require admission in connection with the Contract to the Authority's Premises, within seven (7) Working Days from date of request, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Authority may reasonably request.

B9.3 The decision of the Authority as to whether any person is to be refused access to the Authority's Premises and as to whether the Contractor has failed to comply with clause B9.2 shall be final and conclusive.

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

- B9.5 The Contractor shall comply with all applicable Law relating to safeguarding and protecting vulnerable groups, including the Safeguarding Vulnerable Groups Act 2006 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.
- B9.6 The Contractor shall comply with Staff Vetting Procedures in respect of all persons employed or engaged in the provision of the Services. The Contractor confirms that all persons employed or engaged by the Contractor shall have complied with the Staff Vetting Procedures prior to commencing the Services and accessing the Premises.
- B9.7 The Contractor shall provide training on a continuing basis for all Contractor Staff employed or engaged in the provision of the Services in compliance with the Security Policy and Security Plan.
- B9.8 The Contractor shall further use all reasonable endeavours to ensure that all Staff are legally entitled to work in the United Kingdom. The Contractor shall promptly take all reasonable steps to ensure compliance with this clause.
- B9.9 If the Contractor, in the reasonable opinion of the Authority, fails to comply with clauses B9.4, B9.5, B9.6, B9.7 and B9.8 the Authority shall be entitled to terminate the Contract by issuing a Termination Notice to the Contractor.
- B9.10 The Parties agree that the Contractor shall, both during and after the Contract Period, , within three (3) Working Days of demand, indemnify fully, keep the Authority indemnified and hold harmless the Authority at all times from and against all Employee Liabilities caused to the Authority whether directly or indirectly in whole or in part by reason of any claims against the Authority by any person where such claim is connected to this Contract whether directly or indirectly.

B10 Inspection of Premises

The Authority shall be entitled to inspect the Contractor's Premises at any time during the Contract Period and to have made appropriate enquiries so as to be satisfied in relation to all matters connected with the performance of its obligations under this Contract.

B11 Licence to Occupy Premises

- B11.1 To the extent that any land or Premises is made available from time to time to the Contractor by the Authority in connection with this Contract this shall, subject to the provisions of any additional agreement entered into by the Parties as may be required by the Authority, be made available to the Contractor on a non-exclusive licence basis, and shall be used by the Contractor solely for the purpose of performing its obligations under this Contract. The Contractor shall have the use of such land or Premises as licensee and shall vacate the same on completion, termination or abandonment of the Contract.
- B11.2 Subject to clause B11.1, the Contractor shall limit access to the land or Premises to such Staff as is necessary to enable it to perform its obligations under this Contract and the Contractor shall co-operate (and ensure that its Staff co-operate) with such other persons working concurrently on such land or Premises as the Authority may reasonably request.
- B11.3 Subject to clause B11.1, the Contractor shall (and shall ensure that its Staff shall) observe and comply with such rules and regulations as may be in force at any time for the use of such Premises as determined by the Authority, and the Contractor shall pay for the cost of making good any damage caused by the Contractor or its Staff other than fair wear and tear. For the avoidance of doubt, damage includes damage to the fabric of the buildings, plant, fixed equipment or fittings therein.
- B11.4 Subject to clause B11.1, the Parties agree that there is no intention on the part of the Authority to create a tenancy of any nature whatsoever in favour of the Contractor or its Staff and that no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to this Contract, the Authority retains the right at any time to use any premises owned or occupied by it in any manner it sees fit.

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

B12 Property

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

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

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

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

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

B13 Offers of Employment

B13.1 For the duration of the Contract and for a period of twelve (12) Months thereafter neither the Authority nor the Contractor shall employ or offer employment to any of the other Party's staff who have been associated with the procurement and/or the contract management of the Services without that other Party's prior written consent.

B14 Employee Provisions and TUPE

B14.1 The provisions of Schedule 19 (Employee Provisions and TUPE) shall apply on the commencement, during and on termination (or expiry) of this Contract.

Sub-contractors

B14.2 In the event that the Contractor enters into any Sub-contract in connection with this Contract, it shall:

- (a) impose obligations on its Sub-contractor in the same terms as those imposed on it pursuant to this clause B14;
- (b) ensure that each Sub-contractor complies with such terms;
- (c) within three (3) Working Days of demand, indemnify fully, keep the Authority indemnified and hold harmless the Authority at all times from and against all claims, proceedings, actions, damages, costs and expenses (including, but not limited to, legal costs and disbursements), losses, amounts, sums, outgoings of any description and any other liabilities caused to the Authority whether directly or indirectly in whole or in

part by reason of any action or inaction of a Sub-contractor in relation to such terms;
and

- (d) comply with the provisions of Schedule 15 (Sub-Contractors).

B15 RNOs, tMPLs, Customer Service Standards and Performance Indicators

- B15.1 The Contractor shall ensure that, at all times from the Commencement Date, the Services are supplied in such a manner as to meet or exceed (a) the RNOs as calculated by the Authority from the tMPLs set out in paragraph 1 of Schedule 2; and (b) the Customer Service Standards set out in paragraph 2 of Schedule 2.
- B15.2 In measuring the Contractor's performance against each of the RNOs, the Authority shall have absolute discretion to choose any Performance Measurement Point and any Performance Measurement Period. In measuring the Contractor's performance against each of the Customer Service Standards, the Authority shall have absolute discretion to choose any CSS Measurement Point and any CSS Measurement Period.
- B15.3 The Authority shall conduct regular formal contract performance review meetings ("**CPRs**") in accordance with Schedule 3 to monitor, and review, the Contractor's performance against the RNOs, the Customer Service Standards and the Performance Indicators.
- B15.4 The Contractor shall comply with the provisions of Schedule 3 (Contract Performance Reviews, Contractor Systems Assurance & Performance Indicators) in relation to the review, monitoring and reporting of its performance against the RNOs, the Customer Service Standards and the Performance Indicators.
- B15.5 The Authority's measurement of the Contractor's performance against each of the RNOs, the Customer Service Standards and the Performance Indicators shall continue throughout the period from the Commencement Date until the later of the Services Cessation Date or the end of the Payment Tail Period.
- B15.6 The Authority may, at its sole discretion, elect to make changes to the RNOs and/or the Customer Service Standards and/or the Performance Indicators from time to time. If the Authority elects to make changes to the RNOs and/or the Customer Service Standards and/or the Performance Indicators, the Authority shall notify the Contractor in writing 2 Months prior to such changes becoming effective and shall confirm any Management Information requirements in respect of such changed RNOs and/or changed Customer Service Standards and/or changed Performance Indicators.

B16 Performance Improvement Process

- B16.1 Where the Authority believes that a Service Failure has occurred, the Authority may at any time (in its absolute discretion) elect to give a Performance Improvement Notice to the Contractor in respect of such Service Failure and thereby initiate the Performance Improvement Process in accordance with this clause B16.
- B16.2 A Performance Improvement Notice given in accordance with this clause B16 shall indicate:
- (a) that it is a Performance Improvement Notice;
 - (b) the Service Failure;
 - (c) the actions the Authority in its absolute discretion requires the Contractor to take to satisfy the Authority that the Contractor can ensure compliance with its contractual obligations in relation to the subject matter of the Service Failure, which, for the avoidance of doubt, may include the requirement to remedy the Service Failure where it is capable of remedy; and
 - (d) the Performance Improvement Period which will start on the date of issue of the Performance Improvement Notice and will end on the Performance Improvement End Date specified in the Performance Improvement Notice.

- B16.3 For the avoidance of doubt, the Authority may issue a Performance Improvement Notice and initiate the Performance Improvement Process at any time after the occurrence of a Service Failure and any delay in exercising its right to issue a Performance Improvement Notice and/or initiate the Performance Improvement Process shall not constitute a waiver or cause of diminution of the Authority's right to do so.
- B16.4 For the avoidance of doubt, the Authority shall be under no obligation to initiate the Performance Improvement Process including, without limitation, if it serves notice to terminate the Contract pursuant to any other termination rights under the Contract.
- B16.5 Within such timescales as notified by the Authority to the Contractor (taking into account all relevant circumstances in relation to the subject matter and nature of the Service Failure) but in any event no more than ten (10) Working Days following receipt of a Performance Improvement Notice the Contractor shall either:
- (a) submit a draft Performance Improvement Plan; or
 - (b) inform the Authority that it does not intend to submit a draft Performance Improvement Plan,
- in the event that the Contractor either fails to submit a draft Performance Plan or the Contractor informs the Authority that it does not intend to submit a draft Performance Improvement Plan the Authority shall be entitled to terminate the Contract by issuing a Termination Notice to the Contractor.
- B16.6 The Authority shall either approve the draft Performance Improvement Plan within ten (10) Working Days (or such other period as notified by the Authority to the Contractor) of its receipt pursuant to clause B16.5(a), or it shall inform the Contractor why it cannot accept the draft Performance Improvement Plan. In such circumstances, the Contractor shall address all such concerns in a revised Performance Improvement Plan, which it shall submit to the Authority within a period of ten (10) Working Days (or such other period as notified by the Authority to the Contractor) of its receipt of the Authority's comments. If no such notice is given, the Contractor's draft Performance Improvement Plan shall be deemed to be agreed.
- B16.7 The Authority and the Contractor may agree temporary variations to the Contract in relation to the subject matter and nature of the Service Failure as part of the Performance Improvement Plan.
- B16.8 Once agreed the Contractor shall immediately implement the Performance Improvement Plan.
- B16.9 If, despite the measures taken under clause B16.6 a revised Performance Improvement Plan cannot be agreed within the period of ten (10) Working Days (or such other period as notified by the Authority to the Contractor) of receipt by the Contractor of the Authority's comments in respect of the Contractor's draft Performance Improvement Plan then the Authority may elect to end the Performance Improvement Process and (a) refer the matter for resolution by the dispute resolution procedure set out in clause I1 (Disputes and Law); or (b) to terminate the Contract by issuing a Termination Notice to the Contractor.
- B16.10 If a Performance Improvement Plan is agreed between the Parties, but the Contractor fails to implement the Performance Improvement Plan in accordance with its terms and by the Performance Improvement End Date as specified in the Performance Improvement Notice such that the Contractor fails to rectify the Service Failure and/or undertake all the actions specified by the Authority in the Performance Improvement Notice by the Performance Improvement End Date (a "**Performance Improvement Plan Failure**"), the Authority may, at its absolute discretion, but shall not be obliged to:
- (a) terminate the Contract by issuing a Termination Notice to the Contractor; and/or
 - (b) escalate any issues arising out of the failure to implement the Performance Improvement Plan to the Contractor's commercial director (or equivalent) under the dispute resolution procedure set out in clause I1 (Disputes and Law);

and for the avoidance of doubt, this clause is without prejudice to any other rights which the Authority has under the Contract.

B16.11 Any subsequent Service Failure, which the Authority regards, at its sole discretion, as being substantially the same in character to a Service Failure in respect of which a Performance Improvement Notice has been issued in accordance with this clause B16, which occurs not less than six (6) Months of the Performance Improvement End Date shall entitle the Authority to terminate the Contract by issuing a Termination Notice to the Contractor.

B17 Universal Credit

B17.1 The Contractor acknowledges that the Authority has altered the benefit system such that Universal Credit replaces a number of existing benefits.

B17.2 The Contractor is required to support the ongoing implementation of the Universal Credit insofar as it may impact on the Services, including (without limitation):

- (a) assisting in notifying Participants for which it is responsible how the change to Universal Credit will impact the Services as applicable to those Participants; and/or
- (b) notification to the Authority of the data relevant to the impact of Universal Credit on the Services.

B17.3 At any time, as a consequence of, or in connection with the implementation of Universal Credit, the Authority reserves the right to:

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

B18 Services Improvement

B18.1 The Contractor shall have an ongoing obligation throughout the Contract Period to identify new or potential improvements to the Services in accordance with this clause B18. As part of this obligation the Contractor shall identify and report to the Authority in accordance with Schedule 3:

- (a) the emergence of new and evolving relevant technologies which could improve the ICT Environment and/or the Services, and those technological advances potentially available to the Contractor and the Authority which the Parties may wish to adopt;
- (b) new or potential improvements to the Services including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Services;
- (c) new or potential improvements to the interfaces or integration of the Services with other services provided by third parties or the Authority which might result in efficiency or productivity gains or in reduction of operational risk;
- (d) changes in business processes and ways of working that would enable the Services to be delivered at lower cost and/or with greater benefits to the Authority; and/or
- (e) changes to the ICT Environment, business processes and ways of working that would enable reductions in the total energy consumed in the delivery of Services.

B18.2 The Contractor shall ensure that the information that it provides to the Authority shall be sufficient for the Authority to decide whether any improvement should be implemented. The Contractor shall provide any further information that the Authority requests.

- B18.3 If the Authority wishes to incorporate any improvement identified by the Contractor the Authority shall send the Contractor a Change Request in accordance with the Change Control Procedure.
- B18.4 The Contractor shall comply with the provisions of paragraph 3 of Schedule 3 (Contract Performance Reviews & Contractor Systems Assurance & Performance Indicators) in relation to the Performance Indicators.

B19 Step-In Rights

- B19.1 On the occurrence of a Step-In Trigger Event, the Authority may serve notice on the Contractor (a **"Step-In Notice"**) that it will be taking action under this clause B19, either itself or with the assistance of a third party (provided that the Contractor may require any third parties to comply with a confidentiality undertaking equivalent to clause E4). The Step-In Notice shall set out the following:
- (a) the action the Authority wishes to take and in particular the Services that it wishes to control (the "Required Action");
 - (b) the Step-In Trigger Event that has occurred and whether the Authority believes that the Required Action is due to the Contractor's Default;
 - (c) the date on which it wishes to commence the Required Action;
 - (d) the time period which it believes will be necessary for the Required Action;
 - (e) whether the Authority will require access to the Contractor's premises and/or the Premises; and
 - (f) to the extent practicable, the impact that the Authority anticipates the Required Action will have on the Contractor's obligations to supply the Services during the period that the Required Action is being taken.
- B19.2 Following service of a Step-In Notice, the Authority:
- (a) may take the Required Action set out in the Step-In Notice and any consequential additional action as it reasonably believes is necessary to achieve the Required Action;
 - (b) shall keep records of the Required Action taken and provide information about the Required Action to the Contractor;
 - (c) shall co-operate wherever reasonable with the Contractor in order to enable the Contractor to continue to supply the Services in relation to which the Authority is not assuming control; and
 - (d) shall act in a commercially reasonable manner in mitigating the cost that the Contractor will incur as a result of the exercise of the Authority's rights under this clause B19.
- B19.3 For so long as and to the extent that the Required Action is continuing, then:
- (a) the Contractor shall not be obliged to supply the Services to the extent that they are the subject of the Required Action;
 - (b) the Contractor shall not be entitled to any Fees which, in the Authority's reasonable opinion, directly derive from the Authority taking the Required Action; and
 - (c) where the Authority has served a Step-In Notice as a result of any Default by the Contractor, the Contractor shall pay to the Authority on demand, and on an indemnity basis, all costs, fees and expenses properly incurred by the Authority in taking the Required Action to the extent that such costs, fees and expenses exceed the Fees that would otherwise have been payable to the Contractor under this Contract in relation to the Services that are subject to the Required Action.

B19.4 If the Contractor demonstrates to the reasonable satisfaction of the Authority that the Required Action has resulted in:

- (a) the degradation of any Services not subject to the Required Action; or
- (b) the non-achievement of any RNO or a Customer Service Standard that which would have been achieved had the Authority not taken the Required Action,

then the Contractor shall be entitled to an agreed adjustment of the Fees.

B19.5 Before ceasing to exercise its step in rights under this clause B19 the Authority shall deliver a written notice to the Contractor (a "**Step-Out Notice**"), specifying:

- (a) the Required Action it has actually taken; and
- (b) the date, which shall be no less than twenty (20) Working Days after the date of the Step-Out Notice, on which the Authority plans to end the Required Action (the "**Step-Out Date**") subject to the Authority being satisfied with the Contractor's ability to resume the provision of the Services and the Contractor's plan developed in accordance with clause B19.6.

B19.6 The Contractor shall, following receipt of a Step-Out Notice and not less than twenty (20) Working Days prior to the Step-Out Date, submit for the Authority's approval a draft plan (a "**Step-Out Plan**") relating to the resumption by the Contractor of the Services, including any action the Contractor proposes to take to ensure that the affected Services satisfy the requirements of this Contract.

B19.7 Subject to Clause B19.8, if the Authority does not approve the draft Step-Out Plan, the Authority shall inform the Contractor of its reasons for not approving it. The Contractor shall then revise the draft Step-Out Plan taking those reasons into account and shall promptly re-submit the revised plan to the Authority for the Authority's approval. The Authority shall not unreasonably withhold or delay its approval of the draft Step-Out Plan.

B19.8 In the event that the Parties still fail to agree a draft Step-Out Plan, having followed the steps set out in Clause B19.7, after the third draft Step-Out Plan submitted by the Contractor, the Authority shall be entitled to terminate the Contract by issuing a Termination Notice to the Contractor.

B19.9 The Contractor shall bear its own costs in connection with any step-in by the Authority under this clause B19, provided that the Authority shall reimburse the Contractor's reasonable additional expenses incurred directly as a result of any step-in action taken by the Authority under:

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

B20 Cancellation or Suspension after a Contractor Termination Event

B20.1 At any time after a Contractor Termination Event has occurred, the Authority may, by notice to the Contractor:

- (a) cancel or suspend the outstanding Delivery Fee whereupon it shall immediately be cancelled or suspended; and/or
- (b) cancel or suspend Referrals whereupon Referrals shall immediately be cancelled or suspended; and/or
- (c) require the Contractor to transfer all Participants and any and all information and support to effect a smooth transition and continuation of the Service to Participants to the Authority or such third party as the Authority may direct with effect on and from

such date as the Authority may elect whereupon the Contractor shall immediately cease to have any right to receive any Outcome Payments in respect of such Participants.

B21 Formal Warning Notice

B21.1 Where the Authority considers that there has been Non Service Failure Default by the Contractor and that such Non Service Failure Default is capable of remedy by the Contractor, then the Authority may issue a formal warning notice to the Contractor specifying the Non Service Failure Default and requiring that it be remedied by the Contractor at the Contractor's cost within ten (10) Working Days or such other period of time as the Authority may specify in the Formal Warning Notice. In the event that the Contractor fails to remedy the Non Service Failure Default in accordance with the Formal Warning Notice, this will entitle the Authority to terminate the Contract by issuing a Termination Notice to the Contractor.

B22 Monitoring of Contract Performance

B22.1 The Authority (including any representative of the Authority) shall monitor the Contractor's performance in supplying the Services in accordance with the provisions of Schedule 3 (Contract Performance Reviews & Contractors Systems Assurance & Performance Indicators) and the Provider Guidance or such other requirements as notified by the Authority to the Contractor from time to time.

B22.2 The Parties shall have regular meetings to monitor and review:

- (a) the performance of the Contract;
- (b) the achievement of the RNOs;
- (c) the achievement of the Customer Service Standards;
- (d) the supply of the Services;
- (e) the Performance Indicators;
- (f) the performance by the Contractor of any of its other obligations under the Contract; and
- (g) any other matter the Parties consider appropriate,

and the Contractor shall comply with the provisions of Schedule 3 (Contract Performance Reviews & Contractors Systems Assurance & Performance Indicators) in this regard. The Authority may organise regular monitoring and spot checks of the Premises at any time to ensure the Contractor is complying with its obligations under the Contract and the Contractor shall co-operate fully, at its own cost, with the Authority. The Authority shall use all reasonable endeavours to ensure that the onsite monitoring will not interfere with the supply of the Services by the Contractor.

B22.3 The Authority may appoint an assessor (which may be an internal or an external assessor, subject (in the case of an external assessor) to the external assessor entering into a non-disclosure arrangement and having the relevant expertise and competence), to participate in the monitoring of the Contractor's performance in supplying the Services and the Contractor will co-operate with the assessor and take all necessary steps to implement recommendations made. Any changes to any Services made as a result of a recommendation of any such persons shall be made in writing and in accordance with the Change Control Procedure.

B22.4 The Contractor shall ensure that the Authority (and its authorised representatives) have access upon reasonable notice to all relevant property, including the Premises, and information (and where requested are given a copy of such information) necessary to carry out the monitoring referred to in clause B22 including putting in place arrangements to permit legal access to information as may be required.

- B22.5 With effect from the Commencement Date, the Authority and the Contractor shall meet at the times and with such frequency as specified in Schedule 3 (Contract Performance Reviews & Contractor Systems Assurance & Performance Indicators) or as notified by the Authority to the Contractor from time to time. Such meetings shall be convened by the Authority upon the Authority giving written notice to the Contractor.
- B22.6 The Authority may monitor the Contractor's (and any Sub-contractor's) performance in supplying the Services to assess, amongst other things, compliance with Law, including without limitation in the fields of environmental, equality, social, labour and competition law. Where (in the opinion of the Authority), the Contractor (or any Affiliate or any of the Contractor's Group) has or may have engaged in any agreement, arrangement, practice or conduct which would amount to an infringement of Law, including without limitation in the fields of environmental, social, labour and competition law, without prejudice to any other rights or remedies that the Authority has under the Contract the Authority shall be entitled to terminate the Contract by issuing a Termination Notice to the Contractor.

C PAYMENT AND FEES

C1 Fees

- C1.1 In consideration of the Contractor carrying out its obligations under this Contract, including the provision of the Services, the Authority shall pay the Fees to the Contractor in accordance with the provisions of this clause C and Schedule 4 (Fees and Payment) (and for the avoidance of doubt where there is any conflict and/or ambiguity between the two the provisions of this clause C shall prevail) via a self-billing process approved by HMRC.
- C1.2 The Parties acknowledge and agree that the Fees shall be the total amount payable by the Authority to the Contractor under or in relation to the Contract.
- C1.3 If the Authority fails to pay any undisputed Fees properly invoiced under this Contract, the Contractor shall have the right to charge interest on the overdue amount at a rate of 0.01%, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.
- C1.4 The Authority shall have no obligation to pay any Fees to the Contractor after the last day of the Payment Tail Period.

C2 Delivery Fee

- C2.1 Subject to clause B19.3, B20.1 and clause C6 and provided that the requirements of Schedule 4 (Fees and Payment) are met the Authority shall pay the Delivery Fee to the Contractor. The Authority shall make such payment in accordance with the provisions of Schedule 4 (Fees and Payment) and paragraph 5.4 (A Delivery Fee) of the Specification.

C3 Outcome Payments

General Provisions

- C3.1 The Contractor shall input such information as specified by the Authority in the Specification and/or the Provider Guidance onto the Authority ICT System in the format also specified by the Authority in the Provider Guidance.
- C3.2 The Contractor agrees and acknowledges that payment of an Outcome Payment by the Authority does not constitute confirmation by the Authority that the Outcome to which it relates is valid and is without prejudice to any of the Authority's rights under this Contract or otherwise to check, validate or otherwise verify the validity of such Outcome. For the avoidance of doubt such checks may include, without limitation, those detailed in clause C4, Schedule 3, the Specification and Provider Guidance.
- C3.3 The Contractor agrees and acknowledges it shall be entitled to receive no more than one Outcome Payment in respect of each Outcome.
- C3.4 Without prejudice to anything else in this clause C, the Authority shall have no obligation to make any Outcome Payments to the Contractor where an Outcome Payment is identified by the Authority/claimed by the Contractor after the end of the Payment Tail Period.
- C3.5 Subject always to clause C3.2 and clause C4, the Authority shall pay Outcome Payments no later than a period of thirty (30) calendar days from the date on which the Authority has determined that the qualifying criteria and requirements for an Outcome have been met. Payment will be made at the rate(s) set out in Schedule 4. The Authority may at its discretion require the Contractor to provide any appropriate supporting information it considers necessary before making payment.
- C3.6 The Contractor shall notify details of the Contractor's bank account and address to the Authority via the Authority ICT System. The Authority shall send notifications of Fees paid to that address.
- C3.7 At any time and/or times (including, for the avoidance of doubt, at any time and/or times before and/or after payment has been made by the Authority to the Contractor) the Authority shall be entitled to seek to establish the validity of any Outcome. At all times the Contractor shall provide

all necessary assistance as requested by the Authority to enable the Authority to establish the validity of any Outcome.

- C3.8 When the Authority has made an Outcome Payment to the Contractor in respect of an Outcome, the Authority shall refuse any requests of the Contractor to remove the claim for any such Outcome Payments from the Authority ICT System, except in exceptional cases where the Authority determines, in its sole discretion, are appropriate circumstances to permit such a request.

Contractor Claimed Outcomes

- C3.9 The Contractor shall, within five (5) Working Days of a Participant commencing an activity which may lead to a Outcome Payment, notify the Authority of the start date of the relevant Participant's relevant activity by inputting such information onto the Authority ICT System as the Authority specifies from time to time.
- C3.10 The Contractor shall promptly notify the Authority of Outcomes for the Participant to whom the Contractor Claimed Outcome applies, by inputting such information onto the Authority ICT System as the Authority specifies from time to time.
- C3.11 Subject to the Contractor notifying the Authority of each Contractor Claimed Outcome in accordance with the Contract including without limitation, this Clause C3, the Authority shall pay to a Contractor an Outcome Payment in respect of each valid Contractor Claimed Outcome.
- C3.12 The Contractor shall notify the Authority of Contractor Claimed Outcomes, no later than whatever date is the earlier of:
- (a) 25 working days after the Participant Start for the Participant to whom the Contractor Claimed Outcome applies; and
 - (b) 18 October 2021

by inputting such information onto the Authority ICT System as the Authority specifies from time to time and, for the avoidance of doubt, the Authority shall have no obligation to pay any Outcome Payment in respect of any Contractor Claimed Outcome which is not notified to it in compliance with this clause C3.12.

C4 Validation & Extrapolation of Outcomes

Pre-payment validation

- C4.1 Before payment of any Outcome Payment by the Authority to the Contractor, in respect of each Outcome Payment, the Authority may undertake a check(s) to verify the validity of such Outcome. For the avoidance of doubt, where the Authority has undertaken any check(s) pursuant to this clause C4.1 it reserves the right to include such Outcome Payment in the relevant Outcomes Sample for the Payment Validation Period in which it falls.
- C4.2 The Authority shall be entitled to reject any claims for payment made by the Contractor which fail any check(s) undertaken by the Authority pursuant to clause C4.1 without undertaking any further check(s).

Post-payment validation

- C4.3 At any time during the Contract Period, for any Payment Validation Period the Authority may carry out a check(s) of all, or a sample, of the Outcomes under this Contract during such Payment Validation Period (each such sample hereinafter being referred to as follows: an "**Outcomes Sample**").
- C4.4 For each Outcomes Sample:
- (a) the Authority will determine the types of Outcomes from which the Authority will draw the sample;

- (b) the Authority will determine the sample to be drawn from this Contract;
- (c) the Authority will determine the sample size;
- (d) the Authority will determine the Payment Validation Period and may, for the avoidance of doubt, include any period of time:
 - (i) during which the Authority carried out any check(s) in respect of Outcome Payments pursuant to clause C4.1; or
 - (ii) which formed part of a Payment Validation Period for any other Outcomes Sample;
- (e) the Authority may draw a number of random samples from the relevant population of Outcomes across the relevant Payment Validation Period which random samples shall together constitute an Outcomes Sample;
- (f) the sample size may vary between Outcomes Samples depending on the numbers of Outcome Payments in the types of Outcomes from which the sample is drawn during the Payment Validation Period;
- (g) the sample size may vary between Outcomes Samples depending on the Outcomes from which the sample is drawn during the Payment Validation Period;
- (h) the sample may include Outcomes in respect of which the Authority undertook a check(s) pursuant to clause C4.1, in which case the Authority may rely upon any evidence relating to that Outcome generated through such checks in order to verify the validity of such Outcome pursuant to clause C4.3 without carrying out any additional check(s) in respect of that Outcome; and
- (i) the sample may include Outcomes which were included in any other Outcomes Sample pursuant to clause C4.3, in which case the Authority may rely upon any evidence relating to that Outcome generated through such checks in order to verify the validity of such Outcome pursuant to clause C4.3 without carrying out any additional check(s) in respect of that Outcome.

C4.5 In respect of each Outcomes Sample, where any error or over claim has been identified by the Authority (in its sole opinion) in an Outcomes Sample, the Authority shall be entitled to:

- (a) recover in full from the Contractor the amount or value of all Outcome Fails;
- (b) determine (in its sole discretion) the Outcome Error Rate;
- (c) extrapolate the Outcome Error Rate across all of the Outcome Payments which have been paid by the Authority to the Contractor in that Payment Validation Period to produce an aggregate value of monies overpaid (the “**Outcome Aggregate Error Amount**”); and
- (d) recover in full from the Contractor a sum or sums equal to the Outcome Aggregate Error Amount less the sum of any monies recovered by the Authority pursuant to clause C4.5(a).

General

C4.6 In checking either an Outcome Payment pursuant to clause C4.1 or an Outcomes Sample pursuant to clause C4.3, the Authority may (but shall not be obliged to):

- (a) carry out checks of data pertaining to the Participant arising out of or in connection with the Contract against HMRC PAYE Data; **[DN: remove if not relevant to specific contract]**
- (b) carry out checks of data pertaining to the Participant arising out of or in connection with the Contract against the Authority’s data;
- (c) contact the Participant;

(d) carry out checks of data pertaining to the Participant from such other sources as the Authority may reasonably determine from time to time.

C4.7 For the avoidance of doubt, the Authority's rights in this clause C4 shall be without prejudice to any other rights or remedies that the Authority has under the Contract (including for the avoidance of doubt any rights of set-off pursuant to clause C5 (Recovery of Sums Due).

C5 Recovery of Sums Due

C5.1 (a) The Authority may apply each Ineligible Outcome to reduce the number of Outcomes achieved in respect of the Start Cohort from which such Ineligible Outcome was achieved and the Contractor shall pay an amount to the Authority in respect of each Ineligible Outcome on demand which is equal to an Outcome Payment.

(b) The Authority may recover any amount due and payable under clause C5.1(a) in such instalments and at such times as it may decide in its sole discretion (i) during the Contract Period or (ii) during the 12 Months immediately following the end of the Contract Period. The Parties acknowledge and agree that the Authority may recover an instalment equal to all or part of such amount through PRaP at one time (for the avoidance of doubt, including by way of set-off) and may subsequently at any time during the Contract Period demand one or more balancing payments from the Contractor if the instalment recovered through PRaP is less than the amount due and payable to the Authority pursuant to clause C5.1(a) until such time as the Authority has received the full amount due and payable pursuant to clause C5.1(a).

C5.2 Any overpayment by either Party, whether of the Fees or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.

C5.3 Wherever under the Contract any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Authority in respect of any default of the Contract), the Authority may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Contract or under any other agreement or contract with the Authority.

C5.4 The Contractor shall make any payments due to the Authority without any deduction whether by way of any set-off, counterclaim, discount, abatement or otherwise unless the Contractor has a valid court order requiring an amount equal to such deduction to be paid by the Authority to the Contractor.

C5.5 All payments due shall be made within a reasonable time unless otherwise specified in the Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.

C6 Deferral of Delivery Fee

C6.1 Without prejudice to any other right or remedy available to it under this Contract (including without limitation any rights it may have under either clause G1.6 or clause **Error! Reference source not found.**), provided by Law, in equity, or otherwise, the Authority, in accordance with this clause C6, reserves the right to defer payment of 50% of all Delivery Fee Periodic Payments.

C6.2 The Contractor shall ensure that at all times the Customer Service Standards are met or exceeded in respect of each Referral Group.

C6.3 Failure by the Contractor to:

(a) meet more than one of the Customer Service Standards in any CSS Measurement Period; or

- (b) meet any of its obligations to deliver timely and accurate Management Information to the Authority in accordance with the provisions of clause E13 (Provision of Management Information) and Schedule 20 (Management Information),

shall constitute a Delivery Fee Deferral Failure.

C6.4 The Authority will:

- (a) carry out a CSS Measurement Review at each CSS Measurement Point to review whether and the extent to which, during the relevant CSS Measurement Period the Contractor has met or exceeded the Customer Service Standards in respect of each Referral Group;
- (b) review whether and the extent to which, during any Month, the Contractor has met its obligations to deliver timely and accurate Management Information in accordance with the provisions of clause E13 (Provision of Management Information) and Schedule 20 (Management Information); and
- (c) whether there has been a Delivery Fee Deferral Failure.

C6.5 If, at a CSS Measurement Point, the Authority in its absolute discretion is satisfied that, during the relevant CSS Measurement Period there has been a Delivery Fee Deferral Failure, then the Authority shall have the right to defer payment of 50% of any Delivery Fee Periodic Payment which is due for payment after that CSS Measurement Point (“**Deferral**”).

C6.6 If the Authority wishes to exercise its right to implement a Deferral, the Authority should issue a notice (a “**Deferral Notice**”). Such Deferral Notice shall set out the CSS Measurement Point, the relevant CSS Measurement Period/Month, the Delivery Fee Deferral Failure and the date from which the Deferral shall commence.

C6.7 The Deferral shall continue until, at a CSS Measurement Point which follows the Deferral date, the Authority is satisfied that during a CSS Measurement Period/Month following the Deferral there has not been a Delivery Fee Deferral Failure. When the Deferral ceases, save as specified in clause C6.8 below, all Delivery Fee Periodic Payment amounts which have been deferred will become payable.

C6.8 If, in the CSS Measurement Period/Month immediately prior to the Referral Period End Date, there has been a Delivery Fee Deferral Failure, then the Authority shall be under no obligation to pay any outstanding Delivery Fee Periodic Payments or any previously deferred Delivery Fee Periodic Payments and the Contractor acknowledges that it shall forfeit any right to claim such outstanding or deferred Delivery Fee Periodic Payments.

C7 Currency other than Sterling

C7.1 Any requirement of Law to account for the Services in any currency other than Sterling (or to prepare for such accounting) instead of and/or in addition to sterling, shall be implemented by the Contractor free of charge to the Authority.

C7.2 The Authority shall provide all reasonable assistance to facilitate compliance with clause C7.1 by the Contractor.

C8 Third Party Revenue

C8.1 The Contractor may not obtain any third party revenue, income or credit based on the Services and/or copyright works delivered under this Contract without the Approval of the Authority.

C8.2 Neither the Contractor nor its agents or Sub-contractors, shall levy any charge, fee or any other sum on the Participants in connection with the Services without Approval which may be granted or refused at the Authority's sole discretion.

C9 VAT

C9.1 The Contractor shall add VAT to the Fees at the prevailing rate as applicable and the Authority shall pay the VAT to the Contractor following an eligible claim for VAT payment being notified by the Contractor.

C9.2 The Contractor shall, within three (3) Working Days of demand, indemnify fully, keep the Authority indemnified and hold harmless the Authority at all times from and against all claims, proceedings, actions, damages, costs and expenses (including, but not limited to, legal costs and disbursements), losses, amounts, sums, outgoings of any description and any other liabilities (including any interest, penalties or costs incurred which is levied, demanded or assessed on the Authority at any time) caused to the Authority whether directly or indirectly in whole or in part by reason of the Contractor's failure to account for or to pay any VAT relating to payments made to the Contractor under the Contract.

C9.3 Without prejudice to clause C9.2, for the avoidance of doubt, it shall at all times remain the sole responsibility of the Contractor to:

- (a) assess the VAT rate(s) and tax liability arising out of or in connection with the Contract; and
- (b) account for or pay any VAT (and any other tax liability) relating to payments made to the Contractor under the Contract to HMRC.

C9.4 The Authority shall not be liable to the Contractor in any way whatsoever for any error or failure made by the Contractor (or the Authority) in relation to VAT, including without limit:

- (a) where the Contractor is subject to a VAT ruling(s) by HMRC (or such other relevant authority) in connection with the Contract;
- (b) where the Contractor has assumed that it can recover input VAT and (for whatever reason) this assumption is subsequently held by HMRC (or such other relevant authority) to be incorrect or invalid;
- (c) where the Contractor's treatment of VAT in respect of any claim for payment made under the Contract is subsequently held by HMRC (or such other relevant authority) for whatever reason to be incorrect or invalid; and/or
- (d) where the Contractor does not provide accurate information to the Authority for it to calculate the VAT on an invoice produced by the self-billing process, the Authority will not be liable to pay any VAT for that invoice either when it falls due, or at any later date. Further, in this scenario C9.4(d), the Contractor shall be obliged to repay any overpayment by the Authority on demand.

C9.5 The Contractor acknowledges that the Authority has advised the Contractor that the Contractor should seek specialist VAT advice in relation to the Contract and, in the event of any uncertainty following specialist advice, the Contractor should seek clarification of the Contract's VAT status with HMRC.

C9.6 Without prejudice to clause C9.2 and C9.3, the Contractor shall comply with the Law governing self-billing contracts including, without limitation, as more particularly described in HMRC Notice 700/62 it shall:

- (a) prior to the Referral Period Start Date, confirm the rate(s) of VAT that the Authority should apply to each part of the funding model used in the Contract on the Commencement Date and on each anniversary thereof;
- (b) enter into an annual self-billing agreement with the Authority on or around the Commencement Date and on each anniversary thereof, for the duration of the Contract (a

template of the current version of which is set out in Appendix to Schedule 4 (Fees and Payment); and

- (c) complete the VAT confirmation documentation as required by the Authority (a template of the current version of which is set out in Appendix 1 to Schedule 4 (Fees and Payment)).

C10 Methods of Payment

- C10.1 The Authority reserves the right to set and/or alter, at its absolute discretion, the method of payment and will use reasonable endeavours to give 30 days' Notice to the Contractor of any change to the method of payment. All payments of Fees are conditional upon the Contractor providing the Services in accordance with the terms of the Contract.
- C10.2 Without prejudice to the rest of this clause C, Outcome Payments are made on the condition that the Contractor's entitlement to such payments can be verified on request by the production of the records which the Contractor is required to hold and/or maintain under this Contract (including as specified in the Specification and/or the Provider Guidance). The Authority shall, acting reasonably, be entitled to assume, in the absence of such records, or of any evidence which the Authority may reasonably decide to accept in substitution, that no delivery of Services has taken place and that any such purported delivery of Services constitutes "Unsupported Services". The Authority shall be entitled to recover any and all sums paid in respect of such Unsupported Services from the Contractor and the Contractor shall repay such sums on demand.

D STATUTORY OBLIGATIONS AND REGULATIONS

D1 Prevention of Bribery and Corruption

D1.1 The Contractor shall not, and shall ensure that any Staff shall not, commit any of the prohibited acts listed in this clause D1. For the purposes of this clause D1, a prohibited act is committed when the Contractor or any Staff:

- (a) directly or indirectly offers, promises or gives any person working for or engaged by the Authority a financial or other advantage to:
 - (i) induce that person to perform improperly a relevant function or activity; or
 - (ii) reward that person for improper performance of a relevant function or activity;
- (b) directly or indirectly requests, agrees to receive or accepts any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract;
- (c) commits any offence:
 - (i) under the Bribery Act 2010;
 - (ii) under legislation creating offences concerning fraudulent acts;
 - (iii) at common law concerning fraudulent acts relating to the Contract or any other contract with the Authority; or
 - (iv) defrauding, attempting to defraud or conspiring to defraud the Authority.

D1.2 The Contractor warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Authority, or that an agreement has been reached to that effect, in connection with the execution of the Contract.

D1.3 The Contractor shall if requested, provide the Authority with any reasonable assistance, to enable the Authority to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act 2010.

D1.4 The Contractor shall establish, maintain and enforce and require that its Sub-contractors establish, maintain and enforce an anti-bribery policy and procedures which are adequate to prevent any Staff from committing any prohibited acts as set out in clause D1.1 and shall keep appropriate records of its compliance with its obligations and make such records available to the Authority upon request.

D1.5 To the extent permitted by Law, the Contractor shall immediately notify the Authority in writing if it becomes aware of or suspects any Default of clauses D1.1 or D1.2, or has reason to believe that it has or any Staff has:

- (a) been subject to an investigation or prosecution which relates to an alleged prohibited act in clauses D1.1 or D1.2;
- (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a prohibited act as set out in clause D1.1 or D1.2; or
- (c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Contract or otherwise suspects that any person or party directly or indirectly connected with this Contract has committed or attempted to commit a prohibited act in clauses D1.1 or D1.2.

- D1.6 If the Contractor notifies the Authority that it suspects or knows that there may be a Default of clauses D1.1 or D1.2, the Contractor must respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit books, records and any other relevant documentation.
- D1.7 If the Contractor, its Staff or anyone acting on the Contractor's behalf engages in conduct prohibited by clauses D1.1 or D1.2, the Authority may;
- (a) require the Contractor to remove from performance of this Contract:
 - (i) any Staff; and/ or
 - (ii) anyone acting on the Contractor's behalf
whose acts or omissions have caused the Default; or
 - (b) immediately terminate this Contract.
- D1.8 The Contractor shall, within three (3) Working Days of demand, indemnify fully, keep the Authority indemnified and hold harmless the Authority at all times from and against:
- (a) all claims, proceedings, actions, damages, costs and expenses (including, but not limited to, legal costs and disbursements), losses, amounts, sums, outgoings of any description and any other liabilities caused to the Authority whether directly or indirectly in whole or in part by reason of the termination of this Contract pursuant to clause D1.7, including the costs reasonably incurred by the Authority of making other arrangements for the supply of the Services and any additional expenditure incurred by the Authority throughout the remainder of the Contract Period; and
 - (b) recover in full from the Contractor any other Loss sustained by the Authority in consequence of any Default of clauses D1.1 or D1.2.
- D1.9 Despite clause I (Disputes and Law), any dispute relating to:
- (a) the interpretation of clause **Error! Reference source not found.**; or
 - (b) the amount or value of any gift, consideration or commission,
- shall be determined by the Authority, acting reasonably having given due consideration to all relevant factors, and its decision shall be final and conclusive.
- D1.10 Any termination under clause D1.7 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Authority.

D2 Discrimination

- D2.1 The Contractor shall not unlawfully discriminate either directly or indirectly on such grounds as age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex or sexual orientation and without prejudice to the generality of the foregoing the Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.
- D2.2 The Contractor shall take all reasonable steps to secure the observance of clause D2.1 by all Staff.
- D2.3 The Contractor shall comply with the provisions of the Human Rights Act 1998.

D3 The Contracts (Rights of Third Parties) Act 1999

- D3.1 Subject to clause D3.2 and to clause E4.13, a person who is not a party to the Contract shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit

on him, without the prior written agreement of both Parties except as specified in this Contract. This clause does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.

D3.2 The provisions of each of Paragraph 6.9 of Schedule 10 (Exit Plan), Paragraphs 3.1 to 3.3 of Part B, Paragraphs 1.4, 2.3 and 2.8 of Part D of Schedule 19 and the Pensions Annex of Schedule 19 (Employee Provisions and TUPE) confer benefits on persons named in such provisions other than the parties to this Contract and are intended to be enforceable by those third party beneficiaries by virtue of the Contracts (Rights of Third Parties) Act 1999.

D3.3 Notwithstanding clause D3.1, the parties to this Contract may, without the consent of any third party vary, terminate or rescind this Contract or waive any rights under it, notwithstanding that this may extinguish or alter the benefits or rights conferred by clause D3.1.

D4 Environmental Requirements

D4.1 In delivering the Services, the Contractor shall comply at all times with the requirements set out in Schedule 7 (Sustainable Development Requirements) or such other requirements as notified by the Authority to the Contractor from time to time.

D4.2 If the Contractor purchases new products partially or wholly to provide the Services, the Contractor must ensure that:

(a) any purchase of products or goods listed in Schedule 1 to the Energy Information Regulations 2011 (products with energy labels) has the highest energy efficiency class possible;

(b) any purchase of products listed in Schedule 1 to the Energy Information Regulations 2011, which is not a product with energy labels within the meaning of clause D4.2(a), complies with the relevant energy efficiency benchmark for that product in paragraph 4 to Schedule 1 of the Eco-Design for Energy-Related Products Regulations 2010;

(c) any purchase of products listed in Annex C of 2006/1005/EC (Council Decision of 18 December 2006 concerning the conclusion of the agreement between the government of the United States of America and the European Community on the Coordination of the energy efficiency labelling programme for office equipment) complies with energy efficiency requirements not less demanding than those listed in Annex C of that Council Decision; and

(d) any purchase of tyres carrying a label as specified in Annex II to Regulation (EC) Number 1222/2009 of the European Parliament and of the Council of 25 November 2009 (on the labelling of tyres with respect to fuel efficiencies and other parameters) has the highest fuel energy efficiency class (as defined by that Regulation).

D4.3 The new purchases that the Contractor makes in clause D4.2 should be cost-effective and technically suited to the Services. For the avoidance of doubt, the Contractor is not required to purchase products under clause D4.2 where those products are not cost-effective or are not technically suited to the provision of the Services.

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

D5 Health and Safety

D5.1 The Contractor shall promptly notify the Authority of any health and safety hazards which may arise in connection with the performance of its obligations under the Contract.

D5.2 The Authority shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the Authority's Premises and which may affect the Contractor in the performance of its obligations under the Contract.

- D5.3 While on the Authority's Premises, the Contractor shall comply with any health and safety measures implemented by the Authority in respect of Staff and other persons working there.
- D5.4 The Contractor shall notify the Authority immediately in the event of any incident occurring in the performance of its obligations under the Contract on the Premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- D5.5 The Contractor shall comply with the requirements of the Health and Safety at Work Act etc. 1974 and any other Laws relating to health and safety, which may apply to Staff and other persons working on the Premises in the performance of its obligations under the Contract.
- D5.6 The Contractor shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc. Act 1974) is made available to the Authority on request.

D6 Tax Compliance

- D6.1 The Contractor represents and warrants that as at the Commencement Date, it has notified the Authority in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non-Compliance.
- D6.2 If at any point during the Contract Period, an Occasion of Tax Non-Compliance occurs, the Contractor shall:
- (a) notify the Authority in writing of such fact within five (5) Working Days of its occurrence; and
 - (b) promptly provide to the Authority:
 - (i) details of the steps taken by the Contractor and any steps that the Contractor will take to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
 - (ii) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may require.

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

- D7.1 The Authority may terminate the Contract by issuing a Termination Notice to the Contractor in the event that:
- (a) the warranty given by the Contractor pursuant to clause D6.1 is false;
 - (b) the Contractor does not notify the Authority of any Occasion of Tax Non-Compliance as required by clause D6.2; or
 - (c) the Contractor notifies the Authority of any Occasion of Tax Non-Compliance as required by clause D6.2 but such steps that the Contractor will take to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that the Contractor notifies to the Authority are not acceptable in the reasonable opinion of the Authority.

D8 Supplier Code of Conduct

- D8.1 The Contractor shall at all times during the term of the Contract comply with the Supplier Code of Conduct .
- D8.2 Any breach by the Contractor of this clause D8 shall entitle the Authority to terminate the Contract by issuing a Termination Notice to the Contractor.

E PROTECTION OF INFORMATION

E1 Authority Data

- E1.1 The Contractor shall not delete or remove any proprietary notices contained within or relating to the Authority Data.
- E1.2 The Contractor shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Contractor of its obligations under this Contract or as otherwise expressly authorised in writing by the Authority.
- E1.3 To the extent that Authority Data is held and/or processed by the Contractor, the Contractor shall supply that data to the Authority as requested.
- E1.4 The Contractor shall take responsibility for preserving the integrity of Authority Data and preventing the corruption or loss of that data.
- E1.5 The Contractor shall perform secure back-ups of all Authority Data and shall ensure that up-to-date back-ups are stored off-site in accordance with the Contractor's Business Continuity and Disaster Recovery Plan. The Contractor shall ensure that such back-ups are available to the Authority at all times upon request and are delivered to the Authority at no less than three (3) Monthly intervals.
- E1.6 The Contractor shall ensure that any system or media on which the Contractor holds any Authority Data, including back-up data, is a secure system that complies with the Security Policy.
- E1.7 If the Authority Data is corrupted, lost or sufficiently degraded as a result of the Contractor's default so as to be unusable, the Authority may:
- (a) require the Contractor (at the Contractor's expense) to restore or provide for the restoration of the Authority Data or Personal Data and the Contractor shall do so as soon as practicable but not later than ten (10) calendar days following the Authority giving notice to the Contractor; and/or
 - (b) itself restore or provide for the restoration of the Authority Data or Personal Data, and shall be repaid by the Contractor any reasonable expenses incurred in doing so.
- E1.8 If at any time the Contractor suspects or has reason to believe that the Authority Data or Personal Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Contractor shall notify the Authority immediately and inform the Authority of the remedial action the Contractor proposes to take.
- E1.9 In accordance with the DWP Offshoring Policy and while not in any way limiting any other provision of this Contract, the Contractor and any of its Sub-contractors, shall not offshore Authority Data (as described in the DWP Offshoring Policy) outside the United Kingdom without the prior written consent of the Authority, and where the Authority gives consent, the Contractor shall comply with any reasonable instructions notified to it by the Authority in relation to the Authority Data in question.
- E1.10 Where the Authority has given its prior written consent to the Contractor to process, host or access Authority Data from premises outside the United Kingdom (in accordance with E1.9 of the Contract):
- (a) the Contractor must notify the Authority (in so far as they are not prohibited by Law) where any Regulatory Bodies seek to gain or has gained access to such Authority Data;
 - (b) the Contractor shall take all necessary steps in order to prevent any access to, or disclosure of, any Authority Data to any Regulatory Bodies outside the United Kingdom unless required by Law without any applicable exception or exemption.
- E1.11 Any breach by the Contractor of this clause E1 shall entitle the Authority to terminate this Contract.

- E1.12 In the event of an Insolvency Event, the Contractor (or a liquidator or provisional liquidator acting on behalf of the Contractor) shall at its own cost and at no cost to the Authority;
- (a) conduct a full and thorough search for any electronic and paper records held by the Contractor which contain Authority Data/Information and Participant Personal Data/Information; in accordance with the Authority instructions;
 - (b) return all such records to the Authority in accordance with their instructions;
 - (c) permanently destroy all copies of any relevant electronic records; and
 - (d) provide written confirmation to the Authority that the actions outlined above in this paragraph have been completed.
- E1.13 In the event of a Sub-contractor of the Contractor being in Liquidation then it is the responsibility of the Contractor to recover records held by the Sub-contractor and provide assurance to the Authority that they have been recovered.
- E1.14 In the event the Contractor is put into Administration in any of the ways as outlined in which falls within the definition of Insolvency Event or otherwise the Authority will work closely with the Administrator to ensure the Contractor is able to maintain Authority, Participant and other records they have created and held in accordance with clause E1 of this Contract and maintain these standards in the safekeeping of Authority information, i.e. these records must be stored in accordance with Authority information assurance and HMG Cabinet Office information security standards.
- E1.15 Whilst in Administration the duty of the Administrator is to help the Contractor trade. This may involve the Administrator seeking an organisation to buy up the Contractor. The assignment or novation of this Contract to new ownership is not automatic and the Authority must be consulted (in accordance with clause F1.1) and Approval obtained. Where the Contract is assigned or novated with the Authority's Approval, the contractor must provide the Authority with all the relevant information and records necessary for the assigned or novated contract to continue to be performed.
- E1.16 In the event that through any Default of the Contractor, data transmitted or processed in connection with the Contract is either lost or sufficiently degraded as to be unusable, the Contractor shall be liable for the cost of reconstitution of that data. The Contractor shall reimburse the Authority in respect of any charge levied for its transmission and any other costs charged in connection with such Default.

E2 Protection of Personal Data and Special Categories of Personal Data

- E2.1 Each of the Parties including the personnel of each Party (personnel shall include directors, officers, employees, servants, agents, consultants, suppliers and sub-contractors) will comply with all of its applicable requirements of the Data Protection Legislation and shall not knowingly or negligently by any act or omission, place the other Party in breach, or potential breach of Data Protection Legislation. This clause is in addition to and does not relieve, remove or replace a Party's obligations under the Data Protection Legislation.
- (a) The Data Controller is responsible for ensuring that Personal Data and Special Categories of Personal Data is processed in accordance with Data Protection Legislation.
 - (b) The Authority shall be the Data Controller of the information listed in Schedule 23 Annex B Part 1.
 - (c) The Contractor shall be the Data Controller of the information listed in Schedule 23 Annex B Part 2.
 - (d) Where the Contractor is a Data Controller, it shall comply with the Data Controller obligations specified in Data Protection Legislation and shall implement appropriate technical and organisational measures to ensure and be able to demonstrate that processing is performed in accordance with the GDPR.

- E2.2 Notwithstanding the general obligations in clauses E2.1, E2.1A, E2.1B, E2.1C and E2.1D, where the Contractor is a Data Processor, the Contractor shall as Data Processor meet the obligations in clauses E2.3 - E2.15 (inclusive) for Personal Data and Special Categories of Personal Data.
- E2.3 The Contractor shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.
- E2.4 The Contractor shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, include (without limitation):-
- (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;
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data and Special Categories of Personal Data; and
 - (e) upon request provide a copy of the record of the processing of any Personal Data and Special Categories of Personal Data it carries out on behalf of the Authority including (without limitation) the records specified in Article 30(2) of the GDPR.
- E2.5 The Contractor shall, in relation to any Personal Data and Special Categories of Personal Data processed or to be processed in connection with its obligations under this Contract:-
- (a) process that Personal Data and Special Categories of Personal Data only to the extent and in such manner as is necessary for the purposes specified in this Contract and in accordance with Schedule 23, unless the Contractor is required to process the Personal Data and Special Categories of Personal Data otherwise by Law. In such case, the Contractor shall inform the Authority of that legal requirement unless the Law prevents such disclosure on the grounds of public interest;
 - (b) ensure that it has in place Protective Measures, which have been reviewed and approved by the Authority as appropriate to protect against a Data Loss Event having taken account of the:-
 - (i) nature of the Personal Data and Special Categories of Personal Data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) implement any Protective Measures at the Contractor's own expense and at no cost to the Authority;

Review and approval of the Protective Measures by the Authority shall not relieve the Contractor of its obligations under Data Protection Legislation including, for the avoidance of doubt, putting sufficient Protective Measures in place.
 - (c) ensure that it and its Staff:-

- (i) do not process Personal Data and Special Categories of Personal Data except in accordance with this Contract and Data Protection Legislation and access to such data is limited to those Staff who need to access Personal Data and Special Categories of Personal Data to meet the Contractor's Data Processor duties under the Contract and Data Protection Legislation and only collect Personal Data and Special Categories of Personal Data on behalf of the Authority in the format agreed with the Authority which shall contain a data protection notice informing the Data Subject of the identity of the Data Controller, the identity of any data protection representative it may have appointed, the purpose(s) for which the Data Subject's Personal Data and Special Categories of Personal Data will be processed and any other information, which is necessary to comply with Data Protection Legislation. The Contractor shall not modify the format agreed with the Authority without the prior written consent of the Authority;
- (ii) take all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and Special Categories of Personal Data and ensure that they:-
 - (A) are aware of and comply with the Contractor's duties under this clause E2;
 - (B) are subject to appropriate confidentiality undertakings including between the Contractor and any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and Special Categories of Personal Data and do not publish, disclose or divulge any of the Personal Data and Special Categories of Personal Data to any third party unless directed in writing to do so by the Authority or as otherwise permitted by this Contract or required to do so under a legal requirement/court order (provided that the Contractor shall give notice to the Authority of any disclosure of Personal Data and Special Categories of Personal Data that it or any of its Staff is required to make under such a legal requirement or court order immediately when it is made aware of such a requirement); and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data and Special Categories of Personal Data; and
- (d) not transfer Personal Data and Special Categories of Personal Data outside of the European Economic Area or International Organisation unless the prior written consent of the Authority has been obtained and provided the following conditions are fulfilled:-
 - (i) the Authority or the Contractor has provided appropriate safeguards in relation to the transfer;
 - (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 and Special Categories of Personal Data that is transferred; and

- (iv) the Contractor complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data and Special Categories of Personal Data;
- (e) at the written direction of the Authority, delete or return Personal Data and Special Categories of Personal Data (and any copies of it) using a secure method of transfer to the Authority on termination of the Contract unless the Contractor is required by Law to retain the Personal Data and Special Categories of Personal Data;
- (f) permit the Authority or the Authority's Representative to inspect and audit the Contractor's Data Processor activities (and/or those of its Staff) and comply with all reasonable requests or directions by the Authority to enable the Authority to verify that the Contractor is in full compliance with its obligations under the Contract.

E2.6 Subject to clause E2.7, the Contractor shall notify the Authority 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, notice, 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 and Special Categories of Personal Data processed under this Contract;
- (e) receives a request from any third party for disclosure of Personal Data and Special Categories of Personal Data where compliance with such request is required or purported to be required by Law; or
- (f) becomes aware of a Data Protection Breach or a Data Loss Event.

E2.7 The Contractor's obligation to notify the Authority under clause E2.6 shall include the provision of further information to the Authority promptly.

E2.8 Taking into account the nature of the processing, the Contractor shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause E2.6 (and insofar as possible within the timescales reasonably required by the Authority) at no cost to the Authority including by promptly providing:-

- (a) the Authority with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Access Request promptly;
- (c) the Authority, at its request, with any Personal Data and Special Categories of Personal Data it holds in relation to a Data Subject;
- (d) assistance as requested by the Authority following any Data Loss Event and/or Data Protection Breach to enable the Authority to mitigate the impact of the Personal Data Breach, to ensure that Personal Data Breaches of the same nature do not occur again, to notify the competent regulatory body of the Personal Data Breach and/or to notify the Data Subjects of the Personal Data Breach;
- (e) assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.

- E2.9 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with its Data Processor obligations under this clause E2. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:-
- (a) the Authority determines the processing is not occasional;
 - (b) the Authority determines the processing includes any Special Categories of Personal Data and/or Personal Data and Special Categories of Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - (c) the Authority determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- E2.10 The Contractor shall allow for audits of its Data Processing activity by the Authority or the Authority's designated auditor. The Contractor shall keep a record of any processing of Personal Data and Special Categories of Personal Data it carries out on behalf of the Authority including (without limitation) the records specified in Article 30(2) of the GDPR.
- E2.11 The Contractor shall designate a Data Protection Officer if required by Data Protection Legislation or by the Authority in writing.
- E2.12 Before allowing any Sub-processor to process any Personal Data and Special Categories of Personal Data under this Contract, the Contractor must:-
- (a) notify the Authority in writing of the intended Sub-processor and processing;
 - (b) obtain the advance written consent of the Authority to allow the Sub-processor to process any Personal Data and Special Categories of Personal Data under the Contract; and
 - (c) enter into a written contract with the Sub-processor which reflects the terms set out in this clause E2 such that they apply to the Sub-Processor as a Data Processor.
- E2.13 The Contractor shall remain fully liable for all acts or omissions of any Sub-processor and Staff.
- E2.14 The Authority may, at any time on not less than thirty (30) Working Days' advance 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 under Article 43 of the GDPR (which shall apply when incorporated by an attachment to this Contract).
- E2.15 The Contractor shall comply with guidance issued by the Information Commissioner's Office. The Authority may on not less than thirty (30) Working Days' notice to the Contractor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioners Officer and/or any changes to Data Protection Legislation.
- E2.16 The Contractor shall indemnify and keep the Authority indemnified in full from and against all claims, proceedings, actions, damages, loss, penalties, fines, levies, costs and expenses and all loss of profits, business revenue or goodwill (whether direct or indirect) and all consequential or indirect loss howsoever arising out of, in respect of or in connection with, any breach by the Contractor or any of its Staff of this clause E2.

E3 Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989

- E3.1 The Contractor shall comply with, and shall ensure that its Staff comply with, the provisions of:
- (a) the Official Secrets Acts 1911 to 1989; and
 - (b) Section 182 of the Finance Act 1989.

- E3.2 Any breach by the Contractor of this clause E2 shall entitle the Authority to terminate this Contract.
- E4 Confidential Information**
- E4.1 For the purposes of this Clause E4, the term “**Disclosing Party**” shall mean a Party which discloses or makes available directly or indirectly its Confidential Information and “**Recipient**” shall mean the Party which receives or obtains directly or indirectly Confidential Information.
- E4.2 Except to the extent set out in this Clause E4 or where disclosure is expressly permitted elsewhere in this Contract, the Recipient shall:
- (a) treat the Disclosing Party’s Confidential Information as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored and the nature of the Confidential Information contained in those materials);
 - (b) not disclose the Disclosing Party’s Confidential Information to any other person except as expressly set out in this Contract or without obtaining the owner’s prior written consent;
 - (c) not use or exploit the Disclosing Party’s Confidential Information in any way except for the purposes anticipated under this Contract; and
 - (d) immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party’s Confidential Information.
- E4.3 The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:
- (a) the Recipient is required to disclose the Confidential Information by Law, provided that Clause E5 (Transparency and Freedom of Information) shall apply to disclosures required under the FOIA or the Environmental Information Regulations;
 - (b) the need for such disclosure arises out of or in connection with:
 - (i) any legal challenge or potential legal challenge against the Authority arising out of or in connection with this Contract;
 - (ii) the examination and certification of the Authority’s accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority is making use of any Services provided under this Contract; or
 - (iii) the conduct of a Central Government Body review in respect of this Contract; or
 - (iv) the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure is being made to the Serious Fraud Office.
- E4.4 If the Recipient is required by Law to make a disclosure of Confidential Information, the Recipient shall as soon as reasonably practicable and to the extent permitted by Law notify the Disclosing Party of the full circumstances of the required disclosure including the relevant Law and/or regulatory body requiring such disclosure and the Confidential Information to which such disclosure would apply.
- E4.5 The Contractor may disclose the Confidential Information of the Authority on a confidential basis only to:

- (a) Staff who are directly involved in the provision of the Services and need to know the Confidential Information to enable performance of the Contractor's obligations under this Contract;
 - (b) a member of the Contractor's Group, subject to Approval, where it is necessary to enable performance of the Contractor's obligations under this Contract;
 - (c) its auditors; and
 - (d) its professional advisers for the purposes of obtaining advice in relation to this Contract.
- E4.6 Where the Contractor discloses Confidential Information of the Authority pursuant to this Clause E4, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Contract by the persons to whom disclosure has been made.
- E4.7 The Authority may disclose the Confidential Information of the Contractor:
- (a) on a confidential basis to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body;
 - (b) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
 - (c) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
 - (d) on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause E4.7(a) for any purpose relating to or connected with this Contract;
 - (e) on a confidential basis for the purpose of the exercise of its rights under this Contract, including the Audit Rights and its step-in rights pursuant to Clause B19 (Step-In Rights), its rights pursuant to Schedule 11 (Exit Management); or
 - (f) on a confidential basis to a proposed Transferee in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Contract,
- and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Authority under this Clause E4.
- E4.8 Nothing in this clause E4 shall prevent a Recipient from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the Disclosing Party's Confidential Information or an infringement of Intellectual Property Rights.
- E4.9 Any breach by the Contractor of clauses E4.1 to E4.4 (inclusive) shall be a Serious Breach for the purposes of clause H2 (Termination on Default) and shall entitle the Authority to terminate the Contract by issuing a Termination Notice to the Contractor.
- E4.10 Clauses E4.1 to E4.6 (inclusive) are without prejudice to the application of the Official Secrets Acts 1911 to 1989 to any Confidential Information.
- E4.11 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Authority shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.
- E4.12 Notwithstanding any other term of this Contract, the Contractor hereby gives consent for the Authority to publish the Contract in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including from time to time

agreed changes to the Contract, to the general public. The Contractor shall assist and cooperate with the Authority to enable the Authority to publish the Contract.

- E4.13 The Contractor waives any contractual right or other confidentiality agreement in connection with its performance of this Contract and agrees that the Authority may provide information to the Cabinet Office, other government departments or any other Contracting Authority for the purposes of the Public Contracts Regulations 2015 in the form of certificates of performance and answer any clarifications that such entity or anyone acting on behalf of such entity in connection with a procurement may have. The Contractor confirms that save for any deceitful or maliciously false statements of fact or purported fact included in a certificate or subsequent clarification from the Authority the Authority will not owe the Contractor any duty of care for or otherwise have any legal liability to the Contractor in respect of any factual inaccuracies, whether innocent or negligent, and/or in respect of any expressions of opinion by the Authority.

E5 Transparency and Freedom of Information

- E5.1 The Parties acknowledge that the content of this Contract and any changes to this Contract agreed from time to time and all performance information, supplier information and contractual information which arises out of or in connection with this Contract, except for:

- (i) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Authority; and
- (ii) Commercially Sensitive Information;

(the “**Transparency Information**”) is not Confidential Information.

- E5.2 Notwithstanding any other provision of this Contract, the Contractor hereby gives its consent for the Authority to publish to the general public any Transparency Information either in part or in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted).

- E5.3 The Contractor shall assist and co-operate with the Authority to enable the Authority to publish any Transparency Information.

- E5.4 If the Authority believes that publication of any element of the Transparency Information would be contrary to the public interest, the Authority shall be entitled to exclude such information from publication. The Authority acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information in its entirety. Accordingly, the Authority acknowledges that it will only exclude Transparency Information from publication in exceptional circumstances and agrees that where it decides to exclude information from publication it will provide a clear explanation to the Contractor.

- E5.5 The Authority may publish the Transparency Information in any format that it considers appropriate, having regard to the context of the wider commercial relationship with the Contractor.

- E5.6 The Contractor agrees that any Information it holds and is reasonably relevant to or that arises from the provision of the Services shall be provided to the Authority on request unless the cost of doing so would exceed the appropriate limit prescribed under section 12 of the FOIA. The Authority may disclose such information under the FOIA and the EIRs and may (except for Commercially Sensitive Information, Confidential Information (subject to clause E4.7(c)) and Open Book Data) publish such Information. The Contractor shall provide to the Authority within 5 Working Days (or such other period as the Authority may reasonably specify) any such Information requested by the Authority.

- E5.7 The Contractor acknowledges that the Authority is subject to the requirements of the FOIA and the Environmental Information Regulations. The Contractor shall and shall procure that its Sub-contractors shall;

- (a) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and the Environmental Information Regulations;

- (b) transfer to the Authority all Requests for Information relating to this Contract that it receives as soon as practicable and in any event within two (2) Working Days of receipt;
- (c) provide the Authority with a copy of all Information held on behalf of the Authority which is requested in a Request For Information and which is in its possession or control in the form that the Authority requires within five (5) Working Days (or such other period as the Authority may specify) of the Authority's request; and
- (d) not respond directly to a Request For Information addressed to the Authority unless authorised in writing to do so by the Authority.

E5.8 The Contractor acknowledges that the Authority may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Contractor. The Authority shall take reasonable steps to notify the Contractor of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Contract) the Authority shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and Environmental Information Regulations.

E6 Publicity, Media and Official Enquiries

E6.1 The Contractor shall not:

- (a) make any press announcements or publicise this Contract or its contents in any way; or
- (b) use the Authority's name or brand in any promotion or marketing or announcement of orders,

without the Approval of the Authority.

E6.2 The Contractor shall ensure that their employees, agents, Sub-contractors, suppliers, professional advisors and consultants comply with clause E6.1.

E6.3 The Authority shall be entitled to publicise the Contract, and any other information, data or others items which the Authority has a right to publish pursuant to the Contract, in accordance with any legal obligation upon the Authority including any examination of the Contract by Audit Agents or otherwise.

E6.4 The Contractor shall pay the utmost regard to the standing and reputation of the Authority and shall ensure that neither it, nor any of its Affiliates or Staff does anything (by act or omission) which causes material adverse publicity for the Authority, brings the Authority into disrepute, damages the reputation of the Authority or harms the confidence of the public in the Authority, regardless of whether or not such act or omission is related to the Contractor's obligations under the Contract.

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

E6.6 If so requested by the Authority the notepaper and other written material of the Contractor and Sub-contractors relating to the delivery of the Services(s) shall carry only logos and markings approved by the Authority. This may include, but shall not be limited to, such banner or logo as the Authority shall use to identify the Service(s) from time to time. All publicity and marketing material produced by the Contractor (or its Sub-contractors) in relation to this Contract shall be submitted to the Authority for Approval, and no such items shall be printed (other than for Approval purposes) until such Approval is received.

E7 Security

- E7.1 The Authority shall be responsible for maintaining the security of the Authority premises in accordance with its standard security requirements. The Contractor shall comply with all security requirements of the Authority while on the Authority premises, and shall ensure that all Staff comply with such requirements.
- E7.2 The Contractor shall ensure that the Security Plan produced by the Contractor fully complies with the Security Policy.
- E7.3 The Contractor shall comply, and shall procure the compliance of its Staff, with the Security Plan and the Security Policy.
- E7.4 The Authority shall notify the Contractor of any changes or proposed changes to the Security Policy. Any changes must be agreed in accordance with the procedure in clause F3.
- E7.5 Until and/or unless a change to the Security Policy is agreed by the Authority pursuant to clause E7.4 the Contractor shall continue to perform the Services in accordance with its existing obligations.
- E7.6 The Contractor shall comply, and shall procure the compliance of the Staff, at all times, with the security requirements set out in Schedule 6 (Security Requirements and Plan).

E8 Intellectual Property Rights

- E8.1 Save as granted under the Contract, neither the Authority nor the Contractor shall acquire any right, title or interest in the other's pre-existing Intellectual Property Rights. The Contractor acknowledges that the Authority Data is the property of the Authority and the Authority hereby reserves all Intellectual Property Rights which may exist in the Authority Data.
- E8.2 The Authority shall grant the Contractor a non-exclusive, revocable, free licence for the Contract Period to use the Authority's Intellectual Property Rights where it is necessary for the Contractor to supply the Services. The Contractor shall have the right to sub-license the Sub-contractor's use of the Authority's Intellectual Property Rights. At the end of the Contract Period the Contractor shall cease use, and shall ensure that any Sub-contractor ceases use of the Authority's Intellectual Property Rights.
- E8.3 The Contractor shall grant the Authority a non-exclusive, revocable, free licence for the Contract Period to use the Contractor's Intellectual Property Rights where it is necessary for the Authority in the provision of the Services. At the end of the Contract Period the Authority shall cease use of the Contractor's Intellectual Property Rights.
- E8.4 The Parties agree that:
 - (a) all Intellectual Property Rights in any guidance, specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material furnished to or made available to the Contractor by or on behalf of the Authority shall remain the property of the Authority; and
 - (b) any Project Specific Intellectual Property Rights arising shall belong to the Authority and in such regard, the Contractor hereby assigns with full title guarantee and free from all third party rights, any project Specific Intellectual Property Rights to the Authority,

and the Contractor shall not, and shall ensure that the Staff shall not, (except when necessary for the performance of the Contract) without Approval, use or disclose any such Authority Intellectual Property Rights (including any Project Specific Intellectual Property Rights).

- E8.5 The Contractor shall obtain Approval before using any material, in relation to the performance of its obligations under the Contract which is or may be subject to any third party Intellectual Property Rights. The Contractor shall grant to the Authority (or procure the grant to the Authority) of those rights a non-exclusive licence to use, reproduce, modify, develop and maintain the material. Such licence shall be non-exclusive, perpetual, royalty-free and irrevocable. That licence shall also include the right for the Authority to sub-license, transfer, novate or assign to other Contracting Authorities, the Replacement Contractor or to any other third party supplying services to the Authority.

- E8.6 The Contractor shall not infringe any Intellectual Property Rights of any third party in supplying the Services. The Contractor shall, during and after the Contract Period, within three (3) Working Days of demand, indemnify fully, keep the Authority and the Crown indemnified and hold harmless the Authority and the Crown at all times from and against all claims, proceedings, actions, damages, costs, expenses (including but not limited to legal costs and disbursements on a solicitor and client basis), losses, amounts, sums, outgoings of any description and any other liabilities caused to the Authority or the Crown whether directly or indirectly in whole or in part by reason of any breach of this clause, except where any such claim arises from:
- (a) items or materials based upon designs supplied by the Authority; or
 - (b) the use of data supplied by the Authority which is not required to be verified by the Contractor under any provision of the Contract.
- E8.7 The Authority shall notify the Contractor in writing of any claim or demand brought against the Authority for infringement or alleged infringement of any Intellectual Property Right in materials supplied or licensed by the Contractor. The Contractor shall at its own expense conduct all negotiations and any litigation arising in connection with any claim for breach of Intellectual Property Rights in materials supplied or licensed by the Contractor, provided always that the Contractor:
- (a) shall consult the Authority on all substantive issues which arise during the conduct of such litigation and negotiations;
 - (b) shall take due and proper account of the interests of the Authority; and
 - (c) shall not settle or compromise any claim without the Authority's prior written consent (not to be unreasonably withheld or delayed).
- E8.8 The Authority shall at the request of the Contractor provide to the Contractor all reasonable assistance for the purpose of contesting any claim or demand made or action brought against the Authority or the Contractor for infringement or alleged infringement of any Intellectual Property Right in connection with the performance of the Contractor's obligations under the Contract. The Contractor shall, within three (3) Working Days of demand, indemnify fully, keep the Authority indemnified and hold harmless the Authority at all times from and against all claims, proceedings, actions, damages, costs and expenses (including, but not limited to, legal costs and disbursements), losses, amounts, sums, outgoings of any description and any other liabilities caused to the Authority in doing so whether directly or indirectly in whole or in part by reason of doing so. Such claims, proceedings, actions, damages, costs and expenses (including, but not limited to, legal costs and disbursements), losses, amounts, sums, outgoings of any description and any other liabilities shall not be repaid where they are incurred in relation to a claim, demand or action which relates to the matters in clause E8.6(a) or (b).
- E8.9 The Authority shall not make any admissions which may be prejudicial to the defence or settlement of any claim, demand or action for infringement or alleged infringement of any Intellectual Property Right by the Authority or the Contractor in connection with the performance of its obligations under the Contract.
- E8.10 If a claim, demand or action for infringement or alleged infringement of any Intellectual Property Right is made in connection with the Contract or in the reasonable opinion of the Contractor is likely to be made, the Contractor shall notify the Authority and, at its own expense and subject to the consent of the Authority (not to be unreasonably withheld or delayed), use its best endeavours to:
- (a) modify any or all of the Services without reducing the performance or functionality, or substitute alternative Services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement, provided that the provisions herein shall apply with any necessary changes to such modified Services or to the substitute Services; or
 - (b) procure a licence to use and supply the Services, which are the subject of the alleged infringement, on terms which are acceptable to the Authority,

and in the event that the Contractor is unable to comply with clauses E8.10(a) or (b) within twenty (20) Working Days of receipt of the Contractor's notification the Authority may terminate the Contract with immediate effect by notice in writing.

E9 Audit and the National Audit Office and Open Book Data

- E9.1 The Contractor shall at all times keep and maintain the Open Book Data.
- E9.2 Without prejudice to the generality of clauses E9.1 and **Error! Reference source not found.**, the Contractor shall, at all times, upon written request by the Authority, provide written confirmation of a summary of any of the Open Book Data, including details of any funds held by the Contractor specifically to cover its on-going costs, in such other form and detail as the Authority may reasonably require, to enable the Authority to monitor the performance by the Contractor of its obligations under the Contract, its solvency and the level of profit the Contractor is making from the supply of the Services.
- E9.3 The Contractor shall provide (or procure provision of) access at all reasonable times to the Authority, its duly authorised staff or agents and any Audit Agents to inspect the Open Book Data and such records and accounts (including those of Sub-contractors) as the Authority may require from time to time. The Authority shall be entitled to interview the Staff in order to obtain appropriate oral explanations of the records and accounts and the Contractor shall provide (or procure provision of) access to the relevant Staff at such times as may be reasonably required to enable the Authority to do so.
- E9.4 Duly authorised staff or agents of the Authority shall have the right to visit sites controlled by the Contractor and to be given free access to the Staff and to Participants during the hours when the Contractor is supplying the Services with a view to verifying that the Contractor is supplying the Services in accordance with the Contract.
- E9.5 The Contractor shall provide the Open Book Data and all records and accounts referred to in this clause E9 (together with copies of the Contractor's published accounts) until the end of the Payment Tail Period, and shall provide such records and accounts on request until the Records Retention End Date, to the Authority and the Audit Agents.
- E9.6 The Authority shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the supply of the Services, save insofar as the Contractor accepts and acknowledges that control over the conduct of audits carried out by the Audit Agents is outside of the control of the Authority.
- E9.7 The Contractor shall ensure that all of its contracts with Sub-contractors include obligations reflecting the requirements of the Authority under this clause E9.
- E9.8 The Contractor shall provide the rights set out in this clause E9 to any duly authorised staff or agents of the Authority, the National Audit Office, the European Court of Auditors, the European Commission, the Audit Agents and any third parties as notified by the Authority to the Contractor from time to time.
- E9.9 Without prejudice to the foregoing, in the event of an investigation into fraudulent activity or other impropriety by the Contractor or any third party in relation to supply of the Services, the Authority reserves for itself and any Audit Agents or any government department the right of immediate access to the Open Book Data and all records and accounts referred to in this clause E9 and the Contractor agrees to render all necessary assistance to the conduct of such investigation at all times during the Contract or at any time thereafter.
- E9.10 The Contractor shall, within three (3) Working Days of demand, indemnify fully, keep the Authority indemnified and hold harmless the Authority at all times from and against all claims, proceedings, actions, damages, costs and expenses (including, but not limited to, legal costs and disbursements), losses, amounts, sums, outgoings of any description and any other liabilities caused to the Authority whether directly or indirectly in whole or in part by reason of any Default by the Contractor (or any Sub-contractor) of this clause E9.

E10 Exceptional Audits

E10.1 The Contractor shall permit the Authority and/or its appointed representatives access to conduct an audit (an "**Exceptional Audit**") of the Contractor in any of the following circumstances:

- (a) actual or suspected impropriety or Fraud;
- (b) there are reasonable grounds to suspect that:
 - (i) the Contractor is in Default under the Contract;
 - (ii) the Guarantor may be in default of the Guarantee;
 - (iii) a Financial Distress Event occurs to the Contractor and/or the Guarantor
 - (iv) the Contractor and/or the Guarantor is in financial distress or at risk of insolvency or bankruptcy, or any fact, circumstance or matter which is reasonably likely to cause the Contractor financial distress and result in a risk of the Contractor becoming insolvent or bankrupt has occurred; or
 - (v) a breach of the Security Policy or the Security Plan has occurred under the Contract,

(each an "**Exceptional Circumstance**").

E10.2 Subject to the provisions of clause E10.3, if the Authority notifies the Contractor of an Exceptional Circumstance and that it wishes to conduct an Exceptional Audit, the Contractor shall provide access in accordance with clause E9.3 as soon as reasonably practicable after such request and in any event within forty-eight (48) hours.

E10.3 Without prejudice to clause E10.2, if the Authority notifies the Contractor of an Exceptional Circumstance to which the provisions of clause E9.9 also apply and that it wishes to conduct an Exceptional Audit, the Contractor shall provide immediate access in accordance with clause E9.9.

E11 Audit Costs

E11.1 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under clauses E9 and E10 unless an audit identifies a material Default by the Contractor in which case:

- (a) the Contractor shall reimburse the Authority for all the Authority's identifiable, reasonable costs and expenses properly incurred in the course of the audit; and
- (b) where the Authority, a Regulatory Body, or the Audit Agents appoint another a Contracting Authority identified in the OJEU Notice to conduct an audit under clauses E9 and E10, the Authority shall be able to recover on demand from the Contractor the identifiable, reasonable and properly incurred costs and expenses of the relevant Contracting Authority.

E12 Malicious Software

E12.1 The Contractor shall ensure all anti-virus software within the Contractor's Software and the Contractor's System is updated as frequently as is necessary in order to provide protection for the Authority's ICT System and the Authority's Data against the latest threats including any Malicious Software.

E12.2 Notwithstanding clause E12.1, if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Authority Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.

E12.3 Any cost arising out of the actions of the Parties taken in compliance with the provisions of clause E12.2 shall be borne by the Parties as follows:

- (a) by the Contractor where the Malicious Software originates from the Contractor Software, Third Party Software licenced to the Contractor (and/or any Sub-contractor) or the Authority Data (whilst the Authority Data was under the control of the Contractor); and
- (b) by the Authority if the Malicious Software originates from the Authority Software, Third Party Software licenced to the Authority or the Authority Data (whilst the Authority Data was under the control of the Authority).

E13 Provision of Management Information

E13.1 The Contractor shall operate and maintain appropriate systems, processes and records to ensure that it can, at all times, deliver timely and accurate Management Information to the Authority in accordance with the provisions of this clause E13 and Schedule 20 (Management Information).

E13.2 Not used

E14 Records Relating to the Provision of the Services

E14.1 Notwithstanding the provisions of clause 0 or clause E9 in respect of Open Book Data, the Contractor shall, during the Contract Period and the later of a period of at least six (6) years following the expiry or termination of this Contract or until 31 December 2026 if later (the last date of such period being the “**Records Retention End Date**”), maintain or cause to be maintained, complete and accurate documents and records in relation to the provision of the Services.

F CONTROL OF THE CONTRACT

F1 Transfer and Sub-Contracting

- F1.1 The Contractor shall not assign, sub-contract or in any other way dispose of the Contract or any part of it without Approval. Sub-contracting any part of the Contract shall not relieve the Contractor of any of its obligations or duties under the Contract.
- F1.2 In the event that the Contractor enters into any Sub-contract in connection with this Contract, it shall:
- (a) impose obligations on its Sub-contractor in the same terms as those imposed on it pursuant to this clause F1;
 - (b) ensure that each Sub-contractor complies with such terms;
 - (c) as an independent obligation, within three (3) Working Days of demand, indemnify fully, keep the Authority indemnified and hold harmless the Authority at all times against all claims, proceedings, actions, damages, costs, expenses (including but not limited to legal costs and disbursements), losses, amounts, sums, outgoings of any description and any other liabilities caused to the Authority by any act or omission of a Sub-contractor in relation to such terms whether directly or indirectly or in whole or in part; and
 - (d) comply with the provisions of Schedule 15 (Sub-Contractors).
- F1.3 Notwithstanding clause F1.1, the Contractor may assign to a third party (“**the Assignee**”) the right to receive payment of the Fees or any part thereof due to the Contractor under this Contract. Any assignment under this clause F1 shall be subject to:
- (a) reduction of any sums in respect of which the Authority exercises its right of recovery under clause C5;
 - (b) deferral of any sums in respect of which the Authority exercises its right under clause C6;
 - (c) all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and
 - (d) the Authority receiving notification under both clauses F1.4 and F1.5.
- F1.4 In the event that the Contractor assigns the right to receive the Fees under clause F1.3, the Contractor or the Assignee shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.
- F1.5 The Contractor shall ensure that the Assignee notifies the Authority, at least five (5) Working Days prior to submission of any invoice, of the Assignee’s contact information and bank account details to which the Authority is requested to make payment.
- F1.6 The provisions of clause C3 shall continue to apply in all other respects after any such assignment and shall not be amended without Approval.
- F1.7 Subject to clause F1.8, the Authority may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:
- (a) any Contracting Authority;
 - (b) any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or
 - (c) any private sector body which substantially performs the functions of the Authority,

provided that any such assignment, novation or other disposal shall not increase the burden of the Contractor's obligations under the Contract.

- F1.8 Any change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not, subject to clause F1.7, affect the validity of the Contract. In such circumstances, the Contract shall continue in full force and effect for bind and inure to the benefit of any successor body to the Authority.
- F1.9 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to clause F1.7 to a Transferee which is not a Contracting Authority or if there is a change in the legal status of the Authority such that it ceases to be a Contracting Authority (in the remainder of this clause both such bodies being referred to as the "**Extraordinary Transferee**"):
- (a) the rights of termination of the Authority in clauses H1.1(b)(Termination by the Authority) shall be available to the Contractor in the event of respectively, the Insolvency Event, or Default of the Extraordinary Transferee; and
 - (b) the Extraordinary Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the prior consent in writing of the Contractor.

F2 Waiver

- F2.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy under this Contract or by Law shall not constitute a waiver of that right or remedy, nor shall it prevent or restrict the further exercise of the same.
- F2.2 The performance by either Party of any of its obligations under this Contract after a failure by the other Party to perform any provision of this Contract strictly in accordance with its terms shall not constitute a waiver of any right or remedy under this Contract or by Law nor shall it prevent or restrict further exercise of the same.
- F2.3 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause A5 (Notices) and in a manner that expressly states that a waiver is intended.
- F2.4 A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

F3 Changes to the Contract

- F3.1 No change, amendment, variation, restatement or supplement to this Contract shall be effective unless it is made in writing in accordance with the Change Control Procedure and signed on behalf of the Parties.
- F3.2 Save as provided in clause F3.3 and F3.4 below, the Parties acknowledge and agree that no Contract Change or Operational Change may be made to this Contract which has the effect of:
- (a) rendering this Contract materially different in character from this Contract as at the Commencement Date;
 - (b) changing the economic balance of this Contract in favour of the Contractor in a manner which is not provided for in this Contract as at the Commencement Date; or
 - (c) extending the scope of this Contract considerably

unless such Contract Change or Operational Change is otherwise permitted under regulation 72 of the Public Contracts Regulations 2015.

F3.3 The Parties may agree to make a Contract Change or Operational Change or Substantial Change to this Contract where such change is provided for in the Contract and/or in the ITT including (but not limited to):

- (a) any modification to the Referral Period Start Date and any consequential modifications to this Contract required to ensure that the economic balance of this Contract is not changed in favour of the Contractor;
- (b) adding or revising any Tender Cohort Profile as a consequence of, or in connection with, changes in volumes of Participant Starts or the addition or removal of any groups of Participants;
- (c) any modification of the proportions of Participant Starts made up of each of the groups of Participants described in paragraphs 2.11 to 2.19 (inclusive) of the Specification;
- (d) any modification of the list of early entrant groups of Participants set out at paragraph 2.17 of the Specification if policy priorities for the Authority change on or after the Commencement Date;
- (e) any modification required as a consequence of, or in connection with, changes from time to time to the Authority's administrative or operational structures or procedures;
- (f) any modification required as a consequence of, or in connection with, changes from time to time to any of the Authority's:
 - (i) DWP Information Security Policy;
 - (ii) DWP Physical Security Policy; or
 - (iii) DWP Acceptable Use Policy
- (g) any modification required as a consequence of, or in connection with, any Transfer of Functions Order;
- (h) any modification which is a consequence of, or arising in connection with, any recommendation made by an assessor appointed pursuant to clause F1.1;
- (i) any modification which is a consequence of, or arising in connection with, any notification given by the Authority to the Contractor pursuant to clause F6.4;
- (j) any modification required as a consequence of, or in connection with, the implementation of Universal Credit;
- (k) any waiver (whether permanent or temporary or conditional or unconditional) by a Party of any of its rights under this Contract;
- (l) any temporary modification made pursuant to a Performance Improvement Plan;
- (m) any settlement and/or compromise agreement entered into in respect of this Contract;
- (n) any modification required as a consequence of, or in connection with, changes in applicable Law; and
- (o) any consequential modifications to this Contract required to give effect to any Contract Change, Operational Change or Substantial Change made pursuant to this clause F3.3.

F3.4 The Authority may unilaterally extend the Referral Period by one (1) or more extensions up to a maximum of twenty-four (24) Months in total. Where the Authority chooses to extend the Referral Period pursuant to this clause F3.4, the Authority will give written notice to the Contractor of not less than six (6) Months (or on such shorter notice period as may be agreed by the Parties) prior to the Referral Period End Date. In accordance with any extension of the Referral Period pursuant to this clause F3.4, the Authority may unilaterally amend the Services

Cessation Date and extend the Services Delivery Period and the Contract Period. The provisions of this Contract shall continue to apply throughout any extended Contract Period subject to:

- (a) any Contract Change, Operational Change, Substantial Change or adjustment to the Fees made pursuant to this clause F3;
- (b) the right of the Authority in its absolute discretion to amend the funding and payment model for such extended Contract Period, including but not limited to, amending the proportion of the Fees constituted by each of the Delivery Fee and the Outcome Payments;
- (c) the tMPLs for any Start Cohorts during such extended Contract Period shall be set at the same level or higher as the tMPL for the last Start Cohort prior to the initial Referral Period End Date.

F3.5 If the Authority serves written notice to the Contractor to extend the Referral Period pursuant to clause F3.4 above, the Contractor undertakes to do all acts and execute all documents which may be necessary to give effect to such extension.

F3.6 If the Parties agree to make a Contract Change or Operational Change or Substantial Change, the Contractor undertakes to procure the consent of the Guarantor to such Contract Change, Operational Change or Substantial Change.

F3.7 Subject to clause F3.8, the Authority may modify both the Provider Guidance and Appendix A to Schedule 6 (Security Requirement and Plan) unilaterally at any time during the Contract Period as a consequence of, or in connection with, changes to the Authority's administrative or operational structures or procedures and such revised Provider Guidance shall become effective on and from the date notified as the date on which such revised Provider Guidance shall become effective by the Authority to the Contractor.

F3.8 Subject to clause F3.8, the Authority may modify the format of Appendix 1 to Schedule 17 (Life Chances) unilaterally at any time during the Contract and such modification shall become effective on and from the date notified to the Contractor.

F3.9 If the Contractor reasonably believes that a modification made pursuant to clause F3.6 or F3.7 will have an economic effect on the Contractor and therefore wishes such modification to be made via the Change Control Procedure, the Contractor shall so notify the Authority within ten (10) days of receiving notification under clause F3.6. Such notification shall include:

- (a) why the Contractor reasonably believes that there will be an economic impact; and
- (b) the quantum of such economic impact accompanied by supporting calculations and assumptions.

F3.10 The Contractor shall neither be relieved of its obligations to supply the Services in accordance with the terms and conditions of this Contract nor be entitled to an increase in the Fees as the result of:

- (a) a General Change in Law; or
- (b) a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Commencement Date.

F3.11 If a Specific Change in Law occurs or will occur during the Contract Period (other than as referred to in clause F3.10(b)):

- (a) the Contractor shall notify the Authority as soon as reasonably practicable of the likely effects of that change, including:
 - (i) whether any Contract Change, Operational Change or Substantial Change is required to the Services, the Fees or this Contract; and

- (ii) whether any relief from compliance with the Contractor's obligations is required; and
- (b) the Contractor shall provide the Authority with evidence:
 - (iii) that the Contractor has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-contractors;
 - (iv) as to how the Specific Change in Law has affected the cost of providing the Services; and
 - (v) demonstrating that any expenditure that has been avoided has been taken into account in amending the Fees; and
- (c) any variation in the Fees or relief from the Contractor's obligations resulting from a Specific Change in Law (other than as referred to in clause F3.10(b)) shall be implemented in accordance with the Change Control Procedure. For the avoidance of doubt, the Authority shall not be obliged to accept any variation in the Fees requested pursuant to this clause F3.11 and the Authority shall not be obliged to accept any Contract Change, Operational Change or Substantial Change except to the extent that such Contract Change, Operational Change or Substantial Change is necessary for the Contractor or the Services to comply with any Change in Law.

F4 Severability

In the event that the Authority considers that there has been a Default by the Contractor, then the Authority may, at its sole discretion, and without prejudice to its other rights and remedies under the Contract including under clause H1 (Termination on Default), without terminating the whole of the Contract, terminate the Contract in respect of part of the Services only (whereupon a corresponding reduction in the Fees shall be made) and thereafter itself supply or procure a third party to supply such part of the Services.

F5 Remedies Cumulative

Except as otherwise expressly provided for by the Contract, all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately and do not exclude any rights or remedies provided by Law, in equity or otherwise. The exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

F6 Entire Agreement

- F6.1 This Contract constitutes the entire agreement between the Parties in respect of the matters dealt with therein. This Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, with the exception that this clause shall not exclude liability in respect of any Fraud or fraudulent misrepresentation.
- F6.2 Each of the Parties acknowledges and agrees that in entering into this Contract it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in this Contract. The only remedy available to either Party for any such statements, representation, warranty or understanding shall be for breach of contract under the terms of the Contract.
- F6.3 Subject to clause F6.4, in the event of, and only to the extent of, any conflict or inconsistency between the provisions of the Contract including any document referred to in the Contract with contractual effect, the conflict or inconsistency shall be resolved in accordance with the following order of precedence:
 - (a) the Terms and Conditions;
 - (b) the Specification;

- (c) the Q&A;
- (d) the Tender;
- (e) the Tender Clarification;and
- (f) any other document referred to in the Contract.

F6.4 Notwithstanding clause F6.3, in the event that the Contractor becomes aware of any inconsistency between the requirements contained in the above documents, the Contractor shall immediately notify the Authority's Representative in writing of such inconsistency and the Authority's Representative shall, as soon as practicable, notify the Contractor which requirement the Contractor shall comply with.

F7 Counterparts

This Contract may be executed in counterparts each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same agreement.

F8 Further Assurance

F8.1 Each Party undertakes at the request of the other to do all acts and execute all documents which may be reasonably necessary to give effect to the meaning of this Contract.

F8.2 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under clause F8.1.

G LIABILITIES

G1 Liability and Indemnity

G1.1 Neither Party excludes or limits liability to the other Party for:

- (a) death or personal injury caused by its negligence;
- (b) Fraud;
- (c) fraudulent misrepresentation; or
- (d) any Default of any obligations implied by Section 2 of the Supply of Goods and Services Act 1982.

G1.2 Subject to clause G1.4, the Contractor shall as an independent obligation, within three (3) Working Days of demand, indemnify fully, keep the Authority indemnified and hold harmless the Authority at all times:

- (a) in respect of any personal injury, death or loss or destruction of or damage to property caused to the Authority or its employees and agents to the extent that such personal injury, death or loss or destruction of or damage to property is caused whether directly or indirectly in whole or in part by:
 - (i) any Default of the Contractor, its employees, agents or Sub-contractors; or
 - (ii) by circumstances within its or their control in connection with the performance or purported performance of the Contract; and
- (b) against all claims, proceedings, actions, damages, costs, expenses (including but not limited to legal costs and disbursements on a solicitor and client basis), losses, amounts, sums, outgoings of any description and any other liabilities caused to the Authority in respect of any personal injury, death or damage arising from or incurred by

reason of the use of the Services by any Participant whether directly or indirectly or in whole or in part; and

- (c) against all claims, proceedings, actions, damages, costs, expenses (including but not limited to legal costs and disbursements), losses, amounts, sums, outgoings of any description and any other liabilities caused to the Authority whether directly or indirectly or in whole or in part by reason of:
 - (i) the supply (or the late or purported supply) of the Services;
 - (ii) the performance or non-performance by the Contractor of its obligations under the Contract including, without limitation, any or all Service Failure Defaults and any or all Non Service Failure Defaults;
 - (iii) the presence of the Contractor or any Staff on the Premises, including financial loss arising from any advice given or omitted to be given by the Contractor to the Authority; or
 - (iv) any other claims, proceedings, actions, damages, costs, expenses (including but not limited to legal costs and disbursements), losses, amounts, sums, outgoings of any description and any other liabilities caused to the Authority by any act or omission of the Contractor whether directly or indirectly or in whole or in part; and

G1.3 Each and every indemnity in any document which forms part of this Contract:

- (a) is a separate and independent obligation from the other obligations in this Contract;
- (b) gives rise to a separate and independent cause of action;
- (c) applies whether or not any indulgence is granted by the Authority;
- (d) shall continue in full force and effect despite any judgment, order, claim or proof for a liquidated amount in respect of any sum due under this Contract, or any other judgment or order;
- (e) notwithstanding clause G1.9, shall not be subject to any duty for the Authority to mitigate;
- (f) shall not be limited or capped under clauses G1.7 or G1.8;
- (g) shall not count towards the liabilities of the Contractor which are limited or capped under clauses G1.7 or G1.8; and
- (h) for the avoidance of doubt in respect of any amount due to the Authority under such indemnity, such amount shall be reduced by an amount equal to any amount that the Authority actually receives pursuant to clause G1.6 in respect of the same cause of action as gives rise to the cause of action under the relevant indemnity.

G1.4 The Contractor shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Authority or by Default by the Authority of its obligations under the Contract.

G1.5 Subject to clause G1.4 responsibility for the control, management and supervision of all Participants shall rest entirely with the Contractor subject to the Participant complying with all reasonable instructions and directions which the Contractor may issue to the Participant from time to time. The Authority shall not be liable for any personal injury, disease or death, or loss or damage whatsoever caused, by any act or omission of a Participant.

G1.6 The Parties agree that, without prejudice to any of, and in addition to, the Authority's rights under this Contract or otherwise:

- (a) if a Default occurs under any of:

- (i) clause A8 (*Prevention of Fraud*);
- (ii) clause B7 (*The Merlin Standard*);
- (iii) clause D1.1 (*Prevention of Bribery and Corruption*);
- (iv) clause D1.3 (*Prevention of Bribery and Corruption*);
- (v) clause D1.4 (*Prevention of Bribery and Corruption*);
- (vi) clause D1.5 (*Prevention of Bribery and Corruption*);
- (vii) clause D1.6 (*Prevention of Bribery and Corruption*);
- (viii) clause D2 (*Discrimination*);
- (ix) clause D4 (*Environmental Requirements*);
- (x) clause D5.3 (*Health and Safety*);
- (xi) clause D5.5 (*Health and Safety*);
- (xii) clause D6.2 (*Tax compliance*);
- (xiii) clause E2 (*Protection of Personal Data*);
- (xiv) clause E3 (*Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989*);
- (xv) clause E9.10 (*Audit and the National Audit Office and Open Book Data*);
- (xvi) clause E10 (*Exceptional Audits*); or
- (xvii) Schedule 8 (*Welsh Language*),

and

(aa) (if the Authority considers, acting reasonably, that such Default is capable of remedy) such Default is not remedied within 5 Working Days (or such longer period as the Authority may specify in each case) of the Authority notifying the Contractor of the Default and the remedy required or 25 Working Days of the Contractor notifying the Authority of the Default; or

(bb) if such Default is not capable of remedy and the Authority notifies the Contractor that such Default is not capable of remedy,

then in respect of each and every such Default the Contractor shall pay the Authority, as liquidated damages, an amount equal to one Delivery Fee Periodic Payment for each Month or each part Month during which such Default has not been waived PROVIDED THAT if such Default is waived the Authority shall pay to the Contractor an amount equal to the liquidated damages actually paid to it by the Contractor in respect of such Default pursuant to this clause G1.6;

(b) if a Default occurs under any of:

- (i) clause E5.6 (*Transparency and Freedom of Information*);
- (ii) clause E5.7(b) (*Transparency and Freedom of Information*);
- (iii) clause E5.7(c) (*Transparency and Freedom of Information*);
- (iv) clause E6.10 (*Publicity, Media and Official Enquiries*);

- (v) paragraph 3.3 of Schedule 6 (*Security Requirements and Plan*);
- (vi) paragraph 3.4 of Schedule 6 (*Security Requirements and Plan*);
- (vii) paragraph 3.10 of Schedule 6 (*Security Requirements and Plan*);
- (viii) paragraph 4.1 of Schedule 6 (*Security Requirements and Plan*);
- (ix) paragraph 4.4 of Schedule 6 (*Security Requirements and Plan*);
- (x) paragraph 2.1 of Schedule 7 (*Sustainable Development Requirements*);
- (xi) paragraph 2.1 of Schedule 18 (*Business Continuity and Disaster Recovery*);
- (xii) paragraph 2.4.2 of Schedule 18 (*Business Continuity and Disaster Recovery*);
- (xiii) paragraph 6.1 of Schedule 18 (*Business Continuity and Disaster Recovery*);
- (xiv) paragraph 6.4.2 of Schedule 18 (*Business Continuity and Disaster Recovery*);
- (xv) paragraph 7.5 of Schedule 18 (*Business Continuity and Disaster Recovery*);
- (xvi) paragraph 7.2 of Schedule 21 (*Insurance Requirements*),

and

(aa) (if the Authority considers, acting reasonably, that such Default is capable of remedy) such Default is not remedied within 5 Working Days (or such longer period as the Authority may specify in each case) of the Authority notifying the Contractor of the Default and the remedy required or 25 Working Days of the Contractor notifying the Authority of the Default; or

(bb) such Default is not capable of remedy and the Authority notifies the Contractor that such Default is not capable of remedy,

then in respect of each and every such Default the Contractor shall pay the Authority, as liquidated damages, an amount equal to 5 per cent. of the Delivery Fee Periodic Payment for each Working Day's delay (exclusive of VAT);

(c) if a Default occurs under any of:

- (i) paragraph 2.1(a)(ii) of Schedule 10 (*Exit Management*);
- (ii) paragraph 2.2 of Schedule 10 (*Exit Management*);
- (iii) paragraph 4.1 of Schedule 10 (*Exit Management*);
- (iv) paragraph 4.5 of Schedule 10 (*Exit Management*),

and

(aa) (if the Authority considers, acting reasonably, that such Default is capable of remedy) such Default is not remedied within 5 Working Days (or such longer period as the Authority may specify in each case) of the Authority notifying the Contractor of the Default and the remedy required or 25 Working Days of the Contractor notifying the Authority of the Default; or

(bb) such Default is not capable of remedy and the Authority notifies the Contractor that such Default is not capable of remedy,

then in respect of each and every such Default the Contractor shall pay the Authority, as liquidated damages, an amount equal to 10 per cent. of the Delivery Fee Periodic Payment for each Working Day's delay (exclusive of VAT);

- (d) the Contractor shall pay these liquidated damages on demand or the Authority may deduct them from its payments to the Contractor; and
- (e) the Parties confirm that these liquidated damages are reasonable and proportionate to protect the Authority's legitimate interest in the performance of this Contract by the Contractor.

G1.7 Subject always to clauses G1.1 and G1.3 and without prejudice to section H, the liability of either Party for Defaults shall be subject to the following financial limits:

- (a) the aggregate liability of either Party for Defaults that result in direct loss of or damage to the property of the other under or in connection with the Contract (including the Authority Premises unless a higher limit has been agreed in a separate document) shall in no event exceed 100 per cent. of the Average Annual Contract Value; and
- (b) the annual aggregate liability under the Contract of either Party for all Defaults (including any liability incurred under G1.7(a) but excluding any liability under G1.7(c) or G1.7(d) shall in no event exceed 150 per cent of the Average Annual Contract Value,

provided that:

- (c) the liability of the Contractor under clause E1 (Authority Data), clause **Error! Reference source not found.** (Protection of Personal Data) or clause E8 (Intellectual Property Rights) shall not be limited or capped; and
- (d) for the avoidance of doubt, the liability of the Contractor under any indemnity in any document which forms part of this Contract shall not be limited or capped and shall not count towards the limits or caps imposed on the liability of the Contractor for Defaults by this clause G1.7.

G1.8 Subject always to clause **Error! Reference source not found.**, G1.1, G1.3 and G2 and other than (i) pursuant to any indemnity in any document which forms part of this Contract or (ii) as expressly set out in this Contract, in no event shall either Party be liable to the other for any:

- (a) loss of profits, business, revenue or goodwill; and
- (b) indirect or consequential loss or damage.

G1.9 Subject to clause G1.3, each Party shall use reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with this Contract, including any Loss for which the relevant Party is entitled to bring a claim against the other Party pursuant to the indemnities in this Contract.

G2 Insurance

The Contractor shall comply with the provisions of Schedule 21 (Insurance Requirements) in relation to obtaining and maintaining insurance.

G3 Warranties and Representations

G3.1 The Contractor warrants and represents that:

- (a) it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its parent company) to enter into and perform its obligations under the Contract and that the Contract is executed by a duly authorised representative of the Contractor;
- (b) in entering the Contract it has not committed any Fraud;

- (c) as at the Commencement Date, all information contained in the Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract;
- (d) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Contract;
- (e) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Contract;
- (f) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Contractor's assets or revenue;
- (g) it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract;
- (h) in the three (3) years prior to the Commencement 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; and

G3.2 The Contractor repeats the representations and warranties in clause G3.1 (except for those in clauses G3.1(c) and G3.1(h)) on the first day of each Month during the Contract Period by reference to the facts and circumstances existing on each such date.

G3.3 If at any time a Party becomes aware that a representation or warranty given by it under this Contract been breached, is untrue or is misleading, it shall immediately notify the other Party of the relevant occurrence in sufficient detail to enable the other Party to make an accurate assessment of the situation.

G3.4 For the avoidance of doubt, the fact that any provision within this Contract is expressed as a warranty shall not preclude any right of termination which the Authority may have in respect of breach of that provision by the Contractor.

G4 Deed of Guarantee

G4.1 Unless otherwise agreed by the Authority in writing, this Contract is conditional upon the Contractor:

- (a) proposing a suitable Guarantor;
- (b) procuring that the Guarantor shall:
 - (i) execute and deliver to the Authority the Guarantee; and
 - (ii) deliver to the Authority the Guarantor's Annual Accounts, Annual Returns, management accounts, and evidence to the satisfaction of its assets, liabilities (including any other guarantees entered by the Guarantor) and its funding position;

- (iii) deliver to the Authority a certified copy of the board minutes of the Guarantor approving the execution of the Guarantee in accordance with the provisions of Schedule 20 (Management Information); and
 - (c) complying with clauses G4.6, G4.7 and G4.8.
- G4.2 On satisfaction of clause G4.1, the Authority shall promptly notify the Contractor that those conditions have been satisfied.
- G4.3 The conditions specified in this clause G4 are inserted solely for the Authority's benefit. The Authority may waive them, in whole or in part and with or without conditions, without prejudicing the Authority's right to require subsequent fulfilment of such conditions.
- G4.4 Subject to clause G4.5, and for the avoidance of doubt, if clause G4.1(a) to (c) has not been satisfied on or before the day falling four weeks after the Commencement Date this Contract shall not take effect.
- G4.5 Notwithstanding clauses G4.1 to G4.4, the Authority reserves the right (in its absolute discretion) to waive the requirement for a Guarantee in its entirety.
- G4.6 On the written request of the Authority after the occurrence of a Financial Distress Event relating to the Guarantor (whether forming part of a Financial Distress Event Service Continuity Plan or otherwise) the Contractor shall use all reasonable endeavours to promptly arrange for the Guarantee to be replaced with a comparable guarantee to the satisfaction of the Authority with another guarantor which is acceptable to the Authority.
- G4.7 If the Guarantee ceases to be valid or enforceable for any reason the Contractor shall use all reasonable endeavours to promptly arrange for the Guarantee to be replaced with a comparable guarantee to the satisfaction of the Authority with the Guarantor or with another guarantor which is acceptable to the Authority.
- G4.8 The Contractor shall provide copies of the information set out in clause G4.1(b)(ii) immediately on request in accordance with the provisions of Schedule 20 (Management Information), and shall notify the Authority if the financial position of the Guarantor deteriorates, if the Guarantee ceases to be valid or enforceable for any reason and/or if any Financial Distress Event occurs in relation to the Guarantor in accordance with the provisions of Schedule 22 (Financial Distress).
- G4.9 Where a replacement guarantee or guarantor is put in place pursuant to clause G4.6 or G4.7 the terms Guarantee and Guarantor shall apply to such thereafter.

H TERMINATION RIGHTS AND DISRUPTION

H1 Termination by the Authority

- H1.1 The Authority may terminate this Contract by issuing a Termination Notice to the Contractor:
- (a) for convenience at any time, including where the Contract should not have been entered into in view of a serious infringement of obligations under European Law declared by the Court of Justice of the European Union under Article 258 of the Treaty on the Functioning of the EU;
 - (b) if a Contractor Termination Event occurs;
 - (c) if a Force Majeure Event endures for a continuous period of more than 90 days; or
 - (d) if the Contract has been substantially amended to the extent that the Public Contracts Regulations 2015 require a new procurement procedure,
- and this Contract shall terminate on the date specified in the Termination Notice.
- H1.2 Where the Authority:

(a) is terminating this Contract under Clause H1.1(b) due to the occurrence of limb (b) of the definition of Contractor Termination Event, it may rely on a single material Default or on a number of Defaults or repeated Defaults (whether of the same or different obligations and regardless of whether such Defaults are cured) which taken together constitute a material Default; and/or

(b) has the right to terminate this Contract under Clause H1.1(b) or Clause H1.1(c),

it may, prior to or instead of terminating the whole of this Contract, serve a Termination Notice requiring the partial termination of this Contract to the extent that it relates to any part of the Services which are materially affected by the relevant circumstances (a “**Partial Termination**”).

H2 Termination by the Contractor

H2.1 The Contractor may, by issuing a Termination Notice to the Authority, terminate:

(a) this Contract if the Authority fails to pay an undisputed sum due to the Contractor under this Contract which in aggregate exceeds 2% of the Anticipated Contract Value and such amount remains outstanding 60 Working Days after the receipt by the Authority of a notice of non-payment from the Contractor, save that such right of termination shall not apply where the failure to pay is due to the Authority exercising its rights under clause C5; or

(b) any Services that are materially impacted by a Force Majeure Event that endures for a continuous period of more than 90 days,

and this Contract or the relevant Services (as the case may be) shall then terminate on the date specified in the Termination Notice (which shall not be less than 20 Working Days from the date of the issue of the Termination Notice). If the operation of Clause H2.1(b) would result in a Partial Termination, the provisions of Clause H3 (Partial Termination) shall apply.

H3 Partial Termination

H3.1 If the Contractor notifies the Authority pursuant to Clause H2.1(b) (Termination by the Contractor) that it intends to terminate this Contract in part and the Authority, acting reasonably, believes that the effect of such Partial Termination is to render the remaining Services incapable of meeting a significant part of the Authority Requirements, then the Authority shall be entitled to terminate the remaining part of this Contract by serving a Termination Notice to the Contractor within 1 month of receiving the Contractor’s Termination Notice. For the purpose of this Clause H3.1, in assessing the significance of any part of the Authority Requirements, regard shall be had not only to the proportion of that part to the Authority Requirements as a whole, but also to the importance of the relevant part to the Authority.

H3.2 The Parties shall agree the effect of any change to this Contract necessitated by a Partial Termination in accordance with the Change Control Procedure, including the effect the Partial Termination may have on any other Services and the Fees, provided that:

(a) the Contractor shall not be entitled to an increase in the Fees in respect of the Services that have not been terminated if the Partial Termination arises due to the occurrence of a Contractor Termination Event; and

(b) the Contractor shall not be entitled to reject the change to the Contract.

CONSEQUENCES OF EXPIRY OR TERMINATION

H4 General Provisions on Expiry or Termination

H4.1 Unless otherwise expressly provided in the Contract:

(a) the provisions of Clauses A7 (Conflicts of Interest), B13 (Offers of Employment), C3 (Payment and Fees), C4 (Validation & Extrapolation of Outcomes), C5 (Recovery of Sums Due), D1 (Prevention of Bribery and Corruption), E1 (Authority Data), E2 (Protection of Personal Data), E3 (Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989), E4 (Confidential Information), E5 (Freedom of Information), E8 (Intellectual Property

Rights), E9 (Audit and National Audit Office), F5 Remedies Cumulative), G1 (Liability, Indemnity and Insurance), G2 (Professional Indemnity), H4 (General Provisions on Expiry or Termination), I1 (Governing Law and Jurisdiction) and Schedule 10 (Exit Management), shall survive the termination or expiry of this Contract; and

- (b) termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration. Nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry.

H5 Exit Management

- H5.1 The Parties shall comply with the provisions of Schedule 10 (Exit Management) and any current Exit Plan in relation to orderly transition of the Services to the Authority or a Replacement Contractor.

H6 Payments by the Authority

- H6.1 If this Contract is terminated by the Authority pursuant to Clause H1.1(a) (Termination by the Authority) or by the Contractor pursuant to Clause H2.1(a) (Termination by the Contractor), the Authority shall pay the Contractor the following payments (which shall be the Contractor's sole remedy for the termination of this Contract):

(a) the Termination Payment; and

(b) the Compensation Payment, if either of the following periods is less than 365 days:

(i) the period from (but excluding) the date that the Termination Notice is given by the Authority pursuant to Clause H1.1(a) (Termination by the Authority) to (and including) the Termination Date; or

(ii) the period from (and including) the date of the non-payment by the Authority referred to in Clause H2.1(a) (Termination by the Contractor) to (and including) the Termination Date.

- H6.2 If this Contract is terminated (in part or in whole) by the Authority pursuant to Clauses H1.1(b), H1.1(c) and/or H1.2 (Termination by the Authority), or the term expires, the only payments that the Authority shall be required to make as a result of such termination (whether by way of compensation or otherwise) are:

(a) payments in respect of any Assets or apportionments in accordance with Schedule 10 (Exit Management); and

(b) payments in respect of unpaid Fees for Services received up until the Termination Date.

- H6.3 The costs of termination incurred by the Parties shall lie where they fall if:

(a) either Party terminates or partially terminates this Contract for a continuing Force Majeure Event pursuant to Clauses H1.1(c) or H1.2(b) (Termination by the Authority) or H2.1(b) (Termination by the Contractor); or

(b) the Authority terminates this Contract under Clause (d)H1.1(d).

- H6.4 If this Contract is terminated in whole by the Authority pursuant to Clauses H1.1(b), H1.1(c) and/or H1.2 (Termination by the Authority), or the term expires, the Contractor shall not have any right to receive any Outcome Payment in respect of any Participant.

- H6.5 If this Contract is terminated in part by the Authority pursuant to Clauses H1.1(b), H1.1(c) and/or H1.2 (Termination by the Authority), the Contractor shall not have any right to receive any Outcome Payment in respect of any Participant who receives or has received any Services which are subject to such partial termination.

H7 Payments by the Contractor

- H7.1 In the event of termination or expiry of this Contract, the Contractor shall repay to the Authority all Fees it has been paid in advance in respect of Services not provided by the Contractor as at the date of expiry or termination.
- H7.2 Where the Authority terminates the Contract under clause H1.1(b) (Termination by the Contractor) and then makes other arrangements for the supply of Services ("Other Arrangements"), the Authority may recover from the Contractor the cost of making such Other Arrangements and any expenditure incurred (including but not limited to legal costs) by the Authority in connection with such Other Arrangements in accordance with Schedule 11 (Allocation of Costs on Termination). The Authority shall take all reasonable steps to mitigate such cost and expenditure.
- H7.3 Where a Contract is terminated under clause H1.1(b), the Authority shall be entitled to withhold payment of any amount otherwise due to the Contractor under this Contract until such time as the Authority has been able to establish the cost of making such Other Arrangements. For the avoidance of doubt, no interest shall accrue on any payments that are withheld under this clause H7.3.

H8 Disruption

- H8.1 The Contractor shall take all reasonable care to ensure that in performing of its obligations under the Contract it does not disrupt the operations of the Authority, its employees or any other contractor employed by the Authority.
- H8.2 The Contractor shall immediately notify the Authority of any actual or potential industrial action, whether such action is by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- H8.3 In the event of industrial action by the Staff, the Contractor shall seek Approval to its proposals to continue to perform its obligations under the Contract.
- H8.4 If the Contractor's proposals referred to in clause H8.3 are considered insufficient or unacceptable by the Authority (acting reasonably), the Authority may terminate the Contract with immediate effect by notice in writing.
- H8.5 If the Contractor is temporarily unable to fulfil the requirements of the Contract owing to disruption of normal business by direction of the Authority, an appropriate allowance by way of extension of time will be approved by the Authority. In addition, the Authority will reimburse any additional expense reasonably incurred by the Contractor as a direct result of such disruption.
- H8.6 The Contractor shall have a Business Continuity and Disaster Recovery Plan in place, prepared by the Contractor and agreed with the Authority in accordance with Schedule 18 (Business Continuity and Disaster Recovery), to ensure that the Services to the Authority will be maintained in the event of disruption (including, but not limited to, disruption to information technology systems) to the Contractor's operations, and those of Sub-contractors to the Contractor, however caused. Such contingency plans shall be available for the Authority to inspect and to practically test at any reasonable time, and shall be subject to regular updating and revision throughout the Contract Period.
- H8.7 The Contractor and the Authority shall at all times comply with the provisions in Schedule 18 (Business Continuity and Disaster Recovery).

I Disputes and Law

I1 Governing Law and Jurisdiction

This Contract and any dispute or claims (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and interpreted in accordance with English law and the Parties irrevocably submit to the jurisdiction of the English courts. Each Party irrevocably waives any objection which it might at any time have to the courts of England being nominated as the forum to hear and decide any proceedings and to settle any disputes and agrees not to claim that the courts of England are not a convenient or appropriate forum.

I2 Dispute Resolution

I2.1 Subject to clause B6 and clause D1.9, the Parties shall resolve Disputes arising out of or in connection with this Contract in accordance with the Dispute Resolution Procedure.

I2.2 The Contractor shall continue to provide the Services in accordance with the terms of this Contract until a Dispute has been resolved.

This Contract has been entered into on the Commencement Date defined at A2 – Initial Contract Period.

Signed on Behalf of the Authority:	Signed on Behalf of the Contractor:
Signature: [REDACTED]	Signature: [REDACTED]
Name: [REDACTED]	Name: [REDACTED]
Position: [REDACTED]	Position: [REDACTED]
Date: [REDACTED]	Date: [REDACTED]

Schedule 1

The Services

Description of the Services

Subject to clause F6.3 of the Contract, the Contractor will comply with the detail set out within the following additional documents which shall be deemed to be incorporated into this Contract;

Document	Dated
Specification	V5 Issued on Bravo as part of the ITT on 03 October 2018 a copy of which is attached at the Appendix to this Schedule 1.
Tender	Received through Bravo on 16 November 2018 a copy of which is attached at the Appendix to this Schedule 1.
Q&A Log (Q&A)	Response to the Q&A Log during the relevant period, as posted on Bravo a copy of which is attached at the Appendix to this Schedule 1.
Tender Clarification	Responses to clarification questions received through Bravo and Financial Clarification information received through Bravo.
Provider Guidance	<p>The Generic Provider Guidance is available at: https://www.gov.uk/government/publications/framework-generic-guidance-provider-guidance</p> <p>The RPC Guidance was issued to the Contractor with the ITT</p> <p>https://www.gov.uk/government/collections/dwp-provider-guidance.</p> <p>If there is a conflict between the Generic Provider Guidance and the RPC Guidance then the Generic Provider Guidance shall prevail.</p>

The Contractor will implement the Implementation Plan in accordance with clause B1.5 of the Contract.

Appendix A: Specification



Specification v5
WITH NO NEW BIDD

Updated version of the Provider Guidance which supercedes the version embedded in the above Specification:



Reducing Parental
Conflict Provider Gu

Appendix B: Copy of Tender

Authority's ITB



ITB v6 .docx

Contractors Stage 1 Response



SQ6.1.docx



SQ6.2.docx

[REDACTED]



SQ6.4.docx

Contractors Stage 2 Response

2.4.1 Management

Overall Management Requirements

Please provide details of your management structure, systems and processes; the human resources (including any sub-contractor staff) that you will use to deliver and manage this provision.

Your response should include:

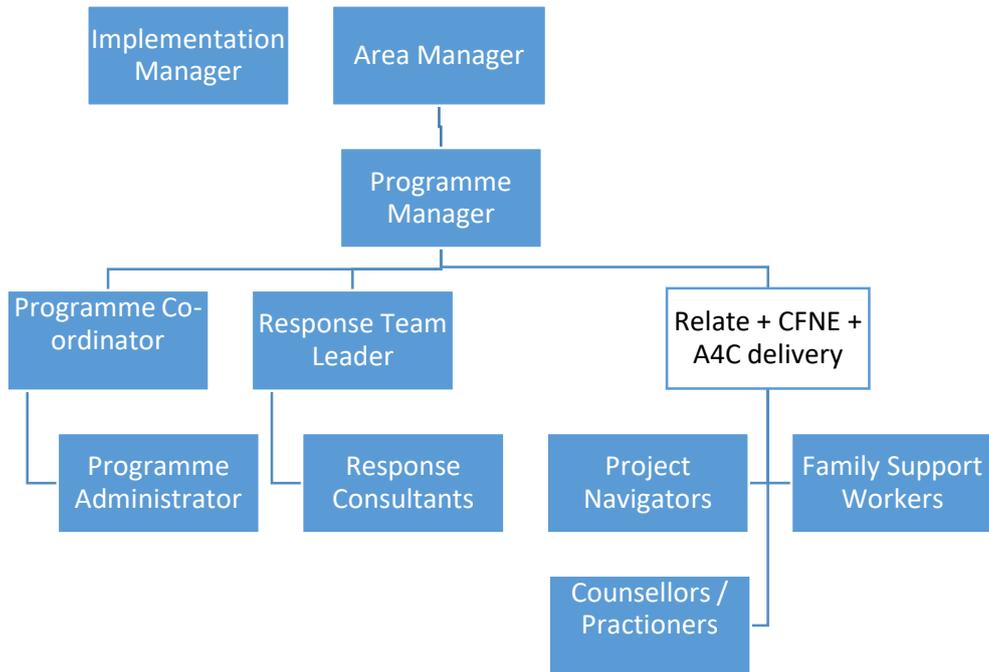
- Include organisation charts to outline your proposed UK management structure and UK operational structure for this provision, including any subcontractor roles where applicable and the percentage of time that will be allocated to this contract for each listed role. Also include associates and partner organisation roles where applicable. **The Format requirement and page limit does not apply to the organisation chart**
- Provide a clear explanation of your capacity to manage this provision alongside existing and any potential future commitments
- Provide details of the number of staff that you propose to employ within your organisation and those of any subcontractors (if applicable) in order to manage and deliver your proposal. Include details of;
 - job titles; key responsibilities, relevant skills, experience & qualifications for each role detailed in your operation and participant journey. (For frontline staff delivering interventions, see separate bullet below).
 - full time equivalents, including where full time staff will work part time on this contract;
 - high-level roles & responsibilities;
 - the rationale behind your management and delivery staffing proposal
 - how and when you will interface with your subcontractor/ partner organisations (if applicable).
- Details of the number of existing staff and those who will need to be recruited
- Explain how you will provide appropriate supervision or clinical oversight for staff delivering the intervention
- A clear description of how you will recruit, train and retain staff to ensure effective delivery of this provision and satisfactory performance from the start of the contract and throughout its lifetime
- A clear explanation of how you will manage sickness absences, annual leave during peak times and staff attrition/churn, including contingency arrangements for managing the absence of key staff while maintaining the quality of service delivery and performance levels

A rationale for why you consider your proposed staffing level to be appropriate for this provision and how you will manage this as volumes increase and decrease over the life of the contract.

Present your response **at the top of a new page**, within these preset margins in Arial font size 12 up to **3** sides of A4

, **excluding** the question text and these instructions.

Diagram below indicates the management/admin team with proposed staffing across the implementation period:



The programme will be delivered between Relate, Changing Futures North East (CFNE) and Action For Children (A4C) via the following delivery staff.

Area of the Programme	Type of Post	Existing or new post	Weekly (FTE) hours during implementation (Jan - Apr/Oct 2019)	Weekly (FTE) hours during service delivery (Apr/Oct19 - Mar21)
Programme Management	Area Manager	E	0.2	0.2
	Implementation Manager	N	22 weeks @35 hours	0
	Programme Manager	N	1	1
	Programme Co-ordinator	N	1	1
	Programme Administrator	N	0	1
Programme Delivery	Project Navigators	N	0	2.4
	Family Support Workers	N	0	2.6
	Practitioners (Relate)	Y	0	3.3

	Practitioners (CFNE)	Mixed	0	1.6
	Practitioners (A4C)	Mixed	0	0.6
Contact Centre	Response Team Leader	Y	0.2	0.2
	Response Consultants	Y	0	1.7

NB. 1 FTE = 35 hours per week.

Relate has the capacity to manage this provision through existing, experienced management staff alongside employing new, dedicated DWP RPC contract staff.

CFNE and A4C will also employ responsible managers focussed on the delivery of this contract; each sub contract will have clearly defined roles and responsibilities for staff.

Our existing **Area Manager**, [REDACTED] will have overall and ultimate responsibility for this contract. Until the Programme staff are in post, [REDACTED] will be the single point of contact for the DWP, Local Authority Leads, sub-contractors and other formal/informal partners. [REDACTED] has 5 years' experience of implementing, managing and delivering services in the North East, including management of a Department for Education consortium partnership.

Once in post the **Programme Manager** will assume responsibility and accountability for meeting the programme objectives, and will line manage the remainder of the team. Relevant contract and/or supply chain management experience will be an essential requirement for the holder of this role. **Project Navigators (2.4FTE)** will be recruited with the necessary skills to support parents to access, engage with and complete the interventions. Relevant experience in working with this chaotic client group will be key.

For the initial implementation period between January 2019 and April / October 2019, the team will be supported by additional implementation support.

The operational resource will be expertly complemented by **specialist support** (HR, Finance, Marketing and Communications, IT), **Clinical support** (e.g. Clinical Supervisors) and the Relate Response contact centre team. The service will also be embedded into our regional and national infrastructure to enable managers to access peer support. There is also local flexibility available, e.g. management cover during absence, and effective administrative support.

Sub-contractors staffing is included in the table above, however sub-contractor relationships will be managed via:

- Tailored sub contract agreements that has been co-created between partners and signed off at Executive Leadership Team level
- Contract management meetings held initially every week, aiming to move to monthly once implementation is finished. The purpose of these meetings will be to assess performance, review risks and issues and implement continuous improvement through active learning.

Supervision and Clinical Oversight:

As an organisation with 80 years' experience delivering clinical interventions, we have in place robust clinical supervision processes. All delivery staff receive a minimum of 1.5 hours clinical supervision each month. This

is from a supervisor trained in Couple Counselling and within the specific field of counselling, e.g. Family, Children and Young People. Counsellors also attend Case Supervision Groups which provide a forum to share best practice, concerns and flag new procedures and policies etc.

All Supervisors receive support from a Senior Practice Consultant (SPC). SPCs are senior, highly experienced clinicians who develop and oversee the implementation of strategic clinical governance across Relate. All Relate counsellors and delivery managers have access to our Practice Helpline which is a resource to support and advise staff to manage complex case management, domestic abuse and safeguarding concerns appropriately and in line with Relate's policies and procedures.

In relation to the specific interventions to be delivered through the DWP RPC Contract we will adhere to the supervision and clinical oversight requirements of the intervention owners. For example, Tavistock Relationships will provide specialist supervision for practitioners delivering Parents in Dispute. Where there are no specific supervision requirements stipulated by the intervention owner, all practitioners will receive supervision in line with the processes outlined above as a default.

Human Resources (HR): how we recruit, train and retain staff:

We have an HR department which provides recruitment support to Area Managers. We have robust HR policies in place and ensure all staff go through an equal opportunity, Safer recruitment process. References are sought prior to appointment along with Right to Work checks and DBS checks as appropriate.

The Programme Manager and other Programme Management roles will be advertised pre-contract start. We will advertise widely: on the Relate website, across national recruitment websites (e.g. Guardian Jobs, Charity Jobs), local recruitment agencies and within local partners and stakeholders, including the option to second from a Local Authority or other statutory partner for the period of the programme. The aim is to recruit an experienced manager familiar with the sector, location and client group.

Intervention roles will be filled internally through our experienced practitioners where staff meet minimum requirements, or externally if needed. We have already considered advice from intervention owners about the essential skills and experience for staff as part of building our delivery model and will use our extensive experience of recruiting Interventions staff to inform this process.

The majority of non-intervention training will be provided internally, e.g. Safeguarding, IT (including the case management system). As the programme progresses, additional training needs may be identified across the programme (including for sub-contractor staff), so we would deliver programme wide training where necessary and cost effective.

Maintaining good Relate staff retention at Programme level will be supported by excellent employment terms and conditions, flexible working (where the business allows), and supportive management including regular supervision (minimum 6 weekly) to identify and address any staff concerns early in the aim of retaining quality staff.

Managing Sickness, Leave, Attrition and Contingency Arrangements:

The programme will be organised to cope with demand fluctuations. We will monitor the demand profile using real-time performance monitoring, taking action where appropriate.

- Short-term absences: staff will be redeployed from other areas of the business or programme, including support from sub-contractors which will be written into their contracts.
- Long-term planned absence: recruitment will commence before a staff member leaves the programme; at least 3 months' notice will be required.
- Long-term unplanned absence: our training plan is to train more than the staff required for minimal additional cost to ensure contingency; with other staff providing cover from Relate, the sub-contractors and the peer Primes across the other CPA's.

The Programme Manager will plan and schedule for holidays/absence so that the specified performance levels are continually achieved. No more than one member of the programme team will be planned to be absent at any time. Our programme has good links with local recruitment agencies who may be also involved in supplying 'bank staff' as contingency for some programme roles.

A risk log will be regularly monitored with the Area Manager to ensure that risks and issues are managed at the earliest opportunity.

Rationale for Proposed Staffing Level:

Our proposed staffing level has been developed taking into account:

- Discussions with intervention owners
- Estimated volumes
- Experience of delivering on existing contracts
- Sub-Contractor experience of delivering on existing contracts within the specific locations of the CPA area

Under our current DWP contract we have had to manage fluctuating volumes staff attrition resulting from delays in contract extensions.

As an organisation we have a mix of contract and sessional staff. Sessional staff enable us to flex our resource to meet peaks and troughs in demand. We also take into account seasonal trends in planning our workforce requirements. For example, there is always low demand on our services in August and December whilst we see sharp peaks in demand in September and January. We plan staff holidays and organise sessional staffing around this.

As a national organisation with a large delivery workforce trained to a uniform level, we are able to leverage in additional resource for contractual delivery where needed, at short notice. We have demonstrated this on our current DWP contract, covering additional delivery ourselves where our sub-contractors were underperforming. We are also able to bring in sessional resource from Relate Federated Centres. We can be confident in the quality of the staff as they have to meet our own rigorous training and delivery standards.

As with all contracts, we will review performance on the DWP RPC contract monthly as a minimum and more frequently at implementation and where circumstances demand. The Programme Manager will have day to day operational oversight of performance and it will be a key requirement of their role to monitor resource against demand and address any emerging issues. They will be required to flag to their Line Manager and the DWP Performance Manager significant concerns which may impact on meeting contractual deliverables.

Significant issues will be escalated to Executive Leadership Team level. This is in line with our current processes for managing our DWP contract where concerns over sub-contractor's resource issues were flagged to our CEO who intervened directly, meeting with the sub-contractor CEO.

2.4.2 Training Requirements

Your response should include:

- Qualification/relevant skills already held to qualify for the interventions you propose to deliver.
- Any accreditation held to deliver the specific training and interventions or details on how accreditation will be achieved before go-live.
- For staff delivering interventions, where the supporting evidence for your chosen intervention sets out specific training requirements for staff/course facilitators, please set out how those requirements will be met.
- If there are no specific training requirements for staff/course facilitators in the evidence supporting your intervention, please set out how you will ensure that suitably professionally-qualified staff will be delivering provision. Please detail the qualifications and training staff will hold, including titles, training content description if necessary, and associated professional accreditation including appropriate reference to regulatory bodies, registers and industry standards.

Present your response **at the top of a new page**, within these preset margins in Arial font size 12 up to **3** sides of A4, **excluding** the question text and these instructions.

We believe that the following training is necessary to deliver the RPC F2F programme, following in depth discussions with practitioners, intervention owner and industry experts:

Service Area	Staff Required	Training Required	Timetable
Relate Response	Response Consultant	Relate Induction, Understanding of Service Offers, Live Coaching (Answering the Phone Differently), Case Management, Safeguarding and Suicide Awareness.	Jan – Mar 2019 NB. Some staff already in place
Contract Management	Programme Manager Programme Coordinator Project Navigators	Relate Induction, Case Management, Performance Management, Support to participants, Safeguarding	Jan – Mar 2019
Family Check Up (FCU)	Practitioner	Safeguarding Introduction to Domestic Violence Introduction to Mental Health Issues	Feb 2019

		Family Check Up specific training – On line training 30.5 hours to complete per person	
Incredible Years: Advanced (IY)	Practitioner, with training skills	Safeguarding Introduction to Domestic Violence Introduction to Mental Health Issues IY specific training – Classroom training, 5 days (8 hours per day) per person	Feb 2019
Parents in Dispute: Mentalisation	Counselling staff	Level 5 Diploma in Relationship Counselling or equivalent Safeguarding Introduction to Domestic Violence Introduction to Mental Health Issues Mentalisation specific training – Classroom training, 7 days (8 hours per day) per person	Feb 2019
Parents Plus (PP)	Educator, with training skills	Safeguarding Introduction to Domestic Violence Introduction to Mental Health Issues PP specific training – Classroom training, including Supervisor attendance, 2 days	Feb 2019

We will ensure suitably professionally-qualified staff will be delivering interventions by:

- Membership of (or willingness to comply with) British Association of Counselling and Psychotherapy, College of Sexual and Relationship Therapists, and Association for Family Therapy and Systemic Practice codes of practice and Relate's policy and practice guidelines.
- Ensuring a minimum Level 5 Diploma in Relationship Counselling or equivalent, plus training in specialisms such as Family Counselling. The vast majority of current Relate staff hold this qualification.
- Ensuring considerable experience as a relationship or family counsellor, with at least 240 hours supervised practice hours.
- Completing Training Needs Assessments (TNA): to be completed with existing staff within the CPA to gauge interest and ability within the current workforce.
- Other criteria for staff: All delivery staff would receive our VLE counselling for non-counsellors training as part of their induction. Posts would be subject to a criminal record check via the Disclosure and Barring Service.

The training enables practitioners to work with a very wide range of areas arising within the couple dynamic and which cause conflict. Practitioners are trained in both systemic and psychodynamic principles. This allows them to engage with clients at the level that most meets the client's needs and to work effectively with all areas relating to current and unresolved conflict.

The majority of non-intervention based training will be provided internally, e.g. Safeguarding, IT (including the case management system). As the project progresses, additional training needs may be identified across the project (including for sub-contractor staff), so we would deliver project wide training where it is cost effective to do so and reflective of the specific client's needs, such as English as a 2nd language, long term health conditions.

To reduce costs, ensure programme fidelity and deliver consistency across the DWP RPC programme, we will be sharing the training on FCU, Mentalisation and PP with Changing Futures NE; and also seeking to share DWP RPC CPA Prime peers across the other CPAs that have a shared intervention. In practice these will be group based training in a supportive classroom venue where individuals will be learning simultaneously alongside peers.

We have a Virtual Learning Environment in place that all staff can access for mandatory training, Relate's case management system (Penelope) usage and for our The Difference We Make outcome monitoring tool. This is a very effective training method as staff can fit training around delivery or other key tasks. Where appropriate we can make this available to sub-contractors.

We employ highly qualified clinical supervisors, all qualified in specific disciplines such as Adult Relationship Counselling, Family Counselling etc., as well as being trained to provide high quality clinical supervision to our practitioner workforce.

We run a Practice Helpline which is a resource to support and advise staff to manage complex case management, domestic abuse and safeguarding concerns appropriately and in line with Relate's policies and procedures. This is staffed by Senior Practice Consultants who are a team of senior, highly experienced clinicians who develop and oversee the implementation of strategic clinical governance throughout Relate and the Relate Federation. At every level; Practitioner, Supervisor, Senior Practice Consultant, staff are experienced and skilled in working with parents in conflict.

We anticipate one block training event at the start of the programme; i.e. not a continuous training programme during the 27 month programme. If a TNA does raise specific issues at recruitment, additional training may be offered. We expect to retain staff from the start of programme to end, however our contingency includes purchasing Train the Trainer options if there are staff vacancies that affect delivery.

(2.5) Premises & Geographic Area

2.5.1 Premises

Please provide details of the premises that you will use to deliver this provision, including details of any outreach services.

Your response should:

- Provide full address details, including post code, for all fixed delivery premises
- Where applicable, describe any outreach services that you will provide and how you will secure these explaining what you consider to be minimum standards for premises and therefore why these premises are suitable for this provision and the specified priority groups e.g. your rationale for choosing your delivery locations
- Provide details of local public transport links and their proximity to the premises that you have identified in response to the above points
- Detail the facilities available at each location and how these meet any legal requirements, including compliance with the Equality Act 2010 and how you meet relevant accessibility;
- If you intend to use existing premises, explain how delivery of this provision will fit with current use
- If you intend to secure new premises, indicate the timescales for doing so ahead of go-live and your contingency arrangements for ensuring timely delivery of this provision
- Detail your contingency plans for dealing with fluctuating participant volumes over the life of the contract, including the minimum and maximum volumes that can be handled at any one time without having an adverse impact on your premises proposal

Present your response **at the top of a new page**, within these preset margins in Arial font size 12 up to **3** sides of A4, **excluding** the question text and these instructions.

- Both outreach and fixed delivery locations would be physically accessible to all, as per the definition in the Equality Act 2010.
- Both outreach and fixed delivery locations would have access to auxiliary aids and services, e.g. translating services, portable induction loop for those with hearing loss.
- Child care will be sought to be available on site.

Currently we do not envisage any new premises being secured. We commit to reviewing premises with the DWP Programme Lead, relocating if required based on participant feedback for example Detailed risk assessments will be completed to ensure availability and that current use is appropriate with the proposed service.

Our mitigation to avoid a lack of premises is that we have 'back up' premises available via other providers, Local Authorities and local agencies.

We fully expect participant volumes to fluctuate across the life of the contract; although we have profiled the delivery starts and intervention delivery equally across the 24 month period. The delivery model is designed to deal with under demand, e.g. implementing the marketing and promotional plan when delivery starts are low. Over demand will activate contingency plans such as increasing staffing within the three delivery agencies and using back up venues.

The minimum and maximum volumes that can be handled at any one time without having an adverse impact on our premises proposal – i.e. that additional premises are required or are not utilised - is approximately 12% of the total volume, i.e. 125 participants lower or higher than that estimated. NB. 12% is the percentage that impacts on the premises proposal only; a lower % impacts on other aspects of the overall programme.

We would be seeking to avoid any significant % difference in the total volume, involving the DWP Performance Manager and Programme Lead at the earliest opportunity in all discussions and decisions concerning delivery volumes and participant starts.

2.5.2 Geography

Geographical Area:

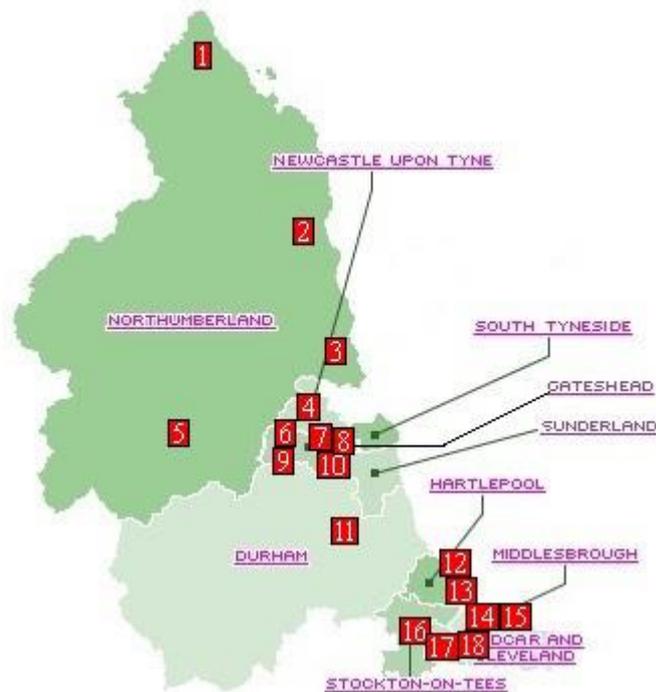
- Please indicate the location(s) in which intervention(s) will be delivered, including a breakdown by region / local authority areas / district, as appropriate.
- Outline your assumptions on the percentage of the population you plan to reach through the proposed coverage
- Note: Coverage provided by subcontractors to be described in 'Supply Chain' section.

Present your response **at the top of a new page**, within these preset margins in Arial font size 12 up to **1** side of A4, **excluding** the question text and these instructions.

The Format requirement and page limit does not apply to any tables/maps used

All four interventions will be delivered as per the indicative participants per location as listed in the DWP specification.

[REDACTED]



There are ten Local Authority areas within the Gateshead CPA that have a mix of need, current service and referral routes.

In the South of the area are four Local Authorities clustered together into a grouping known as Tees Valley. This location is where our partner Changing Futures North East (CFNE) is based. CFNE will use its excellent, long standing relationships with the local referring agencies on and has delivered parental conflict programmes and wider family support services for nearly twenty years.

In the Central location, there are three Local Authorities – Newcastle, Sunderland and Durham - that comprise 50% of the total expected volume of participants. show we understand that we are trying to balance cost effectiveness with the desire for residents and LA commissioners for interventions to be delivered as close to people's homes as

In the North of the area is the largest geographical area of Northumberland. This area is the most rural, least populated location. As a result, our delivery model is to deliver a high proportion of home interventions with office based group delivery in the most accessible locations.

We are aware that the geographical delivery is challenging considering the conflicting requirements to deliver in a cost effective way whilst recognising and adapting to the participants choices in delivery, including that some participants will not travel outside of their own community, even within a 3 mile radius.

When a participant is booked onto the programme, they will be offered choices of where they would like to attend the intervention. During this initial contact, full details of the local public transport links, their proximity to the premises and directions to aid attendance will be included.

2.6.1 Quality of Delivery

Please provide a detailed description of how you will ensure the quality of service delivery through your management practices.

Your response should describe:

- the systems you will have in place to manage and monitor the quality of the service delivered by you and/or your supply chain to ensure it is being delivered to the standard outlined in your bid and clearly shows that your systems have the capability to manage the end to end service (by cohort and cohort profiles) in accordance with your performance offers.
- What systems and processes will be used to monitor and record performance to ensure you and/or your subcontractors provide a robust and clear audit trail of evidence?
- How poor performance by you and /or your subcontractor(s) will be identified and addressed?

Present your response **at the top of a new page**, within these preset margins in Arial font size 12 up to 2 side of A4, **excluding** the question text and these instructions.

Manage the quality of the project:

The project will fit within our own established approach to quality which focuses on the customer experience, operational effectiveness and clinical effectiveness. Our approach uses both KPIs relevant to our overall organisation as well as KPIs specific to the contract – in this case the standards and requirements of the interventions themselves, and the standards and requirements of the contract. We draw on inputs directly from a range of stakeholders and internal data to inform this approach.

For this contract, we have identified the following tools and approaches as being central to our approach to quality:

1. The Programme Manager will be the key coordinating point for our quality approach.
2. We will use Relate's bespoke case management system [REDACTED] to capture data on the clinical activity which will enable us to monitor and analyse progress for the whole of a client's journey. The [REDACTED] system can be used to report by exception on a weekly basis.
3. The Programme Manager will manage individual staff performance and that of sub-contractors using a simple SMART objective setting process for employed staff and via contract specifications where we are using sessional staff.
4. We will use a number of tools from our clinical quality governance approach:
 - Supervision: One-to-one supervisions (4-6 weekly) to review performance.
 - Registration of all delivery practitioners on our Practitioner Directory which assures for up-to-date compliance with DBS, right to work, mandatory CPDs and other relevant training
 - Access to our practice helpline ensuring a route for both safeguarding and reflective practice
 - Use of the evaluation questionnaires as appropriate to the intervention and any specific requirements as part of the programme. These are used as part of supervision to support evidence informed practice, and for project reporting purposes.
 - Oversight of clinical practice from a Senior Practice Consultant
 - Competency based training frameworks which will be aligned with the requirements of the specific interventions to inform recruitment and CPD for staff
5. We will undertake intervention Reviews: We would be seeking a reciprocal agreement with other CPA Prime peer providers (i.e. Dorset, Hertfordshire, Westminster) of Intervention quality and effectiveness.
6. We will routinely be gathering feedback from participants, referrers, local commissioners and DWP using a range of techniques including social media, survey monkey, questionnaires, interviews and focus groups as appropriate
7. We have an established compliments, comments and complaints process which ensures timely management of feedback and monitoring up to executive level.
We will carry out Project Performance Reviews: The Programme Administrator will complete monthly reviews via Penelope to analyse project performance in achieving outputs. These reviews will be used within Performance meetings internally and externally with the DWP Performance Manager.

Managing demand: Where there is a major fluctuation in demand, contingency plans include:

- Weekly liaison with the Local Authority Lead at Gateshead to formulate an action plan to increase numbers or to manage over demand including promotion through partners and stakeholders
- Undertake analysis to understand the reasons for the low uptake of services, i.e. interviews with key referrals agencies or participants to understand the reasons why an offer was not taken up
- Revise the model where appropriate, including:
 - revising the proportion of moderate or high intensity
 - revising the proportion of interventions within those intensities
 - activate temporary recruitment, train volunteers to support in delivery and involve sub-contractors in an increase in volumes

If the trend is persistent, then, in discussion with DWP and the local authorities, we will analyse restructuring the delivery model to make fundamental changes to the staffing or locations or interventions.

All proposed actions will be discussed with the DWP Programme Lead and Performance Manager at the earliest opportunity. No major contractual change will be made without authorisation to do so.

Tackling poor performance: We will employ a Programme Co-ordinator who will have responsibility for collating and analysing the performance levels before supplying the analysis to the Programme Manager for action.

We will operate a RAG rating system to identify where performance is poor (red), acceptable (amber) and good (green). Where the performance is deemed to be red or amber, the Project Manager will agree sustainable, rectifying action on the part of Relate or the sub-contractor. The RAG system in practice is a written log which allows for the dynamic monitoring of each individual and combined risk, with the remedial actions required to improve the RAG rating to a green.

Sub-contractors will be subject to ongoing contract management, including the assessment and improvement of performance data. This will take the form of (at least) monthly meetings to review the data, agree actions and solutions to rectify any red or amber ratings, and implement a timeline for improvements to be made. Where improvements are not seen, the sub contract clause for penalties upon poor performance can be used.

This will be a monthly process, scheduled to follow the submission of performance data from sub-contractors. The process should also identify any collective barriers and solutions for participants e.g. engaging with Project Navigators, sourcing specific training for Intervention staff. If barriers are identified, we will work with our sub-contractors and the DWP to solve through a collaborative approach.

At every stage of this Performance Management process, we will be involving and consulting with the DWP Performance Manager and Programme Lead. We commit to adherence to the regular Performance meetings with DWP staff and to act swiftly to prevent and rectify any identified issues.

2.7.1 Performance Management and Audit Requirements

Please detail how you will manage the performance of this provision in line with your offer of the Specification.

Your response should:

- Clearly explain how you will accurately track participants so that you can clearly articulate at any given time where these participants are in your participant journey.
- Describe how you will proactively manage the achievement of performance levels including the frequency and level of detail of monitoring activity and trend analysis
- Identify how you will act on any findings including how you will develop and implement effective solutions to correct failures to meet performance levels in a timely manner and ensure that it does not re-occur
- Clearly describe how you will manage the performance of any subcontractors
- Explain how you will proactively engage with DWP to notify us of any issues and remedial actions rather than waiting for scheduled review meetings
- How poor performance by you and /or your subcontractor(s) will be addressed.

- Provide details of your management structure, systems and processes that you will use to support and manage audit requirements.

- Describe how you will check the compliance of your supply chain and that they adhere to the T&Cs

Present your response **at the top of a new page**, within these preset margins in Arial font size 12 up to **3** sides of A4, **excluding** the question text and these instructions.

We will track and therefore be able to provide accurate up-dates about participant journeys in four ways:

- Via **Penelope, our cloud based** customer relationship, case management system – which provides us with end to end client management and enables us to managing appointments, staff and payments. This holds end to end detail on participant activity, from the first point of contact with us and onwards. At any time we will be able to indicate whether each participant has completed an assessment, where in the Intervention journey they are, what attendance has been registered, etc. Data will be entered by the Response team at first point of referral and then updated by the delivery staff, either Practitioner or Navigator.
- **Weekly team meetings** (virtual or otherwise) where all members of the delivery team will review progress on the project and caseload.
- **Close working with referrers** via the Navigators, Programme Manager and other partners.
- **Close contact with participants** via our Response team who will be in contact with participants via the text and phone in between appointments

As an organisation we approach performance levels in three ways:

1. **Clear objectives** for all team members which balance outcomes and impact for participants with project specific delivery metrics.
2. **Via Tableau**, a cloud based analytics and data presentation Management Information (MI) system tool which connects to databases and other software systems. The system draws from a range of different data sources – in particular Penelope which enables us to report in real time. As a new project starts our IT team will create a standard set of reports tailored to the project and its governance which are then automatically generated and cascaded to team members. We can give access to this MI system to chosen stakeholders.
3. **Regular audit** of systems and process as well as activity levels. These will be part of whole cycle, carried out by either project team themselves, or where relevant by a senior clinician or senior manager from elsewhere in Relate.

For the main contract delivery, the scope of the audits would include:

- Case file reviews: to assess a sample of open and closed cases for support quality.
- Analysis against contract requirements: to assess working practices and identify efficiencies.
- Interviews with former, current and potential service users.
- Interviews with staff members: for context and background of working practices.

These three elements are reviewed on a weekly or monthly basis and where necessary result in SMART Action Plan for improving outcome delivery. The Plan would indicate the issue, the remedial action required, the timeline to complete and who is responsible.

As a counselling organisation we have a number of systems based around principles of reflective practice which we apply to operational as well as clinical situations.

Central to the success of this approach is to support a transparent culture where practitioners know where to highlight concerns and feel safe to do so.

Our delivery model is based on building a supply chain which can be open and transparent and work together to ensure both individual and programme targets are achieved. We have completed a Due Diligence exercise with the subcontractors to ensure that they are viable, have the capability, capacity and have the necessary infrastructure to deliver their commitment.

We are building in regular project board meetings as well as an internal communications channel to ensure this close working can be sustained. Each subcontractor will have a detailed delivery plan which will be reviewed on a weekly basis.

The project board will review programme performance and where necessary highlight particular areas of variance and/or concern.

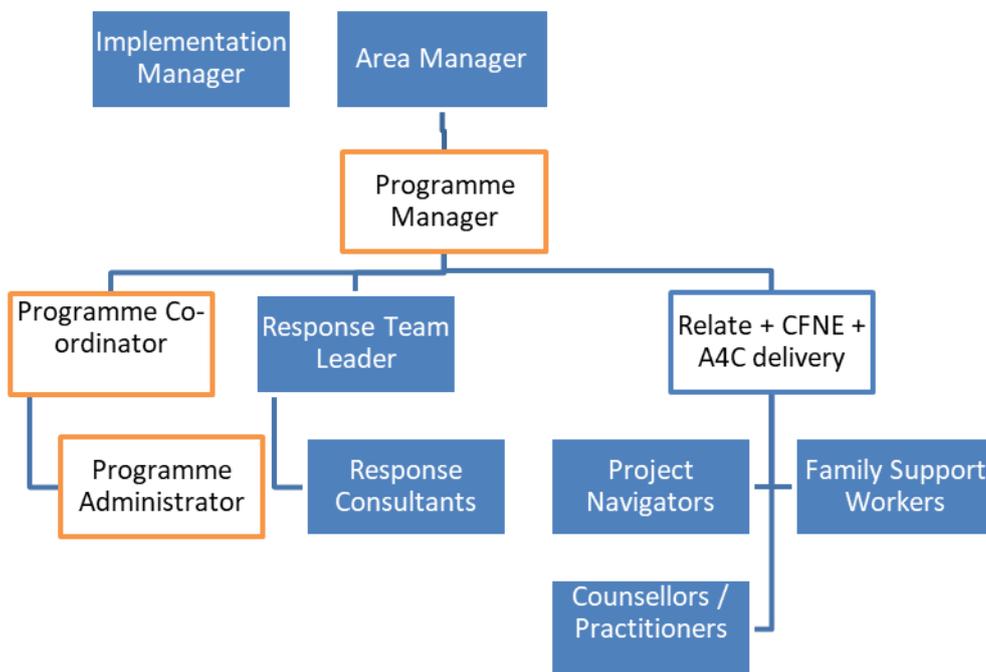
Where there are issues with the performance of a particular subcontractor, these will be addressed through individual meetings to examine the issue in more detail, and where appropriate a recovery or mitigation plan will be agreed. These plans would include an assessment of the risk to the overall programme, and any particular inter-dependencies. These plans would then become a part of the overall project management approach.

If the issue continues to be unresolved, these would be escalated to more senior managers within the supply chain for review, and if necessary, revised actions.

The speed at which an issue might be escalated in this way will be based on the maintenance of a dynamic risk assessment of the performance of the project as a whole by the Programme Manager. Where there are immediate risks – e.g. safeguarding considerations, these would be immediately escalated as well as involving managers for the LAs and the DWP at the same time.

During our commercial dialogue discussions with DWP we talked about the availability of DWP “on the ground” within the CPA. We would expect to have a close, almost daily, working relationship with this team – through in particular the Programme Manager and Programme Co-ordinator. These less formal links would be alongside the more formal framework of scheduled project meetings.

Posts within the staffing structure below with an orange border are those involved in monitoring performance and auditing; although it is every posts responsibility to perform.



2.8.1 Referrals, Engagement and Retention within Local Community

Describe how you will ensure the desired number of participants attend this provision.

Your response should set out your **overall strategy for securing and retaining suitable referrals**, and should:

- Identify the Local Authorities, networks, local services and organisations that you intend to engage with to generate referrals - this could include a broad range from a variety of sectors – including your marketing strategy for promoting provision, the different channels, and why this is suitable for the target group
- Outline how this will be done, including detailing any existing links with these services and organisations and how these will support referrals; or if links are not yet established, set out your strategy for doing so.
- Describe the activities you will employ to ensure that relationships with your key stakeholders/partners are maintained to ensure networking, Continued Professional Development, shared learning and best practice
- Please outline the discussions you have had and arrangements you have made with key stakeholders (such as your local authority etc) to support the effective delivery of your project.

Provide evidence of proactive community engagement with a range of organisations/local services from a variety of sectors, that you have consulted to gain an understanding of the local community

Present your response **at the top of a new page**, within these preset margins in Arial font size 12 up to **3** sides of A4, **excluding** the question text and these instructions.

How will we secure suitable referrals?

Referral Gateway (RG): All referrals will be the responsibility of the RG, managed by the Lead Local Authority, Gateshead. Before the implementation period commences, we would seek to forge an excellent working relationship by encouraging close links between project and RG staff, e.g. by shadowing the process, occasional attendance at team meetings, joint process mapping to increase mutual understanding of the process whilst building trust between staff.

Using Local networks: Although the RG is the central point for referrals, we will actively promote the project and encourage referrals from all front line professionals that come into contact with potential participants, e.g. attendance at team meetings, staff newsletters and emails.

This includes involving non-traditional referral agencies, which may come into daily / weekly contact with participants, e.g. schools, play groups, nurseries, DWP Job Centre staff, Probation staff.

Many of the local links to potential referring FLP's exist with the current Area Manager – [REDACTED] - or with our proposed Sub-contracted partners.

Further work will be completed to strengthen these connections during the implementation phase by operating a virtual roadshow with LA Leads and other stakeholders; a promotional event or introduction to the RPC services that will be available.

Tools to promote – Our Marketing Strategy: We will plan and implement a multi-channel approach to marketing the service, ensuring consistent information is disseminated. All activity will be supported by our Communications Officer. Our key audiences will be potential future participants, informal/formal partners, professionals and the general public. We will focus on the following key messages:

- You can access a free service that can assist people in parental conflict.
- You can access support through a referral by the LA Lead Referral Gateway.
- We can offer the right support, at the right time and in the right place.
- We will work with parents, not for them.
- You will have a say in how we deliver services.

The methods we will use include:

- Press releases in local media, e.g. Evening Chronicle.
- Social media, e.g. using the Relate Twitter and Facebook accounts.
- Online information, e.g. Relate and partner websites.
- Information via our Relate shops, e.g. Northumberland.
- Promotional collateral e.g. leaflets, posters.
- Drop-in sessions at some fixed venues.
- Attendance and contribution to professional forums, events and team meetings.
- Organising discussion events in the North East with key stakeholders.

How will we retain suitable referrals?

Implementing a wrap-around support service via Project Navigators: The aim of the Project Navigator role is to ensure referrals become participants and encourage engagement with the Intervention until completion. They will provide practical 'hands-on' support useful for workless families.

Careful recruitment of these staff members will be crucial to employ dedicated and talented staff who are experienced in working with people with chaotic lifestyles. The role's key skills and behaviours will include tenacity, patience, persuasive, challenging and engaging communication skills. Where possible we will seek to employ local people with 'lived in experiences or similar backgrounds to potential clients to engender trust.

Dynamic Interventions: Although the Interventions have been prescribed, again the recruitment of experienced and engaging delivery staff is critical to success. We and our delivery sub-contractors will

recruit, train and support Intervention delivery staff that ensure participants are fully involved with the Intervention. We will ensure that we consult with Intervention owners to learn from their experience and best practice on what skills, attributes and experience result in the most effective delivery outcomes.

Relate Response: This centralised service will provide remote support by telephoning, texting and emailing attendees before, during and after Interventions to provide any support required. If face to face support is required, then the Response consultants will refer to the face to face service on the ground.

How will we maintain relationships with key stakeholders?

- Hosting an annual, local stakeholder event to encourage understanding of the project and facilitate networking between partners
- Shared learning events with sub-contractor staff and other CPA service representatives (i.e. Dorset, Hertfordshire and Westminster)
- Attendance of key stakeholder meetings across the CPA area, linking into services beyond early help and children and families, for example faith groups, community groups,
- Presentations at Boards, Forums and team meetings

We and our sub-contractor partners all have a range of links into the local authorities within the CPA, as part of involvement with the Local Family Offer. We will be seeking to build on and extend our local understanding of the community referrals and engagement with Local Authority Partners during the implementation period.

2.8.2 Referrals, Engagement and Retention of Potential Participants

Describe how you will ensure the desired number of participants attend this provision.

Your response should set out your **overall strategy for securing and retaining suitable referrals**, and should:

- Demonstrate how you will achieve maximum occupancy on the provision, including how you will attract participants from the specified target group and how you will prevent participant disengagement and drop-out throughout the service.
- Explain how you will identify individual participants' barriers (including but not limited to child care) and tailor the service offer to overcome these
- Demonstrate how you will encourage both parents of a child to attend and complete interventions, and in particular what strategies you will have in place in order to secure the engagement of both mothers and fathers. To ensure they progress while participating in the provision and receive the support they need for them and their wider family.
- Demonstrate how you will identify potential participants to supplement Local Authority referrals
- Describe how you will measure successful participant engagement in your service
- Describe any cultural, race and ethnicity issues for the chosen target group. Include details of the provision you will make to accommodate any additional requirements from these diverse groups.
- Explain how you will ensure the completion of questionnaires

Present your response **at the top of a new page**, within these preset margins in Arial font size 12 up to **3** sides of A4, **excluding** the question text and these instructions.

We will achieve maximum occupancy on the provision by:

- Forging an **excellent working relationship with the Referral Gateway (RG)** from the outset of the project by encouraging close links between project and RG staff, e.g. by shadowing the process, project staff increase their understanding of the process whilst building trust with the RG staff.
- **Using Local networks:** Although the RG is the central point for referrals, we will actively promote the project and encourage referrals from all front line professionals that come into contact with potential participants. This includes non-traditional referral agencies, which may come into daily / weekly contact with participants, e.g. schools, play groups, nurseries, DWP Job Centre staff, Probation staff.
- **Creating an effective Marketing Plan:** We will plan and implement a multi-channel approach to marketing the service, ensuring consistent information is disseminated. All activity will be supported by our Communications Officer. Our key audiences will be potential future participants, informal/formal partners, professionals and the general public. We will focus on the following key messages:
 - ✓ You can access a free service that can assist people in parental conflict.
 - ✓ You can access support through a referral by the LA Lead Referral Gateway.
 - ✓ We can offer the right support, at the right time and in the right place.
 - ✓ We will work with parents, not for them.
 - ✓ You will have a say in how we deliver services.

The methods we will use include:

- Press releases in local media, e.g. Evening Chronicle.
- Social media, e.g. using the Relate Twitter account.
- Online information, e.g. Relate and partner websites.
- Information via our Relate shops, e.g. Northumberland.
- Promotional collateral e.g. leaflets, posters.
- Drop-in sessions at some fixed venues.
- Attendance and contribution to professional forums, events and team meetings.
- Organising discussion events in the North East with key stakeholders.
- **Brand recognition:** Relate is a recognisable and trusted brand. We have worked hard to achieve 60% public awareness – by far the highest in the relationship support sector.

How will we retain suitable referrals?

- Implementing a **wrap-around support service via Project Navigators:** The aim of the Project Navigator role is to ensure referrals convert into participants and engage with the Intervention until completion. They will provide practical 'hands-on' support useful for workless families.

Careful recruitment of these staff members will be crucial to employ dedicated and talented staff who are experienced in working with people with chaotic lifestyles. The role's key skills and behaviours will include tenacity, patience, persuasive, challenging and engaging communication skills. Where possible we will aim to recruit local people from similar backgrounds to participants to engender trust.

Dynamic Interventions: Although the Interventions have been prescribed, again the recruitment of experienced and engaging delivery staff is critical to success. We and our delivery sub-contractors will recruit, train and support Intervention delivery staff that ensure participants are fully involved with the Intervention. We will ensure that we consult with Intervention owners to learn from their experience and best practice on what skills, attributes and experience result in the most effective delivery outcomes.

We will be seeking to extend our local understanding of the community via Local Authority partners.

We will identify participants' barriers to access the project by:

- **Asking referrers** for reasons why potential participants do not want to be referred. This information will give us further understanding of the barriers and solutions.

- **Asking referrals** that do not attend what their barriers are. The Project Navigators are best placed to uncover the barriers that exist based on their understanding of the participants and their remit to challenge and empower participants. Where possible, these referrals will be encouraged to reapply to access Interventions.
- **Considering the structural or systemic barriers** that our project may have, including the use of a statutory body as the main referring source and funder.

We will seek to reduce the impact of barriers by tailoring the service offer where feasible and viable to do so. E.g. offering flexibility in delivery by choices in locations, timings, etc. The extent of this flexibility will be checked with the LA Lead and sub-contractors at the next bidding stage.

We will encourage both parents of a child to attend by:

- **Considering the family as a whole** and encouraging the family to do the same. Project Navigators will use successful techniques used within Troubled Families services to understand the motivation to change and build confidence in their abilities to learn new techniques.
- Creating an **attendance plan common to both parents**, rather than working with just one parent, e.g. an interdependent approach.
- **Considering the needs of both mothers and fathers** at the Intervention. For example, does the Intervention learning style, single gender delivery, location of delivery, gender of the trainer encourage the equal attendance of both fathers and mothers? Further research into similar projects is required during the bidding stages.

We will identify potential participants by:

- Activating our Marketing Strategy which includes a variety of diverse marketing tools such as press releases, social media, online information, attendance at professional forums and events.
- Word of mouth promotion via '1st generation' participants; encouraging these parents to advocate for the project and become peer promoters

We will measure successful participant engagement in our service by:

- Attendance figures give a quantifiable measure of engagement success. This is collated from the Intervention session register of attendance.
- Completing the Questionnaire feedback
- Check-in systems: Project Navigators will check in with participants in between Intervention sessions to ascertain progress.

We will be sensitive to the cultural needs of the chosen target group by:

- Seeking to **understand the potential cultural differences in parenting** techniques and in dealing with conflict by engaging with representative groups from key communities, e.g. there is a sizable Pakistani community in Newcastle which may require a dedicated session; however we would take advice from within the community as to whether this is useful, and how to deliver effectively.
- Consult with the **LA Lead to establish the tools** and budget available to translate materials. English as a second or third language can increase the difficulty in understanding the Interventions presented in English.
- **Taking advice on delivering mothers only and/or fathers only interventions** based on cultural needs.

We have extensive experience of working with participants to complete a variety of feedback forms and questionnaires. We will ensure the completion of questionnaires by:

- Designing the questionnaire to be as **simple and straightforward** as possible. Our aim would be to co-create with current Relate customers, test a draft version and then revise using feedback.
- **Provide training to Project Navigators and other front line workers** on how to encourage participants to complete questionnaires
- **Explore options for the delivery of the questionnaire in different formats** – e.g. on-line or at least electronic.
- **Providing support to complete.** The Project Navigators will be available at the final Intervention sessions to assist in completion; they may also help with literacy issues.
- Make participants aware of the need to complete the questionnaire in the **spirit of reciprocity**
- **Incentivise the questionnaire.** Again we would consult with current Relate customers to get views on what incentives could be used.

2.8.3 Strategic Implementation

Please provide an implementation plan in the form of a detailed Gantt Chart to be attached at Annex X showing the critical path and interdependencies with supporting narrative.

Please show how you will ensure that service delivery commences (the date first referrals can be made) and that the service meets the required standards from the start. Key milestones and activities and must include;

- Key named lead responsibility for each activity and;
- the timeline for staff recruitment;

Your response should include:

- The date on which you propose to commence service delivery (the date first referrals can be made)
- Key milestones, including the start and end dates and a named lead for each activity
- The timeline for staff recruitment and training
- The timeline and key activities to secure and set up your proposed delivery locations
- Detail any Intellectual Property Rights, licences or fees required to deliver intervention(s) and provide evidence that these will have been acquired/paid prior to commencing service delivery
- A narrative to expand on the Implementation Plan which: identifies all key risks (e.g. delays to securing premises, recruiting staff, IT etc.); provides a RAG (Red, Amber, Green) rating for each of these; and explains how they will be mitigated and managed, including the timeframe for doing so to ensure that service delivery will still commence on your proposed date

Potential Suppliers must note that the implementation plan must be reasonable and realistic against the contract start date given.

Format requirement and a page limit does not apply to the Gantt chart which you must attach as Annex X

Present your response **at the top of a new page**, within these preset margins in Arial font size 12 up to 2 sides of A4, **excluding** the question text and these instructions.

An implementation plan has been provided as Annex X as per this question response. The Relate Project Manager will be responsible and accountable for the successful implementation of the service according to the plan. The plan indicates the key milestones, activities, named responsible leads and timelines to ensure that service delivery commences on time. For the Parents in Dispute, Parents Plus and Incredible Years interventions the service start will commence at least on 1st April 2019; referrals will start to be taken via the Referral Gateway on 18th March 2019. For the Family Check Up intervention, the service start will commence on at least 1st October 2019; referrals will start to be taken via the Referral Gateway on 17th September 2019.

The implementation plan has been split into 4 key stages:

- **Pre contract activity:** Where possible we will front load activity before the contract is awarded. For example, we would expect to advertise for a Programme Manager offering the opportunity subject to funding confirmed.
- **Contract activity:** This stage will involve the funder (DWP), stakeholders (LA Lead), the Supply Chain members and Relate to confirm the contract arrangements, including outputs, performance management and payment schedules.
- **Mobilisation:** Once the contract is confirmed, mobilisation commences 4th January - 31st March 2019.
- **Service Delivery:** Three interventions will commence on 1st April 2019; the remaining intervention will commence on 1st October 2019.

The named leads for each of the tasks listed in the Implementation Plan will either be employed directly by Relate (i.e. Programme Manager) or by one of our supply chain partners. Relate already has significant presence in the location and so will be using existing Senior Management, based in the Gateshead CPA, to support each of the four stages of implementation. Staff recruitment will commence pre contract where possible. The aim is to maximise the time available for those posts to be operational. We anticipate four members of full time, permanent staff to be employed to manage this project by either Relate or members of the supply chain. Their training will have been set up in advance of their employment and will commence as soon as employed. Some of the intervention delivery staff will be employed on a freelance basis or as permanent employees – this is largely determined by the needs of the Intervention. We anticipate their training to commence during 4th January and 31st March 2019.

Many of the delivery locations are either current Relate locations or the delivery locations of our supply chain partners. As such we intend to include the agreement to use these locations within the supply chain agreements. We have set an initial planning meeting at the end of November 2018 with sub-contractors to confirm the locations and ensure a 'delivery ready' status.

For each of the four interventions, we have spoken to the individual owners in great detail to understand the intervention, its costs and requirements. We have extensive correspondence with the intervention owners that document the requirements for delivery. We will evidence the purchase and acquisition of all the necessary rights to delivering the interventions before service delivery commences.

Type of risk	Risk Detail	RAG rating	Mitigation	Contingency
Viability of implementation	Insufficient income to set up service; insufficient cash flow within Prime and subs	A	Detailed CCR costings and budgeting signed off at Board level. Agreement with Sub contractors to share a proportion of the financial risk via shared costs.	Re-profile the delivery model to minimise initial outlay. Bring forward intervention delivery where possible to increase income at an earlier stage. Alert funder to risk.

Lack of Premises	Premises not secured or change of premises before contract start	G	Early notification to local partners for use of locations. Delivery 'footprint' is created and agreed with partners.	Move delivery to an alternative premises short or long term; contingency locations in place.
Insufficient Key Staffing	Key staff not in place	A	Recruitment is as per the plan; PM in post before the start of contract. Recruitment 'in principle, subject to funding' commences in November 18.	Reassign internal resource to support the existing Area Manager.
Lack of IT	IT not set up in time for contract start	G	Early notice given to the IT team on the requirements of the contract. Meeting in November 2018 set up to agree IT implementation. Clear timetable created.	Paper records used. Use of IT equipment in current NE base.
Sub-contractor delivery drop out	Sub-contractor delivery drop out	A	Extensive partnership discussions to ensure that partners are set for delivery. Penalty clause in partnership agreement.	Confirmed list of two additional standby partners. Agreed option to increase delivery between existing partners.

2.9.1 Service Delivery including Supply Chain Assurance

Please describe your delivery structure including any supply chain and how you will manage it throughout the life of the contract.

Your response should include:

- A clear description of your delivery structure and any supply chain including any subcontractors and partners
- A table to show the percentage of service delivery undertaken by any subcontractors, their geographical coverage and what intervention they will provide to support the specified target group
- A clear explanation of your contract management practices with members of your supply chain.
- A description of how you will communicate throughout your organisation and supply chain to share good practice.
- Details of your contingency arrangements should any member of your supply chain withdraw prior to commencement of service delivery or at any point during the contract period
- You must provide a signed letter from each of the sub-contractors involved in the delivery of the proposal (including specialist and ad-hoc) which confirms the services they are willing to deliver.
- The stencil to be used is **Annex X** of this ItT Pack. Please note that your response must be presented on letter headed paper and detail specific information on the services to be delivered
- Where applicable, you should identify which subcontractors are Small Medium Enterprises (SMEs) - **PLEASE NOTE THAT THIS BULLET POINT ONLY WILL NOT BE SCORED**

Present your response **at the top of a new page**, within these preset margins in Arial font size 12 up to **3** sides of A4, **excluding** the question text and these instructions.

Relate will act as the Managing Agent of this service, with the additional delivery of three out of four interventions listed.

Our sub-contractors are:

- Action For Children (A4C)
- Changing Futures NE (CFNE)

We also anticipate working closely with other local partners that will strengthen the overall service delivery, e.g. supply outreach venues, contribute towards marketing and publicity.

Our anticipated service delivery structure is as follows:

Agency	% of Intervention delivery	Geographical Coverage	Interventions
Relate	[REDACTED]	[REDACTED]	Family Check Up (FCU) Parents in Dispute: Mentalisation Parents Plus (PP)
Changing Futures NE	[REDACTED]	[REDACTED]	Incredible Years: Advanced (IY) Parents in Dispute: Mentalisation Parents Plus (PP)
A4C	[REDACTED]	[REDACTED]	Incredible Years: Advanced (IY)

Our contract management practices:

Relate has experience of delivering complex programmes including the DWP Lot D Relationship Support where we have three subcontractors delivering against the programme. As a result of this work we have established contract management processes which we would use to manage this new contract.

At a strategic level, Relate uses a Programme Management approach (Office of Government Commerce), and at project level applies PRINCE2 methodology alongside Agile Development techniques. Flexible Agile Development means Relate is not driven solely by the methodology, but can adapt the project in line with the emerging needs of service users

We will introduce a Project Board as the leadership tool to manage the overall implementation. Relate will lead alongside the CEO of Changing Futures and the local Operational Manager from A4C. The aims of the Board are to provide leadership and direction to the overall programme alongside the DWP Programme Lead.

From the outset of the contract in January 2019, Relate will directly employ 1 Full Time Equivalent (1 FTE, 35 hours per week) Programme Manager to manage the contract and the supply chain.

Their major responsibilities, supported by the Relate Executive Leadership Team will be to ensure that:

- The project is clearly defined, agreed and planned, defining resources, goals, milestones, and Key Performance Indicators (KPIs) as per the Implementation Plan.
- Day-to-day management/monitoring is carried out, including identifying emerging issues and risks, and that progress against KPIs and project plan is reported to Project Board.
- Project risks are identified early and managed effectively, including any major strategic or major risks that are escalated to the Project Board.
- Monthly supervision meetings with each staff member are undertaken.
- Sub-contractors report to the Programme Manager in line with the DWP Performance Management schedules.
- Monthly meetings are held with each subcontractor engaged with the project; more frequently during implementation, mobilisation and upon service delivery if required.

Relate will share good practice by:

- Using established communication channels: E-newsletters, KPI reports, service management meetings, supervisor groups, etc.

- Drawing on the wide staff expertise that Relate has access to as a pan England agency, e.g. Supervisor peer support meetings
- Creating new channels, e.g. SharePoint discussion boards available for Relate and supply chain staff and focus group training days to improve understanding in a specific area.
- Engage with Local Authorities who disseminate information through their recognised channels, e.g. blogs, staff meetings and newsletters.

2

As a current supply chain manager for the DWP Relationship Support contract, we have tried-and-tested methods to ensure service continuity in the event of a key partner withdrawing. For all members of our supply chain, including in-house provision, we have:

- Identified contingency providers for their geographical areas. E.g. we have two further providers that as part of the bid development have expressed interest in delivering for the service and would be able to deliver at short notice.
- Ensure that there are a minimum number of appropriately trained staff to deliver the specific interventions. E.g. we have modelled our staffing model with additional staff trained to provide coverage where there may be gaps due to planned or unplanned absences.
- Agreed penalties for premature withdrawal within our signed sub-contractor agreements.

The following provision has been made to ensure continuity if key staff wish to leave:

All management posts have 3 month notice periods – this ensures time to advertise for a replacement.

All management and administrative post-holders have regular line-management and written work-plans – this ensures that plans, responsibilities and contacts are documented.

All posts have detailed job protocols.

All management posts have named deputies to take on their roles in the event of unplanned absence or emergency.

We have a Business Continuity policy that details the action plan in place in case of a major disruption to either our staff, premises or systems; these include the provision of alternative accommodation, staffing available across Relate nationally and robust IT systems, including online case management records held centrally and backed up regularly.

We have agreement from each sub-contractor to detail their information within this application. We have provided a signed declaration letter from both sub-contractors to confirm the services they are willing to deliver.

Changing Futures NE are an SME.

Contractors BAFO CCR

[REDACTED]

Appendix C: Q&A Log



DWP RPC QA log -
16th October.pdf

Schedule 1A – Implementation Plan

[REDACTED]

Schedule 2

Tender Minimum Performance Levels (tMPLs, Required Number of Outcomes (RNOs)) and Customer Service Standards (CSS)

1 Tender Minimum Performance Levels (tMPLs)

TENDER MINIMUM PERFORMANCE LEVELS (tMPLs)	
1	<p>Moderate Intensity Intervention (MII) Completion</p> <p>Prime Providers will be eligible to claim a completion outcome payment via PRaP on Completion of the Intervention. The Intervention Plan must be updated, signed by the Provider and the Participant, and shared with both DWP and the LA.</p>
2	<p>High Intensity Intervention (HII) - 50% completion</p> <p>Prime Providers will be eligible to claim a mid-point completion outcome payment via PRaP when 50% attendance of the HII has been achieved (50% as detailed and documented in the Intervention Plan during the Initial Assessment and signed by both the Participant and Provider).</p>
3	<p>High Intensity Intervention (HII) Completion</p> <p>Prime Providers will be eligible to claim a completion outcome payment via PRaP on Completion of the Intervention. The Intervention Plan must be updated, signed by the Provider and the Participant, and shared with both the DWP and the LA.</p> <p>It is expected that Participants complete 100% of the Intervention to gain maximum benefit, therefore Providers must make every effort to encourage the Participant to complete all sessions and complete the Post Assessment Questionnaire. For payment purposes Prime Providers can claim an outcome payment for completion when the Intervention has been delivered in full, with a minimum of 80% attendance by the Participant. Where 100% attendance has not been achieved the Participant may complete the missing sessions at a later date (see Balance of Time)</p>
[REDACTED]	

- 1.1 The tMPLs are based on a predicted number of Participant Starts. The Authority shall calculate the RNOs at the Performance Measurement Point by applying the tMPLs set out in this Schedule 2 to each Start Cohort of actual Participant Starts in the Performance Measurement Period.
- 1.2 The RNO shall be calculated by the Authority at the Performance Measurement Point by applying the tMPL set out in this Schedule 2 to Start Cohorts of actual Participant Starts in the Performance Measurement Period.
- 1.3 Without prejudice to the Authority's right to undertake check(s) pursuant to clause C4, for performance management purposes only, the Authority may measure the Contractor's performance against each tMPL at any time based on the assumption that each Outcome in the period for which the Authority is measuring the Contractor's performance against such tMPL would satisfy all of the relevant qualifying criteria and requirements (in respect of that Outcome). For the avoidance of doubt, this includes any Performance Improvement Notice issued by the Authority in relation to a Service Failure pursuant to clause B16.

2 Customer Service Standards

CUSTOMER SERVICE STANDARDS	
1.	The Provider must acknowledge or reject 100% of referrals in DWP IT systems within 3 working days of the referral
2.	95% of referrals who Start, Did Not Attend (DNA) or Did Not Start (DNS) provision must be recorded in PRaP within 25 working days of referral. To ensure no more than 5% of referrals in backlog (referrals where no action taken on PRaP)
3.	For 100% of cases the Provider must hold the initial assessment within 5 working days from the referral date in PRaP.
4.	For 100% of cases, within 5 working days of the initial assessment; an intervention plan must be agreed and signed by the Participant and Provider which details attendance and start date of the chosen intervention and a copy of the intervention plan sent to DWP and the Local Authority Single Point of Contact (SPOC)
5.	If the Participant does not attend an Intervention session or take the next step set out in the Intervention plan or stops engaging, the Provider in 100% of cases, must consult with the LA once a period of 10 working days has passed.
6.	As part of your tender submission, any other Customer Service Standards or Minimum Performance Levels detailed in your tender will form part of the Contract.

Schedule 3

Contract Performance Reviews & Contractor Systems Assurance & Performance Indicators

1. Contract Performance Reviews

1.1 The Authority will conduct regular formal contract performance review meetings (“**CPRs**”) at a frequency determined by the Authority from time to time to monitor, measure and review the Contractor’s performance, utilising the Authority’s Performance Management and Intervention Regime (“**PMIR**”), which is described in the Provider Guidance. CPRs will encourage an open and regular dialogue between the Authority and the Contractor with the purpose of ensuring that the Services are being supplied in accordance with the Tender Minimum Performance Levels (tMPLs) and the Customer Service Standards and that the RNOs are being achieved. CPRs will be formally conducted and documented.

1.2 The Contractor undertakes to:

- (a) co-operate fully with the Authority; and
- (b) supply all information requested by the Authority; and
- (c) arrange all access to Premises requested by the Authority,

for the purposes of conducting the CPRs.

2. Contractor Systems Assurance

2.1 The Contractor shall comply with the Authority’s requirements for Contractor Systems Assurance as described in this paragraph 2 of Schedule 3 and notified to the Contractor by the Authority from time to time.

2.2 The primary purpose of the Contractor Systems Assurance is to provide the Authority with an assurance that payments to Contractors are in accordance with the Authority and HM Treasury policies, that public funds are protected and that value for money has been obtained.

2.3 Review(s) (“**PAT Reviews**”) will be carried out of the Contractors’ internal control systems to assess the Contractors’ ability to manage risk across three key areas:

- a) Governance Arrangements – covering the Contractor’s governance arrangements, systems for tracking and reporting performance and their anti-fraud measures;
- b) Service Delivery – includes the Contractor’s systems for starting, ending and moving Participants through the Services and generally looks to ensure that the Authority is getting the services for which it is paying. This section also covers management of the supply chain; and
- c) Claim Procedures and Payments – looks to ensure that Contractors have in place effective systems to support their claims for payment, including appropriate segregation of duties.

2.4 On completion of each review by the Authority, the Contractor will be awarded an assurance rating in one of the following four categories – (i) weak; (ii) limited; (iii) reasonable; or (iv) strong (each a “**Contractor Assurance Rating**”). The Authority shall also send a formal report to the Contractor which details the PAT Review findings including key strengths and areas for improvement; where weaknesses have been identified the Contractor will be asked to complete an action plan setting out appropriate steps for improvement (a “**PAT Action Plan**”) and this is followed up at an agreed point.

- 2.5 The timescale for a subsequent review is determined at the sole discretion of the Authority.
- 2.6 If the Contractor is attributed a “Weak” or “Limited” Contractor Assurance Rating, as notified to the Contractor by the Authority from time to time, the Contractor shall deploy all additional resources and take all remedial action that is necessary to remedy the “Weak” or “Limited” Contractor Assurance Rating or to prevent the “Weak” or “Limited” Contractor Assurance Rating from recurring by a date specified by the Authority.
- 2.7 If in the opinion of the Authority, the Contractor has failed to deploy the required additional resources and to take the remedial action in accordance with the PAT Action Plan by the date specified by the Authority, the Authority may treat such failure as a Non Service Failure Default and issue a Formal Warning Notice in accordance with Clause B21.
- 2.8 The Authority shall be entitled to terminate the Contract by issuing a Termination Notice to the Contractor in the following circumstances:
- (a) where the Contractor has been awarded a Contractor Assurance Rating of “Weak” or “Limited”, as notified to the Contractor by the Authority from time to time, in two (2) separate consecutive PAT Reviews for reasons which the Authority regards, at its sole discretion, as similar reasons; or
 - (b) where the Contractor has been awarded a Contractor Assurance Rating of “Weak” or “Limited” as notified to the Contractor by the Authority from time to time, in three (3) separate consecutive PAT Reviews regardless of the reasons for such award; or
 - (c) on-going or repeated failures on the part of the Contractor to comply with and implement a PAT Action Plan.
- 2.9 Notwithstanding any other term of this Contract the Contractor hereby gives its consent for the Authority to publish from time to time any of the Contractor’s Contractor Assurance Ratings to the general public and to provide the Contractor’s Contractor Assurance Ratings to any person as the Authority deems appropriate. The Contractor shall assist and cooperate with the Authority to enable the Authority to publish and provide the Contractor’s Contractor Assurance Ratings to any person the Authority deems appropriate in accordance with this paragraph.
- 2.10 The Authority will from time to time publish the Contractor’s Contractor Assurance levels and will identify the Contractor by name and the Contractor hereby consents to such publication.
- 2.11 Further information regarding to the PAT Reviews can be found in the Provider Guidance:

[Generic guidance for DWP providers - GOV.UK](#)

3. Performance Indicators

- 3.1 The Authority shall carry out regular Performance Indicator Reviews at a frequency determined by the Authority from time to time to review the Contractor’s performance against the Performance Indicators. The Contractor shall co-operate fully with such Performance Indicator Reviews and shall promptly provide the Authority with all Management Information the Authority requires for the purpose of carrying out such Performance Indicator Reviews.
- 3.2 Where as a result of the Performance Indicator Review the Authority believes that:

- (a) the Performance Indicators fall below the required standard; or
- (b) the Authority, acting reasonably, believes that without intervention the Performance Indicators will fall below the required standard,

then, without prejudice to any other right or remedy it may have under this Contract, the Authority may issue a Performance Indicator Course of Action Notice requiring the Contractor to implement a Performance Indicator Course of Action in accordance with this Schedule 3, paragraph 3.

3.3 A Performance Indicator Course of Action Notice given, in accordance with this Schedule 3 Section 3, to the Contractor by the Authority may include:

- (a) confirmation as to how the Performance Indicators fall below or are anticipated to fall below the required standard;
- (b) the actions the Authority in its absolute discretion requires the Contractor to take to satisfy the Authority that the Contractor can ensure compliance with its contractual obligations in relation to Performance Indicators; and
- (c) the time period during which the Contractor is expected to follow the Performance Indicator Course of Action to achieve improvement of the Performance Indicators.

3.4 For the avoidance of doubt, the Authority may initiate the Performance Indicator Course of Action at any time after a Performance Indicator Review and any delay in exercising its right to initiate the Performance Indicator Course of Action shall not constitute a waiver or cause of diminution of the Authority's right to do so.

3.5 For the avoidance of doubt, the Authority shall be under no obligation to initiate the Performance Indicator Course of Action and it may choose in its absolute discretion to exercise any other right or remedy available to it under this Contract instead of or running in parallel with such right.

3.6 The Contractor shall have the right to respond in relation to the Performance Indicator Course of Action within ten (10) Working Days following notification under paragraph 3.2 and either confirm its acceptance or following discussions with the Authority submit its revised plan. If such revised plan is agreed by the Authority it shall be the revised Performance Indicator Course of Action.

3.7 Once agreed the Contractor shall immediately implement the Performance Indicator Course of Action. For the avoidance of doubt, any agreement between the Parties in relation to the Performance Indicator Course of Action shall not relieve the Contractor of any of its liabilities and obligations under this Contract.

3.8 If a revised Performance Indicator Course of Action cannot be agreed within the period of ten (10) Working Days (or such other period as notified by the Authority to the Contractor) then the Authority may elect to refer the matter for resolution by the dispute resolution procedure set out in clause 12.

3.9 Performance Indicators

PERFORMANCE INDICATORS (Not Applicable)
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Schedule 4

Fees and Payment

1 Fees

- 1.1 The Authority shall pay to the Contractor the Fees for the Services in accordance with the amounts set out in this Schedule 4 (Fees and Payment).
- 1.2 The Contractor acknowledges and agrees that it shall have no entitlement to remuneration in respect of the Services whatsoever other than the Fees.
- 1.3 The Fees shall comprise a Delivery Fee and Outcome Payments, which shall be paid as follows:
 - (a) Moderate Intensity Intervention Outcome Payments can be claimed on Completion of the Intervention;
 - (b) High Intensity Intervention Outcome Payments can be claimed on:
 - (i) mid-point completion, which is when a minimum of 50% attendance by the Participant has been achieved and has been documented in the Intervention Plan and signed by both Provider and the Participant; and
 - (ii) on Completion of the Intervention.
 - (c) The Outcome Payment amounts are set out in paragraph 4.2 below.
- 1.4 The payment rates set out in this Schedule 4 (Fees and Payment) will not be amended or adjusted if volumes change.

2 Value Added Tax

- 2.1 Payment from the Authority to the Contractor shall be by a HMRC approved self-billing process. The Contractor hereby agrees that for the duration of the Contract the Authority will be self-billing producing the invoices on the Contractors behalf. The Authority will issue VAT invoices and the Contractor shall confirm, on an annual basis, the rate of VAT that should be applied to self-billing invoices. It remains the responsibility of the Contractor to accurately account for and pay any VAT included in the payments received from the Authority to HMRC.
- 2.2 If the VAT status of the Contractor changes at any time during the delivery of the Services the Contractor shall notify the Authority immediately and in any case within twenty-four (24) hours. If the Contractor intends to outsource the self-billing process to any third party it shall not do so without first having obtained the Authority's prior approval, such approval not to be unreasonably withheld or delayed.
- 2.3 The Parties acknowledge and agree that an appropriate self-billing agreement is required to be in place and signed by the Parties throughout the Contract Period to reflect the required self-billing treatment.

3 Additional Costs

- 3.1 Subject to the provisions of this Contract (including without limitation this Schedule 4 (Fees and Payment)), the Fees are fixed and unless otherwise agreed between the Parties in accordance with clause F3 (Changes to the Contract) and Schedule 13 (Change Control Procedure) any additional or unforeseen costs incurred by the Contractor in delivering the Services shall be borne solely by the Contractor.

4 Types of Payment

4.1 Outcome Payments

- (a) Outcome Payments will be paid on a unit price basis at the rate set out in the table below based on the price in force at the date of the Participant Start, as more particularly described in the Tender:

Type of Outcome Payment	Amount per Outcome exc. VAT
Moderate Intensity Intervention Outcome Payment	[REDACTED]
High Intensity Intervention mid-point completion Outcome Payment	[REDACTED]
High Intensity Intervention completion Outcome Payment	[REDACTED]

- (b) For the avoidance of doubt the Contractor shall only be eligible to receive no more than one Outcome Payment in respect of each Outcome.

4.2 Delivery Fee

- (a) [REDACTED]

[REDACTED]

- (b) Notwithstanding paragraph 4.2 **Error! Reference source not found.**, where the Commencement Date is not the first day of a Month, the Delivery Fee Periodic Payment for that Month shall accrue on a day-to-day basis starting on the Commencement Date, calculated according to the number of days elapsed and a month of 30 days.

Where due, the Authority will pay each Delivery Fee Periodic Payment monthly in arrears.

Should the Authority choose to unilaterally extend the Referral Period in accordance with clause F3.4, it will be at the absolute discretion of the Authority to determine whether a Delivery Fee will be payable for any such period of extension and the amount of any Delivery Fee during such period of extension.

5 Methods of payment

- 5.1 The Authority and the Contractor shall make payments using PRaP and/or other electronic methods.
- 5.2 The Authority may issue a Purchase Order to the Contractor prior to commencement of the Services.
- 5.3 All invoices payable outside of PRaP, must include the appropriate purchase order number sent to the following address:

[REDACTED]

5.4 The Authority reserves the right to set and / or alter, at its absolute discretion, the method of payment and will use reasonable endeavours to give 30 days Notice to the Contractor of any change to the method of payment.

6 Payment rates

6.1 For the performance of the Services by the Contractor the Fees shall be paid at the prices and rates entered in this Schedule. These rates are fixed and not subject to amendment or alteration over the Contract Period, save where an amendment or alteration is made in accordance with the Change Control Procedure.

6.2 All payments will be subject to the provisions of the Schedule 4 and clause C (Payment and Fees). The payment of any Delivery Fee or Outcome Payments shall not constitute acceptance and the Authority reserves the right to validate claims at any time in accordance with clause C4 Validation and Extrapolation.

Appendix 1

VAT Confirmation

The format of appendix is subject to change from time to time at the Authority's absolute discretion

Company Name: Relate

VAT Registration Number: [Contractor to complete]

Registered Office Address: [Contractor to complete]

Company Registration Number: [Contractor to complete]

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

Supply [Contractor to complete for each fee type]	Zero	Reduced	Standard	Exempt Supply	Outside the scope of VAT
Delivery Fee					
Outcome Payments					

The Contractor hereby confirms that the VAT rates indicated in the above table are the correct VAT rates in respect of the supply of Services under the Contract for Reducing Parental Conflict – Face to Face Provision (Contract Reference Number: 101975-2 dated 25 January 2019).

For and on behalf of the Contractor [Contractor to complete]

Signature of Director

Name

Date

Appendix 2
Self-Billing Agreement

The format of appendix is subject to change from time to time at the Authority's absolute discretion

Authority: The Secretary of State for the Department of Work and Pensions

VAT Number: [REDACTED]

and

Contractor: [REDACTED]

VAT Number: [REDACTED]

The Authority agrees:

1. to issue self-billed invoices for all supplies made to them by the Contractor;
2. to complete self-billed invoices showing the Contractor's name, address and VAT registration number, together with all the other details which constitute a full VAT Invoice;
3. to make a new self-billing agreement in the event that its VAT registration number changes;
and
4. to inform the Contractor if the issue of self-billed invoices will be outsourced to a third party.

The Contractor agrees:

1. to accept invoices raised by the Authority;
2. not to raise sales invoices for the transactions covered by this Self-Billing Agreement;
3. to notify the Authority immediately if it
 - changes its VAT registration number,
 - ceases to be VAT registered; or
 - sells its business, or part of its business.

Authority Signature: XXXX

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

Date: XXX

Contractor Signature: [Contractor to complete]

For and on behalf of: [Contractor to complete]

Date: [Contractor to complete]

Schedule 5

Commercially Sensitive Information

- 1 The Authority acknowledges that the Contractor has requested that the following information be treated as Commercially Sensitive Information:

Document	Page Number	Section	Condition or Paragraph Number	Explanation of harm which may result from disclosure and time period applicable to sensitivity.
Pricing Proposal	CCR	All	All	The pricing proposal and all our costs data is commercially sensitive as it could be used by other organisations in rival bids in the future. We consider this information to be commercially sensitive for a period of 5 years from the date of contract start.
Payment Model	CCR	All	All	Our payment model is commercially sensitive as it could be used by other organisations in rival bids in the future. Additionally we may have negotiated different payment models with our subcontractors. We consider this information to be commercially sensitive for a period of 5 years from the date of contract start.

- 2 The Authority will consult with the Contractor on any request for information, identified as Commercially Sensitive, under the FOIA.
- 3 The Authority reserves the right to disclose any Commercially Sensitive Information held within this Contract in response to a request under the FOIA as set out at clause E5 of this Contract.
- 4 The Authority will automatically publish all information provided by the Contractor not identified in this Schedule as constituting Commercially Sensitive Information provided that it satisfies the requirements of the FOIA.
- 5 The Authority reserves the right to determine whether any information provided in this Schedule does constitute Commercially Sensitive Information prior to publication.

Schedule 6

Security Requirements and Plan

1 Introduction

1.1 This Schedule covers:

- (a) Principles of security for the Contractor ICT System, derived from the Security Policy, including without limitation principles of physical and information security;
- (b) The creation of the Security Plan;
- (c) Audit and testing of the Security Plan;
- (d) Conformance to ISO/IEC:27002 (Information Security Code of Practice) and ISO/IEC 27001 (Information Security Requirements Specification) (Standard Specification); and
- (e) Breaches of Security.
- (f) Security provisions with which the Contractor shall comply in providing the services relevant to this Contract.

2 Principles of Security

2.1 The Contractor acknowledges that the Authority places great emphasis on confidentiality, integrity and availability of information and consequently on the security of the Premises and the security for the Contractor System. The Contractor also acknowledges the confidentiality of the Authority's Data.

2.2 The Contractor shall be responsible for the security of the Contractor System and shall at all times provide a level of security which;

- (a) is in accordance with Good Industry Practice and Law;
- (b) complies with the Security Policy;
- (c) meets any specific security threats to the Contractor System;
- (d) complies with ISO/IEC27002 and ISO/IEC27001 in accordance with paragraph 5 of this Schedule; and
- (e) meets the requirements of the Cyber Essentials Scheme, unless deemed out of scope for this requirement.

2.3 Without limiting paragraph 2.2, the Contractor shall at all times ensure that the level of security employed in the provision of the Services is appropriate to minimise the following risks:

- (a) loss of integrity of Authority Data;
- (b) loss of confidentiality of Authority Data;
- (c) unauthorised access to, use of, or interference with Authority Data by any person or organisation;
- (d) unauthorised access to network elements and buildings;
- (e) use of the Contractor System or Services by any third party in order to gain unauthorised access to any computer resource or Authority Data;
- (f) loss of availability of Authority Data due to any failure or compromise of the Services; and

- (g) loss of confidentiality, integrity and availability of Authority Data through Cyber/internet threats

3 Security Plan

Introduction

- 3.1 The Contractor shall develop, implement and maintain a Security Plan to apply during the Contract Period and after the end of the Contract Period in accordance with the Exit Management Strategy, which will be approved by the Authority, tested, periodically updated and audited in accordance with this Schedule.
- 3.2 A draft Security Plan provided by the Contractor as part of its bid is set out in Appendix B.

Development

- 3.3 Within twenty (20) Working Days after the Commencement Date and in accordance with paragraphs 3.10 to 3.12 (Amendment and Revision), the Contractor will prepare and deliver to the Authority for approval the full and final Security Plan which will be based on the draft Security Plan set out in Appendix B.
- 3.4 If the Security Plan is approved by the Authority it will be adopted immediately. If the Security Plan is not approved by the Authority the Contractor shall amend it within 10 Working Days of a notice of non-approval from the Authority and re-submit to the Authority for approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than 15 Working Days (or such other period as the Parties may agree in writing) from the date of its first submission to the Authority. If the Authority does not approve the Security Plan following its resubmission, the matter will be resolved in accordance with clause 12 Dispute Resolution. No approval to be given by the Authority pursuant to this paragraph 3.4 of this schedule may be unreasonably withheld or delayed. However any failure to approve the Security Plan on the grounds that it does not comply with the requirements set out in paragraphs 3.1 to 3.9 shall be deemed to be reasonable.

Content

- 3.5 The Security Plan will set out the security measures to be implemented and maintained by the Contractor in relation to all aspects of the Services and all processes associated with the delivery of the Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Services comply with:
 - (a) the provisions of this Contract; this Schedule (including the principles set out in paragraph 2);
 - (b) the provisions of Schedule 1 relating to security;
 - (c) ISO/IEC27002 and ISO/IEC27001;
 - (d) the data protection compliance guidance produced by the Authority.
- 3.6 The references to standards, guidance and policies set out in paragraph 3.5 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, from time to time.
- 3.7 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Contractor should notify the Authority's Representative of such inconsistency immediately upon becoming aware of the same, and the Authority's Representative shall, as soon as practicable, advise the Contractor which provision the Contractor shall be required to comply with.
- 3.8 The Security Plan will be structured in accordance with ISO/IEC27002 and ISO/IEC27001.

- 3.9 Where the Security Plan references any document which is not in the possession of the Authority, a copy of the document will be made available to the Authority upon request. The Security Plan shall be written in plain English in language which is readily comprehensible to the staff of the Contractor and the Authority engaged in the Services and shall not reference any other documents which are not either in the possession of the Authority or otherwise specified in this Schedule.

Amendment and Revision

- 3.10 The Security Plan will be fully reviewed and updated by the Contractor annually, or from time to time to reflect:
- (a) emerging changes in Good Industry Practice;
 - (b) any change or proposed change to the Contractor ICT System, the Services and/or associated processes;
 - (c) any new perceived or changed threats to the Contractor ICT System; and
 - (d) a reasonable request by the Authority.
- 3.11 The Contractor will provide the Authority with the results of such reviews as soon as reasonably practicable after their completion and amend the Security Plan at no additional cost to the Authority.
- 3.12 Any change or amendment which the Contractor proposes to make to the Security Plan as a result of an Authority request or change to Schedule 1 or otherwise shall be subject to the change control procedure and shall not be implemented until approved in writing by the Authority.

4 Audit and Testing

- 4.1 The Contractor shall conduct tests of the processes and countermeasures contained in the Security Plan ("Security Tests") on an annual basis or as otherwise agreed by the Parties. The date, timing, content and conduct of such Security Tests shall be agreed in advance with the Authority.
- 4.2 The Authority shall be entitled to send a representative to witness the conduct of the Security Tests. The Contractor shall provide the Authority with the results of such tests (in a form approved by the Authority in advance) as soon as practicable after completion of each Security Test.
- 4.3 Without prejudice to any other right of audit or access granted to the Authority pursuant to this Contract, the Authority shall be entitled at any time and without giving notice to the Contractor to carry out such tests (including penetration tests) as it may deem necessary in relation to the Security Plan and the Contractor's compliance with and implementation of the Security Plan. The Authority may notify the Contractor of the results of such tests after completion of each such test. Security Tests shall be designed and implemented so as to minimise the impact on the delivery Services. If such tests impact adversely on its ability to deliver the Services to the agreed Service Levels, the Contractor shall be granted relief against any resultant under-performance for the period of the tests.
- 4.4 Where any Security Test carried out pursuant to paragraphs 4.2 or 4.3 above reveals any actual or potential security failure or weaknesses, the Contractor shall promptly notify the Authority of any changes to the Security Plan (and the implementation thereof) which the Contractor proposes to make in order to correct such failure or weakness. Subject to the Authority's approval in accordance with paragraph 3.12, the Contractor shall implement such changes to the Security Plan in accordance with the timetable agreed with the Authority or, otherwise, as soon as reasonably possible. For the avoidance of doubt, where the change to the Security Plan to address a non-compliance with the Security Policy or security requirements, the change to the Security Plan shall be at no additional cost to the Authority. For the purposes of this

paragraph 4, a weakness means vulnerability in security and a potential security failure means a possible breach of the Security Plan or security requirements.

5 Compliance with ISO/IEC 27001

- 5.1 The Contractor shall carry out such regular security audits as may be required by the British Standards Institute in order to maintain delivery of the Services in compliance with security aspects of ISO 27001 and shall promptly provide to the Authority any associated security audit reports and shall otherwise notify the Authority of the results of such security audits.
- 5.2 If it is the Authority's reasonable opinion that compliance with the principles and practices of ISO 27001 is not being achieved by the Contractor, then the Authority shall notify the Contractor of the same and give the Contractor a reasonable time (having regard to the extent of any non-compliance and any other relevant circumstances) to become compliant with the principles and practices of ISO 27001. If the Contractor does not become compliant within the required time then the Authority has the right to obtain an independent audit against these standards in whole or in part.
- 5.3 If, as a result of any such independent audit as described in paragraph 5.2 the Contractor is found to be non-compliant with the principles and practices of ISO 27001 then the Contractor shall, at its own expense, undertake those actions required in order to achieve the necessary compliance and shall reimburse in full the costs incurred by the Authority in obtaining such audit.

6 Breach of Security

- 6.1 Either party shall notify the other immediately upon becoming aware of any Breach of Security including, but not limited to an actual, potential or attempted breach, or threat to, the Security Plan.
- 6.2 Upon becoming aware of any of the circumstances referred to in paragraph 6.1, the Contractor shall:
- (a) immediately take all reasonable steps necessary to:
 - (i) remedy such breach or protect the Contractor ICT System against any such potential or attempted breach or threat; and
 - (ii) prevent an equivalent breach in the future.

Such steps shall include any action or changes reasonably required by the Authority. In the event that such action is taken in response to a breach that is determined by the Authority acting reasonably not to be covered by the obligations of the Contractor under this Contract, then the Contractor shall be entitled to refer the matter to the change control procedure in clause F3 (Variation).

- (b) as soon as reasonably practicable provide to the Authority full details (using such reporting mechanism as may be specified by the Authority from time to time) of such actual, potential or attempted breach and of the steps taken in respect thereof.

7 Authority Data relevant to the Contract

- 7.1 The Specification will outline the Services to be provided by the Contractor, including the type of Authority Data involved.
- 7.2 The majority of information that is created or processed by the public sector is described as 'Official'. This includes routine business operations and services, some of which could have damaging consequences if lost, stolen or published in the media.

Appendix A – DWP Security Policies and Standards

- 1 The Department for Work and Pensions (DWP) treats information as a valuable asset and considers that it is essential that information must be protected, together with the systems, equipment and processes which support its use. These information assets may include data, text, drawings, diagrams, images or sounds in electronic, magnetic, optical or tangible media, together with any Personal Data for which DWP is the Data Controller.
- 2 In order to protect DWP information appropriately, our Contractors must provide the security measures and safeguards appropriate to the nature and use of the information. All Contractors of services to DWP must comply, and be able to demonstrate compliance, with the relevant DWP policies and standards.
- 3 The main DWP policies include:
 - Information Security Policy
 - Physical Security Policy
 - Acceptable Use Policy

The above policies are attached as Appendices C, D and E to this Schedule.

- 4 Each Contractor must appoint a named officer who will act as a first point of contact with the Department for security issues. In addition all staff working for the Contractor and where relevant Sub-contractors, with access to DWP IT Systems, Services, DWP information or DWP sites must be made aware of these requirements and must comply with them.
- 5 The policies and requirements are based on and follow ISO27001 and Cyber Essentials, but with specific reference to DWP use.
- 6 Whilst Departmental policies are written for internal Departmental requirements all Contractors must implement appropriate arrangements which ensure that the Department's information and any other Departmental assets are protected in accordance with prevailing statutory and government requirements. These arrangements will clearly vary according to the size of the organisation so should be applied proportionately.
- 7 It is the Contractor's responsibility to monitor compliance of any Sub-contractors and provide assurance to DWP as requested.
- 8 Failure to comply with any of these Policies and Standards could result in termination of current contract.
- 9 The following are some key basic requirements that all Contractors must apply:

(a) **Personnel Security**

- (i) Staff recruitment in accordance with government requirements for pre-employment checks; including Baseline Personnel Security Standard.
- (ii) Staff training and awareness of DWP security and any specific contract requirements.

(b) **Secure Information Handling and Transfers**

Physical and electronic handling, processing and transferring of DWP Data, including secure access to systems and the use of encryption where appropriate.

(c) **Portable Media**

The use of only encrypted laptops, encrypted storage devices and other protected removable media when handling DWP information.

(d) **Offshoring**

DWP data must not be processed outside the United Kingdom without the prior written consent of DWP and must at all times comply with the Data Protection Act 1998.

(e) **Physical Security**

Security of premises and control of access.

(f) **Security Incidents**

Includes identification, managing and agreed reporting procedures for actual or suspected security breaches.

Appendix B – Draft Security Plan

[REDACTED]

Appendix C - Information Security Policy

DWP INFORMATION SECURITY POLICY

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Background

1.1 DWP is committed to ensuring that effective security arrangements are implemented and regularly reviewed to reduce the threats and manage risks to:

- The information that DWP collects, creates, uses and stores,
- DWP employees, claimants and citizens,
- DWP's physical assets and resources,
- DWP's digital, IT and communication systems, and
- Premises that DWP uses to accommodate its operations, people, and visitors

Scope

- 2.1 This overarching policy provides direction for all DWP information security policy and the standards and controls which underpin it.
- 2.2 This policy aligns with and is based on the ISO 27000 series and in particular ISO27001 techniques and principles and ISO27002 requirements and will be used to inform DWP future consideration of an Information Security Management System. Standards drawn from the ISO 27000 series will be applied and communicated as needed.
- 2.3 This policy applies to all aspects of cyber and information security, including the specification, design, development, installation, operation, connection, use and decommissioning of the systems, services and equipment used to store, process, transmit or receive information.
- 2.4 This policy applies to all DWP data, and any data that DWP is processing for other data controllers.
- 2.5 This policy applies to:
- All DWP employees - who should understand their responsibilities in using the Department's information assets including its systems. DWP Employee non-compliance with this policy may result in disciplinary consequences.
 - DWP staff engaged in designing and implementing new technology solutions, who must reflect the policy requirements into design and build.
 - DWP Contracted suppliers that handle/access/process Authority Data. Contracted suppliers must provide the security measures and safeguards appropriate to the nature and use of the information. All Contracted suppliers of services to the DWP must comply, and be able to demonstrate compliance, with the Department's relevant policies and standards.

Accountabilities

- 3.1 The Chief Security Officer is the accountable owner of the DWP Information Security Policy and is responsible for its maintenance and review, through the Head of Security Policy, Governance & Resilience.

- 3.2 Any exception to the Information Security Policy must be risk assessed and agreed by the Chief Security Officer.

Policy Statements

- 4.1 DWP recognises all information has value and sets out in this Information Security Policy how it safeguards DWP information through security standards, and protects the systems, equipment and processes that support its use through applying controls and a control environment.
- 4.2 This Information Security Policy defines how we achieve information security through implementing supporting standards and controls to protect information;
- Confidentiality: by restricting access to authorised users;
 - Integrity: by making sure that the information is always accurate and complete;
 - Availability: by making sure that the information is available to authorised users when required.
- 4.3 DWP protects its systems and processes through standards that are applied proportionately, based on formal risk assessments, continually reviewed, and aligns with the following:
- The Data Protection Act (1998) and the HMG Security Policy Framework.
 - Related HMG standards and Good Practice Guidance for protecting personal data and managing information risk including those of CESG.
 - The ISO27001 techniques standard, the ISO27002 code of practice, and other ISO 27000 standards and security best practice.
 - Contractual obligations
 - Relevant Codes of Connection.
 - Other applicable legislation.
- 4.4 DWP requires Contracted Suppliers that generate, access and process Authority Data to take a similar proportionate, risk based approach to information security in accordance with the relevant DWP Security Policies and Standards which adopt and apply ISO 27001 Standards and the Cyber Essentials.
- 4.5 DWP applies the Baseline Personnel Security Standard (BPSS) in employee recruitment and requires Contracted Suppliers to apply similar or identical controls where applicable. DWP applies Human Resources policies in the protection of its information and requires Contracted Suppliers apply similar personnel security policies.
- 4.6 DWP will ensure that DWP and its suppliers implement and operate information security in accordance with the organisational standards and procedures to mitigate against breaches of legal, statutory, and embed contractual obligations related to information security.
- 4.7 DWP systematically monitors and measures information security performance against its own and cross government metrics. DWP develops and improves information security policies and standards to provide sufficient protection for information by addressing identified risks, and consistent with central HMG standards and guidance. New information security standards and procedures will be communicated to employees and others on a regular basis.

Responsibilities

- 5.1 DWP's Information Security Policies and Standards provide appropriate protection for personal and sensitive personal data as a result of effective implementation of the following responsibilities:
- 5.1.1 *Governance and Compliance Functions*
- 5.1.1.1 Enable management of information security through developing governance structures in an organisation that directs and manages information security,

- 5.1.1.2 Provide control of information security risks within DWP to acceptable levels by risk management and the use of protective marking and other controls,
- 5.1.1.3 Support DWP employees to comply with these requirements, as expressed through the HR Standards of Behaviours and Security Code of Conduct, and ensure employees are aware of the consequences of non-compliance,
- 5.1.1.4 Ensure that suppliers are aware that failure to comply with this policy and other requirements (which will be communicated through the contractual process) will result in corrective action and escalation following agreed processes.
- 5.1.2 *Line Managers and Contracted Suppliers*
- 5.1.2.1 Ensure all employees fully understand and fulfil their agreed responsibilities for information security under the Security Code of Conduct and the Acceptable Use Policy,
- 5.1.2.2 Require Contracted Suppliers to be aware of and fulfil their information responsibilities including personnel information security responsibilities,
- 5.1.2.3 Monitor the actions of system and service users to identify individual responsibility for information security,
- 5.1.3 *Information Asset responsibility*
- 5.1.3.1 Identify DWP information assets and define responsibilities to ensure that information receives an appropriate level of protection in accordance with its importance to the organisation and to the citizen, and its hosting location,
- 5.1.3.2 Ensure DWP has appropriate structures and processes to enable the Department to understand the use of and monitor its information assets.
- 5.1.4 *Employees and Contracted Suppliers - access to information assets and systems*
- 5.1.4.1 Ensure there are documented information asset access controls and procedures, and that security responsibilities have been allocated and accepted.
- 5.1.4.2 Ensure the effective use of cryptography, especially where interconnections between systems or services exist.
- 5.1.4.3 Ensure users are accountable for safeguarding their authentication information,
- 5.1.4.4 Ensure correct and secure operations of information processing facilities by regulating, monitoring and reviewing the implementation of protective measures,
- 5.1.4.5 Ensure the protection of information in networks and any supporting information processing facilities, and maintain the security of information transferred within an organisation and with any external entity,
- 5.1.4.6 Ensure personally identifiable information is not saved or processed in any spread-sheet or system other than those approved by DWP Security for that purpose. Personally identifiable information must only be placed in document frameworks such as MS Word, Excel and PowerPoint when following approved local business processes which apply DWP security policy,
- 5.1.4.7 Ensure that information security is integral to information systems across the entire lifecycle of acquisition, development, maintenance and decommissioning,
- 5.1.4.8 Define security responsibilities through contract terms and requirements for all suppliers to ensure protection of the organisation's assets that are accessible by suppliers,
- 5.1.5 *Security incident management function*
- 5.1.5.1 Define formal procedures for the management of information security incidents, including improvements and changes to those procedures,
- 5.1.6 *Continuity and Resilience function*

5.1.6.1 Require business units to develop, implement and embed appropriate information security business continuity management, including business continuity plans for critical systems and services to minimise disruption against identified threats and risks,

5.1.7 *Technology function (through Infrastructure Operations)*

5.1.7.1 Require disaster recovery functionality for security systems based on a business impact analysis, risk assessment and cost calculation and in compliance with ISO27001 to re-establish access to and protection of our information.

Appendix D - Physical Security Policy

DWP PHYSICAL SECURITY POLICY

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Audience

- 1.1 This DWP Physical Security policy applies to all DWP employees, contractors, partners, service providers and includes employees of other organisations who are based on DWP premises.
- 1.2 This policy does not apply to DWP staff operating out of sites owned and/or managed by other public bodies.

Policy Objective

- 2.1 This provides our employees, contractors, partners and other interested parties with a clear policy direction that requires them to protect DWP premises and assets, and ensure that all necessary physical protective security measures are in place to prevent unauthorised access, damage and interference to DWP's assets and the occupants of its premises.

Scope and Definition

- 3.1 Physical Security refers to measures that are designed to protect physical locations and the assets, information and personnel contained within.
- 3.2 This policy sets out the approach to be adopted to manage, develop, improve and assure Physical Security across DWP.
- 3.3 It is essential that our business is conducted in an environment where potential threats to DWP assets, information and personnel (including from terrorism, theft and insider threat actors) have been identified, risk assessed and appropriately mitigated to prevent interference, loss or compromise. This includes ensuring physical perimeters are protected and entry controls are in place to provide proportionate protection against natural disasters and terrorist attacks.

Context

- 4.1 This policy sets out a framework to follow a 'layered' approach to physical security. It provides suitably secure environments from which DWP can operate to achieve its strategic aims and objectives by implementing security measures in layers, to appropriately protect personnel and DWP assets including material of differing levels of sensitivity.
- 4.2 This policy provides a high-level organisational objective for DWP with regards to Physical Security, but it is supported by MANDATORY Security Standards and Security Instructions which MUST be followed to ensure compliance, as they represent the minimum measures required to protect the security of DWP assets, information and people.

- 4.3 This policy is also supported by several useful guidance products which will assist the policy audience with implementation.

Responsibilities

- 5.1 All DWP employees, contractors, partners, service providers and employees of other organisations who are on DWP premises remain accountable for the security, health and safety of themselves, colleagues and the protection of Departmental Assets including information and personnel.
- 5.2 The most senior grade based at each site, or in Moderate Risk and larger sites the Senior Responsible Officer (SRO), has responsibility for ensuring regular physical security risk assessments are conducted annually. They MUST ensure the action plans created to address identified risks and instigate business continuity activities are up-to-date, clearly communicated, regularly rehearsed, implemented effectively and readily available in accordance with their significance/importance/classification.
- 5.3 Except in a very small number of locations, managing the physical security controls of sites across the DWP estate is the responsibility of a contracted provider.

Policy Statements

- 6.1 Physical Security controls MUST be implemented that are proportionate to the risk appetite of the DWP and in adherence with the Information Security Policy and Acceptable Use Policy and other appropriate personnel and information security standards, including successful completion of Baseline Personnel Security Standard. This will support all staff to ensure they remain observant, report suspicious behaviour and highlight non-compliance. This vigilance will deter, delay, prevent and/or detect unauthorised access to, or attack on, a location and mitigate the impact should they occur.
- 6.2 Each DWP location presents unique physical security challenges and the measures introduced to protect each site must take into account the Risk Categorisation and the physical composition of that site. Effective approaches to Physical Security MUST follow the MANDATORY Security Standards and Instructions.
- 6.3 The most senior grade manager, or SRO in Moderate Risk and larger locations, MUST ensure that their site adheres to the Response Level Policy and ensure physical security risk assessment activity is conducted annually and that the action plans created to address identified risks are implemented.

Compliance

- 7.1 The level of risk and potential impact to DWP Information, assets and people will determine the controls to be applied and the degree of assurance required. DWP must ensure a baseline of physical security measures are in place at each site, and receive annual assurance that such measures are in place to provide appropriate protection to all occupants and assets, and that these measures can be strengthened when required i.e. in response to a threat incident or change in the Government Response Level.
- 7.2 The implementation of all security measures must be able to provide evidence that the selection was been made in accordance with appropriate information security standards ISO27001/27002 and relevant HMG Policies and Standards.
- 7.3 The constantly changing security landscape has necessarily dictated that Physical Security measures be constantly re-evaluated in order to meet new threats and other emerging vulnerabilities. Therefore this policy and subsequent supporting guidance and standards will be subject to continual review and update.

Appendix E - Acceptable Use Policy

DWP ACCEPTABLE USE POLICY

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Introduction

Information technology resources, such as PCs, laptops, Blackberrys, tablet devices and smart phones offer new and exciting ways of working and engaging with our colleagues and citizens. However, we must also be aware that improper use can impact us, our colleagues, citizens, DWP's reputation and the public purse.

This Acceptable Use Policy (AUP) aims to protect all users of DWP equipment and minimise such risks by providing clarity on the behaviours expected and required by DWP and the consequences of breaching the AUP. It sets a framework within which to conduct the DWP's business and explains how we can achieve compliance and evaluation of new business and technology requirements.

This policy replaces the Electronic Media Policy and is effective from 12 September 2016.

Purpose

To ensure that users understand their responsibility for the appropriate use of DWP's information technology resources. Understanding this will help users to protect themselves and DWP's equipment, information and reputation.

Scope

All DWP equipment and information (all information systems, hardware, software and channels of communication, including voice- telephony, social media, video, email, instant messaging, internet and intranet). User's personal information which is processed by DWP equipment is also subject to this policy

Who this policy applies to

All DWP employees, agents, contractors, consultants and business partners (referred to in this document as 'users') with access to DWP's information and information systems.

Acceptable use principles

1. General principles

Users will:

- 1.1 Confirm prior to use of DWP equipment or information, and through use of the DWP security code of conduct that they agree to this AUP and understand that breaching this policy may result in disciplinary procedures.
- 1.2 Be responsible for their own actions and act responsibly and professionally, following the DWP Standards of Behaviour and respecting DWP and fellow employees, suppliers, partners, citizens.
- 1.3 Use information, systems and equipment in line with DWP security and records management policies.

- 1.4 Immediately report any breach of this Acceptable Use Policy to their line manager and to the Security Advice Centre, and comply with official procedures when a breach of the policy is suspected or reported.
- 1.5 Never undertake illegal activity, or any activity that would be harmful to DWP's reputation or jeopardise staff and/or citizen data, on DWP technology.
- 1.6 Understand that both business and personal use will be monitored as appropriate
- 1.7 Be aware that they can use whistleblowing and raising a concern if it is believed that someone is misusing DWP information or electronic equipment.
- 1.8 Undertake education and awareness on security and using DWP information and technology, including the annual security e-learning, in order to be able to understand, recognise, and report threats, risks and incidents.

2. User IDs and passwords

Users will:

- 2.1 Protect user names, staff numbers, smart cards and passwords appropriately.
- 2.2 Create secure passwords following best practice guidance.
- 2.3 Not logon to any DWP systems using another user's credentials.
- 2.4 Remove their network access smart card and/or lock the screen when temporarily leaving devices that are in use.
- 2.5 Log out of all computer devices connected to DWP's internal network during non-working hours.

3. Managing and protecting information

Users will:

- 3.1 Only access citizen data where there is a valid business need that is appropriate to your job role.
- 3.2 Not save personal data into any document, spread sheet or system other than those approved by DWP Security for that purpose or which form part of approved local business processes aligned to security policy.
- 3.3 Ensure that data and assets exchanged with third parties (when appropriate) are protected by complying with the correct procedures and approvals process.
- 3.4 Not cause the unauthorised disclosure of citizen or staff or other sensitive information
- 3.5 Not provide information in response to callers or e-mails whose identity they cannot verify.
- 3.6 Be careful not to be overheard or overlooked in public areas when conducting DWP business
- 3.7 Apply the Government Classification policy appropriately to document headers and email subject lines in relation to the Official-Sensitive handling caveat
- 3.8 Not attempt to access, amend, damage, delete or disseminate another person's files, emails, communications or data without the appropriate authority.
- 3.9 Not attempt to compromise or gain unauthorised access to DWP IT, telephony or content, or prevent legitimate access to it.
- 3.10 Comply with the DWP Security Code of Conduct in managing DWP information

4. Personal use of DWP IT

Users will:

- 4.1 Understand that they are personally accountable for what they do online and with DWP technology

- 4.2 Personal use of IT resources is permitted in an employee's own time when not on official duty or 'flexed on' as per the Flexible Working Hours Policy. Breaks taken in normal working hours, such as paid breaks, do not count as the employee's own time for personal use of DWP equipment.
- 4.3 Ensure that any personal information stored is appropriate i.e. legal, appropriate and compliant with this policy.
- 4.4 Understand that the ability to store personal information on DWP owned devices and systems is a privilege and DWP has a right to require the data is removed should this data interfere with business activity or use.
- 4.5 Ensure activities do not damage the reputation of DWP, its employees and citizens including accessing, storing, transmitting or distributing links to material that:
- Could embarrass or compromise DWP in any way;
 - Is obtained in violation of copyright or used in breach of a licence agreement;
 - Can be reasonably considered as harassment of, or insulting to, others;
 - Is offensive, indecent or obscene including abusive images and literature
- 4.6 Follow the DWP Standards of Behaviour and must not:
- Trade or canvass support for any organisation on official premises, whether it is for personal gain from any type of transaction or on behalf of external bodies.
 - Send messages or material that solicit or promote religious, political or other non-business related causes, unless authorised by DWP.
 - Provide unauthorised views or commitments that could appear to be on behalf of DWP.
 - Undertake any form of gaming, lottery or, betting.
 - Use any type of applications and/or devices to circumvent management or security controls.
 - Download software onto DWP devices with the exception of DWP supplied tablet devices and smart phones where permitted from an official source and appropriately licensed. This software must not compromise the performance or security of the device.
 - Access personal webmail accounts on DWP equipment.
 - Download music, video or other media-related files for non-business purposes or store such files on network drives.

5. Email/fax/voice communication

Users will:

- 5.1 Comply with the DWP's email policies
- 5.2 Only use appropriate language in messages, emails, faxes and recordings. Threatening, derogatory, abusive, indecent, obscene, racist, sexist or otherwise offensive content will not be tolerated
- 5.3 Not engage in mass transmission of unsolicited emails (SPAM).
- 5.4 Not alter the content of a third party's message when forwarding it unless authorised.
- 5.5 Not try to assume the identity of another user or create or send material designed to mislead people about who originated or authorised it (e.g. through misuse of scanned signatures).
- 5.6 Be vigilant to phishing emails and know how to spot and report suspicious emails

6. Websites and Social Media

Users will:

- 6.1 Only access appropriate content using DWP technology and not intentionally visit sites or news groups that are obscene, indecent or advocate illegal activity, as described in the blocked categories list.
- 6.2 Report any access to a site that should be blocked by our web filters to their line manager and the Security Advice Centre.
- 6.3 Contact the Security Advice Centre with requests to unblock sites and not attempt to bypass DWP web filters.
- 6.4 Use social media appropriately by making themselves aware of the Cabinet Office guidelines and DWP guidance on social media / social media blueprint including DWP and Civil Service Values
- 6.5 Not put DWP information including anything that is sensitive / personal information onto online forums, blogs or social networking sites.
- 6.6 Only use approved DWP social media accounts for official business and, where appropriate, use DWP branding and a professional image or persona on such accounts.
- 6.7 Be aware that their social media content may be available for anyone to see, indexed by Google and archived for posterity.

7. Devices, systems and networks

It is a Government and legal responsibility for DWP to act as a custodian of large amounts of sensitive and personal data, and to have the capability to monitor, manage and audit that information. For that reason we need to conduct DWP business on DWP equipment. There are also risks to individuals and DWP from use of personal devices for work purposes. We recognise that there may some limited circumstances where use of personal equipment for work purposes may be acceptable.

Users will:

- 7.1 Only use systems, applications, software and devices which are approved, procured and configuration managed by DWP when undertaking official business, and apply DWP standards and guidance in their use.
- 7.2 Only use approved DWP devices connected to DWP network(s), including USBs, when undertaking official business, unless working via encrypted links e.g. from home or hotels WIFI etc.
- 7.3 Ensure no official information is stored on devices without DWP security controls.
- 7.4 Not use any personal wallpapers or screensavers.
- 7.5 Raise software approvals or exception requests through the Security Advice Centre, considering risk against business delivery.

8. Physical Security

Users will:

- 8.1 Be responsible for keeping all portable devices assigned to them safe and secure and immediately report any loss or damage of their equipment to their line manager and the Security Advice Centre
- 8.2 Protect DWP equipment appropriately when travelling e.g.
 - Laptops must always be carried as hand luggage.
 - Never leave a portable device in sight in parked vehicles.
- 8.3 Return all DWP equipment when leaving DWP. Line Managers must complete all appropriate exit procedures with leavers.

9. Compliance

- 9.1 If for any reason users are unable to comply with this policy or require use of technology which is outside its scope, this should be discussed with their line manager in the first

instance and then the Security Advice Centre who can provide advice on escalation/exception routes.

- 9.2 All requests to use new software not currently approved by DWP must be subject to the Software Approvals process through the Security Advice Centre. All exceptions to this policy must be submitted through the Security Advice Centre.
- 9.3 Line managers are responsible for ensuring that users understand their responsibilities and consequences as defined in this policy and continue to meet its requirements for the duration of their employment with DWP. They are also responsible for monitoring employees' ability to perform assigned security responsibilities. However, this does not remove responsibility from employees, they are responsible for ensuring that they too understand their responsibilities as defined in this policy and continue to meet the requirements. It is a line manager's responsibility to take appropriate action if individuals fail to comply with this policy.
- 9.4 Breaching this policy may result in disciplinary procedures (including criminal prosecution) which could lead to dismissal.
- 9.5 DWP's Security and Resilience team will regularly assess for compliance with this policy, DWP Collaboration Services will use software filters to block access to some online websites and services in order to support compliance.

Schedule 7

Sustainable Development Requirements

This Schedule sets out the Sustainable Development Requirements which are applicable to the provision of the Services.

1 General

- 1.1 The Contractor acknowledges that the Authority must at all times be seen to be actively promoting Sustainable Development through its environmental, social and economic responsibilities.
- 1.2 In delivering the Services, the Contractor shall and shall ensure that its Sub-contractors assist and cooperate with the Authority, by fully complying with the requirements of this Schedule.

2 Compliance

- 2.1 The Contractor shall produce a Sustainable Development Policy Statement and Sustainable Development Plan in accordance with paragraphs 2.2 and 2.3 of this Schedule, within three (3) Months of the Commencement Date and every 12 Months thereafter. The Sustainable Development Policy Statement and Sustainable Development Plan must be specific to the Contract and include all Sub-contractors involved in delivery of the Contract. The Contractor must obtain the required information from Sub-contractors and then collate and submit as stated above.
- 2.2 In delivering the Services, the Contractor shall prepare a Sustainable Development Policy Statement giving, for each organisation involved in delivery of the Contract an overarching commitment to:
- (a) dispose of contract waste in a legal manner (i.e. waste is disposed of via a registered waste collector, the Waste Electrical and Electronic Equipment (WEEE) regulations are adhered to where relevant);
 - (b) reduce energy consumption;
 - (c) promote waste management including recycling;
 - (d) promote green or public transport;
 - (e) promote Corporate Social Responsibility (CSR); and
 - (f) the Sustainable Development Policy and that of continuous improvement which should be signed and dated by senior management.
- 2.3 In delivering the Services, the Contractor shall prepare and deliver a Sustainable Development Plan which should be used to turn the commitment shown in the Sustainable Development Policy into action and which as a minimum, detail how each organisation involved in delivery of the Contract will:
- (a) reduce their **Environmental** footprint of this Contract through:
 - (i) minimising the use of energy, water and materials;
 - (ii) minimising waste and increasing recycling levels;
 - (iii) utilising recycled goods within operations;
 - (iv) providing efficient low carbon delivery methods; and
 - (v) promoting the use of green or public transport.

- (b) contribute to **Social** sustainability of this Contract through compliance with “Schedule 17 – Life Chances” where requested by the Authority.
- (c) drive **Economic** sustainability of this Contract through:
 - (i) supporting job creation both locally and nationally; and
 - (ii) facilitating opportunities for Minority Owned Businesses and Small and Medium-sized Enterprises.

2.4 To aid the department in monitoring the progress of each organisation the following information should also be included in your plan:

- (a) a baseline assessment of current position in terms of waste minimisation, recycling and energy consumption (energy consumption only required if current energy usage is available to organisations);
- (b) annual estimates of the progress of Sustainable Development actions; and
- (c) details of how Staff awareness of Sustainability will be increased in line with the Sustainable Development Plan.

Schedule 8

(d) Not used **Not used.**

Schedule 9

[REDACTED]

Schedule 10

Exit Management

“**Emergency Exit**” means any termination of this Contract which is a:

- (a) termination of the whole or part of this Contract in accordance with Section H (Termination Rights and Disruption), except where the period of notice given under that Clause is greater than or equal to 6 months;
- (b) termination of the provision of the Services for any reason prior to the expiry of any period of notice of termination served pursuant to Section H (Termination Rights and Disruption); or
- (c) wrongful termination or repudiation of this Contract by either Party;

“**Exit Information**” has the meaning given in Paragraph 3.1;

“**Exit Information Delay Payment**” has the meaning given in Paragraph 3.4;

“**Exit Manager**” means the person appointed by each Party pursuant to either Paragraph 2.2 or Paragraph 2.3 for managing the Parties' respective obligations under this Schedule;

“**Ordinary Exit**” means any termination of this Contract which occurs:

- (a) pursuant to Section H (Termination Rights and Disruption) other than an Emergency Exit;
- (b) where the period of notice given by the Party serving notice to terminate pursuant to such Clause is greater than or equal to 6 months; or
- (c) as a result of the expiry of the Contract Period;

“**Registers**” means the registers referred to in Paragraphs 2.1(a) and 2.1(b);

“**Termination Assistance Notice**” has the meaning given in Paragraph 5.1 of this Schedule;

“**Termination Assistance Period**” in relation to a Termination Assistance Notice, the period specified in the Termination Assistance Notice for which the Contractor is required to provide the Termination Services as such period may be extended pursuant to Paragraph 5.2 of this Schedule;

“**Termination Payment**” means the commitments, liabilities and expenditure which would otherwise represent an unavoidable loss by the Contractor by reason of termination of the Contract pursuant to the occurrence of a Termination Payment Event which shall be calculated as and be exclusively equal to:

- (a) Breakage Costs and Unrecovered Costs, if termination occurs in the period from the Commencement Date up to and including the date which is forty (40) Months after the Commencement Date; or
- (b) Unrecovered Costs, if termination occurs after the date which is forty (40) Months after the Commencement Date

“**Termination Payment Event**” means termination of the Contract pursuant to one of the grounds referred to in Clauses H1.1(a) or H1.1(d)

“**Termination Services**” means any of the Services, which may include all of the Services, to be performed by the Contractor during the Termination Assistance Period and any other actions required pursuant to the Termination Assistance Notice;

“**Transferable Contracts**” means the Sub-contracts or other agreements which are necessary to enable the Authority or any Replacement Contractor to perform the Services or the Replacement Services; and

“**Transferring Contracts**” has the meaning given in Paragraph 6.2(c).

2 OBLIGATIONS DURING THE TERM TO FACILITATE EXIT

2.1 During the Contract Period, the Contractor shall:

- (a) create and maintain a register of all:

- (i) Sub-contracts and other relevant agreements required for the performance of the Services; and
 - (ii) personnel engaged on the Services under this Contract by the Contractor, its Sub-contractors or elsewhere within its supply chain, denoting those that are employees or otherwise, including any individuals that are agency staff and/or self-employed ("**the Personnel List**"). The Contractor shall provide the Authority with an updated register of the Personnel List annually or at any point during the Contract Period within 10 days of a written request by the Authority;
- (b) create and maintain a database detailing the infrastructure and operating procedures through which the Contractor provides the Services, which shall contain sufficient detail to permit the Authority and/or Replacement Contractor to understand how the Contractor provides the Services and to enable the smooth transition of the Services with the minimum of disruption;
 - (c) agree the format of the Registers with the Authority as part of the process of agreeing the Exit Plan; and
 - (d) at all times keep the Registers up to date, in particular in the event that Sub-contracts or other relevant agreements are added to or removed from the Services.
- 2.2 Each Party shall appoint a person for the purposes of managing the Parties' respective obligations under this Schedule and provide written notification of such appointment to the other Party within 3 months of the Commencement Date. The Contractor's Exit Manager shall be responsible for ensuring that the Contractor and its employees, agents and Sub-contractors comply with this Schedule. The Contractor shall ensure that its Exit Manager has the requisite Authority to arrange and procure any resources of the Contractor as are reasonably necessary to enable the Contractor to comply with the requirements set out in this Schedule. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the termination of this Contract and all matters connected with this Schedule and each Party's compliance with it.
- 2.3 Either Party may appoint a replacement Exit Manager by providing prior written notification of such appointment to the other Party.
- 2.4 The Contractor undertakes that it shall not knowingly do or omit to do anything which may adversely affect the ability of the Authority (i) to ensure an orderly transfer of responsibility for the supply of the Services (or their equivalent) to any Replacement Contractor or (ii) to discontinue the supply of all or part of the Services.
- 2.5 The Contractor shall bear its own costs and expenses incurred in respect of compliance with its obligations under this Schedule 10.

3 OBLIGATIONS TO ASSIST ON RE-TENDERING OR REPLACEMENT OF SERVICES

- 3.1 In order to facilitate a smooth and orderly transfer of responsibility on the expiry, termination or re-tendering, in full or in part, of the Contract the Contractor shall:-
- (a) act fairly and in good faith at all times in connection with any re-tender process for supply of the Services (or their equivalent) conducted by the Authority;
 - (b) comply with the Authority's reasonable requests in connection with any tender process so as to enable the Authority to facilitate a fair and open competitive tender of the supply of the Services (or their equivalent);
 - (c) do or perform such other acts and things and execute all documents as may reasonably be required in order to facilitate the re-tender or transition process;
 - (d) save for any Commercially Sensitive Information deliver any documents, information and data (in any form whatsoever but for the avoidance of doubt, any machine readable or electronic data shall be provided in a readily readable form) in the possession or control of the Contractor which relate to:
 - (i) the performance, monitoring, management and reporting of the Services; and
 - (ii) the terms and conditions of employment and the employment records of those of the Transferring Contractor Employees or those employees who may be

affected by the TUPE Regulations upon any transfer of responsibility for the supply of the Services (or their equivalent).

- 3.2 On reasonable notice at any point during the Contract Period, the Contractor shall provide to the Authority and/or its potential Replacement Contractors (subject to the potential Replacement Contractors entering into reasonable written confidentiality undertakings), the following material and information in order to facilitate the preparation by the Authority of any invitation to tender and/or to facilitate any potential Replacement Contractors undertaking due diligence:
- (a) details of the Service(s);
 - (b) a copy of the Registers, updated by the Contractor up to the date of delivery of such Registers;
 - (c) an inventory of Authority Data in the Contractor's possession or control;
 - (d) details of any key terms of any third party contracts, particularly as regards charges, termination, assignment and novation;
 - (e) a list of on-going and/or threatened disputes in relation to the provision of the Services;
 - (f) within 20 days of a written request from the Authority, to the extent permitted by applicable Law, all information relating to Transferring Contractor Employees or those who may be Transferring Contractor Employees required to be provided by the Contractor under this Contract, such information to include the Staffing Information (as defined in Schedule 19 (Employee Provisions and TUPE) and the information contained within Paragraph 1.6 of Part D of Schedule 19 (Employee Provisions and TUPE); and
 - (g) such other material and information as the Authority shall reasonably require, (together, the "**Exit Information**").
- 3.3 The Contractor represents and warrants that the Exit Information is full, accurate and complete as at the date of provision to the Authority. If the Contractor fails to provide the Information set out in Paragraph 3.2(f) within the 20 days, the Contractor shall pay an Exit Information Delay Payment to the Authority.
- 3.4 The Exit Information Delay Payment shall accrue:
- (a) at a daily rate of an amount equal to 10 per cent of the Delivery Fee Periodic Payment for each Working Day's delay (exclusive of VAT);
 - (b) from (but excluding) the date the Authority requested the information in Paragraph 3.2(f) to (and including) the date on which the Contractor provides the Exit Information under Paragraph 3.2(f) to the Authority to the Authority's satisfaction; and
 - (c) on a daily basis, with any part day counting as a day.
- 3.5 The Contractor acknowledges that the Authority may disclose the Contractor's Confidential Information to an actual or prospective Replacement Contractor or any third party whom the Authority is considering engaging to the extent that such disclosure is necessary in connection with such engagement (except that the Authority may not under this Paragraph 3.3 disclose any Contractor's Confidential Information which is information relating to the Contractor's or its Sub-contractors' prices or costs).
- 3.6 The Contractor shall:
- (a) notify the Authority within 5 Working Days of any material change to the Exit Information which may adversely impact upon the potential transfer and/or continuance of any Services and shall consult with the Authority regarding such proposed material changes; and
 - (b) provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and in any event within 10 Working Days of a request in writing from the Authority.

- 3.7 The Contractor may charge the Authority for its reasonable additional costs to the extent the Authority requests more than 4 updates in any 6 month period.
- 3.8 The Exit Information shall be accurate and complete in all material respects and the level of detail to be provided by the Contractor shall be such as would be reasonably necessary to enable a third party to:
- (a) prepare an informed offer for those Services; and
 - (b) not be disadvantaged in any subsequent procurement process compared to the Contractor (if the Contractor is invited to participate).

4 EXIT PLAN

- 4.1 The Contractor shall, within 3 months after the Commencement Date, deliver to the Authority an Exit Plan which:
- (a) sets out the Contractor's proposed methodology for achieving an orderly transition of the Services from the Contractor to the Authority and/or its Replacement Contractor on the expiry or termination of this Contract;
 - (b) complies with the requirements set out in Paragraph 4.2; and
 - (c) is otherwise reasonably satisfactory to the Authority.
- 4.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within 20 Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 4.3 The Exit Plan shall set out, as a minimum:
- (a) how the Exit Information is obtained;
 - (b) separate mechanisms for dealing with Ordinary Exit and Emergency Exit, the provisions relating to Emergency Exit being prepared on the assumption that the Contractor may be unable to provide the full level of assistance which is required by the provisions relating to Ordinary Exit, and in the case of Emergency Exit, provision for the supply by the Contractor of all such reasonable assistance as the Authority shall require to enable the Authority or its Sub-contractors to provide the Services;
 - (c) the management structure to be employed during both transfer and cessation of the Services in an Ordinary Exit and an Emergency Exit;
 - (d) the management structure to be employed during the Termination Assistance Period;
 - (e) a detailed description of both the transfer and cessation processes, including a timetable, applicable in the case of an Ordinary Exit and an Emergency Exit, including (without limitation) exit from Authority Premises, returning the Authority Data to the Authority and maintenance of security;
 - (f) how the Services will transfer to the Replacement Contractor and/or the Authority;
 - (g) the duties and responsibilities of the Contractor and the Authority leading up to and covering the expiry or termination of the Contract and the transition process for the transfer of the supply of the Services (or their equivalent);
 - (h) how the Contractor shall co-operate and liaise with any Replacement Contractor appointed by the Authority to supply the Services (or their equivalent);
 - (i) procedures to deal with requests made by the Authority and/or a Replacement Contractor for Staffing Information pursuant to Schedule 19 (Employee Provisions and TUPE) to determine (i) which employees are or are likely to become Transferring Contractor Employees and (ii) to identify or develop any measures for the purposes of the TUPE Regulations envisaged in respect of Transferring Contractor Employees); and
 - (j) how each of the issues set out in this Schedule will be addressed to facilitate the transition of the Services from the Contractor to the Replacement Contractor and/or the

Authority with the aim of ensuring that there is no disruption to or degradation of the Services during the Termination Assistance Period.

- 4.4 The Parties acknowledge that the migration of the Services from the Contractor to the Authority and/or its Replacement Contractor may be phased, such that certain of the Services are handed over before others.
- 4.5 The Contractor shall review and (if appropriate) update the Exit Plan on a basis consistent with the principles set out in this Schedule in the first month of each Contract Year (commencing with the second Contract Year) to reflect any changes in the Services that have occurred since the Exit Plan was last agreed. Following such update the Contractor shall submit the revised Exit Plan to the Authority for review. Within 20 Working Days following submission of the revised Exit Plan, the Parties shall meet and use reasonable endeavours to agree the contents of the revised Exit Plan. If the Parties are unable to agree the contents of the revised Exit Plan within that 20 Working Day period, such dispute shall be resolved in accordance with the Dispute Resolution Procedure.

Finalisation of the Exit Plan

- 4.6 Within 20 Working Days after service of a Termination Notice by either Party or 6 months prior to the expiry of this Contract, the Contractor will submit for the Authority's approval the Exit Plan in a final form that could be implemented immediately. The final form of the Exit Plan shall be prepared on a basis consistent with the principles set out in this Schedule and shall reflect any changes in the Services that have occurred since the Exit Plan was last agreed.
- 4.7 If the Contractor fails to submit an Exit Plan for the Authority's approval pursuant to in Paragraph 4.6, the Contractor shall pay an Exit Plan Delay Payment to the Authority.
- 4.8 The Exit Plan Delay Payment shall accrue:
- (a) at a daily rate of an amount equal to 10 per cent. of the Delivery Fee Periodic Payment for each Working Day's delay (exclusive of VAT);
 - (b) from (but excluding) the date the Authority served the Termination Notice or the date 6 months prior to the expiry of this Contract, as applicable, to (and including) the date on which the Contractor submits the Exit Plan under Paragraph 4.6 to the Authority for the Authority's approval; and
 - (c) on a daily basis, with any part day counting as a day.
- 4.9 The Parties will meet and use their respective reasonable endeavours to agree the contents of the final form of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within 20 Working Days following its delivery to the Authority then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure. Until the agreement of the final form of the Exit Plan, the Contractor shall provide the Termination Services in accordance with the principles set out in this Schedule and the last approved version of the Exit Plan (insofar as relevant).

5 TERMINATION SERVICES

Notification of Requirements for Termination Services

- 5.1 The Contractor shall provide the Termination Services at any time during the Contract Period on receipt of written notice from the Authority (a "**Termination Assistance Notice**"), such notice to be given as soon as reasonably practicable (but in any event, not later than 1 month) following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
- (a) the date from which Termination Services are required;
 - (b) the nature of the Termination Services required; and
 - (c) the period during which it is anticipated that Termination Services will be required, which shall continue no longer than 24 months after the date that the Contractor ceases to provide the Services.

- 5.2 The Authority shall have an option to extend the period of assistance beyond the period specified in the Termination Assistance Notice provided that such extension shall not extend for more than 6 months after the date the Contractor ceases to provide the Services or, if applicable, beyond the end of the Termination Assistance Period and provided that it shall notify the Contractor to such effect no later than 20 Working Days prior to the date on which the provision of Termination Services is otherwise due to expire. The Authority shall have the right to terminate its requirement for Termination Services by serving not less than 20 Working Days' written notice upon the Contractor to such effect.

Termination Assistance Period

- 5.3 Throughout the Termination Assistance Period, or such shorter period as the Authority may require, the Contractor shall:
- (a) provide the Termination Services;
 - (b) in addition to providing the Termination Services, provide to the Authority any reasonable assistance requested by the Authority to allow the Services to continue without interruption following the termination or expiry of this Contract and to facilitate the orderly transfer of responsibility for and conduct of the Services to the Authority and/or its Replacement Contractor;
 - (c) use all reasonable endeavours to reallocate resources to provide such assistance as is referred to in Paragraph 5.3(b) without additional costs to the Authority;
 - (d) provide the Termination Services at no detriment to the Authority Requirements, save to the extent that the Parties agree otherwise in accordance with Paragraph 5.5;
 - (e) at the Authority's request and on reasonable notice, deliver up-to-date Registers to the Authority; and
 - (f) conduct itself during the Termination Assistance Period in a way that does not result in the Authority suffering reputational damage that would affect the level of trust the public places in the Authority.
- 5.4 Without prejudice to the Contractor's obligations under Paragraph 5.3(c), if it is not possible for the Contractor to reallocate resources to provide such assistance as is referred to in Paragraph 5.3(b) without additional costs to the Authority, any additional costs incurred by the Contractor in providing such reasonable assistance which is not already in the scope of the Termination Services or the Exit Plan shall be subject to the Change Control Procedure.
- 5.5 If the Contractor demonstrates to the Authority's reasonable satisfaction that transition of the Services and provision of the Termination Services during the Termination Assistance Period will have a material, unavoidable adverse effect on the Contractor's ability to meet the Authority Requirements, the Parties shall vary the Authority Requirements to take account of such adverse effect.

Obligations on Termination or Expiry

- 5.6 The Contractor acknowledges that on termination (for any reason) or expiry of the Contract or on change or variation of the Contract pursuant to F3 (Changes to the Contract) which constitutes a cessation of all (or part) of the Services, the continuity of the Services is of paramount importance. Accordingly the Contractor acknowledges that the Authority may, amongst other reasonable actions, suspend referral of Participants to the Services within the stated notice period given to terminate the Contract or, in the case of Variation of the Contract pursuant to F3 which constitutes a cessation of all (or part) of the Services, upon the Authority confirming in writing that it wishes to proceed with the Variation pursuant to clause F3. In relation to any Participants referred to the Contractor prior to the stated notice period or the effective date of the Variation whose participation in the relevant part of the Services has not completed on or prior to the date of termination or expiry, the Contractor will comply with its obligations pursuant to paragraph 5.7.
- 5.7 Both before and for a reasonable time after termination or expiry of the Contract the Contractor shall promptly provide assistance at no extra cost to the Authority save that in the event of termination by the Authority pursuant to clause H1.1(a), H1.1(d) or a change or variation of the Contract pursuant to F3 (Changes to the Contract) which constitutes a cessation of all (or part) of the Services, such reasonable costs shall, subject to the Approval of any such costs, be for

the account of the Authority; for the avoidance of doubt, such Approval shall not be unreasonably withheld or delayed. The Contractor shall do its utmost to minimise disruption caused to Participants and assist with the implementation of any contingency plan proposed by the Authority to deal with the effects of such termination or expiry in so far as it is practicable to do so. At the option of the Authority, the Contractor may, pursuant to this paragraph 5.7, be required:

- (a) to continue to deliver or procure the supply of the Services until Participants have completed their participation on the Services in accordance with the Specification, including, for the avoidance of doubt, any in work support, and where relevant the Authority shall continue to pay the Fees in accordance with the Contract; or
- (b) to transfer the Contractor's obligations in respect of Participants whose participation on the Services has not been or will not be completed in accordance with the Specification to an alternative contractor designated by the Contracting Authority.

5.8 The Contractor shall comply with all of its obligations contained in the Exit Plan and shall comply with such timetable as the Authority may reasonably require, for the purpose of ensuring an orderly transfer of responsibility for supply of the Services (or their equivalent) or remaining Services (or their equivalent) upon the expiry or other termination of the Contract or the variation of the Contract pursuant to clause F3 which constitutes a cessation of all (or part) of the Services. The Contractor shall ensure that the Staff and its Sub-contractors are under a similar obligation.

5.9 Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Contractor's performance of the Services and the Termination Services and its compliance with the other provisions of this Schedule), the Contractor shall:

- (a) cease to use the Authority Data except insofar as it reasonably needs to use the Authority Data in order to comply with its continuing obligations under Clause E14 (Records Relating to Services);
- (b) provide the Authority and/or the Replacement Contractor with a complete and uncorrupted version of the Authority Data in electronic form (or such other format as reasonably required by the Authority);
- (c) return to the Authority such of the following as is in the Contractor's possession or control:
 - (i) all copies of the Authority Software and any other software licensed by the Authority to the Contractor under this Contract;
 - (ii) all Property (including materials, documents, information and access keys) provided to the Contractor by the Authority. Such property shall be handed back in good working order (allowance shall be made for reasonable wear and tear); and
 - (iii) any items that have been on-charged to the Authority, such as consumables;
- (d) vacate any Authority Premises;
- (e) provide access during normal working hours to the Authority and/or the Replacement Contractor for up to 12 months after expiry or termination to:
 - (i) such information relating to the Services as remains in the possession or control of the Contractor; and
 - (ii) such members of the Staff as have been involved in the design, development and provision of the Services and who are still employed by the Contractor, provided that the Authority and/or the Replacement Contractor shall pay the reasonable costs of the Contractor actually incurred in responding to requests for access under this Paragraph 5.7(e)(ii).

5.10 If the Contractor fails to comply with paragraph 5.9, the Authority may recover possession thereof and the Contractor grants a licence to the Authority or its appointed agents to enter (for

the purposes of such recovery) any premises of the Contractor or its permitted suppliers or Sub-contractors where any such items may be held.

- 5.11 Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Contractor's performance of the Services and the Termination Services and its compliance with the other provisions of this Schedule), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Services, especially without limitation the Contractor's obligations under Clause E14 (Records Relating to Services), or Termination Services or for statutory compliance purposes.
- 5.12 Except where this Contract provides otherwise, all licences, leases and authorisations granted by the Authority to the Contractor in relation to the Services shall be terminated with effect from the end of the later of the Termination Assistance Period the termination or expiry (as the case may be) of this Contract.
- 5.13 On the expiry or termination of the Contract for any reason (or in advance if stated as such), the Contractor shall:
- (a) assist and co-operate with the Authority to ensure an orderly transition of the provision of the Services to the Replacement Contractor and/or the completion of any work in progress in accordance with the provisions of this Schedule;
 - (b) no later than either:
 - (i) six (6) Month(s) in advance of expiry; or
 - (ii) upon notice of termination of this Contract,
without prejudice to its other obligations under the Contract, promptly provide all information concerning the supply of the Services which may reasonably be requested by the Authority for the purposes of adequately understanding the manner in which the Services have been supplied or for the purpose of allowing the Authority or the Replacement Contractor to conduct due diligence in accordance with the provisions of this Schedule 10;
 - (a) if requested by the Authority, use all reasonable endeavours to promptly procure the transfer of any licences, or the granting of an appropriate licence or sub-licence, to the Authority or the Replacement Contractor of any third party Intellectual Property Rights that are necessary for the continued supply of the Services following termination or expiry of the Contract. Where the owner of the third party Intellectual Property Rights requires payment in consideration for transferring or granting such licence or sub-licence (the "Transfer Fee") the Contractor shall first notify the Authority. If the Authority informs the Contractor that the transfer/granting of a licence should proceed, the Authority shall (unless the end of the Contract Period arises due to the Contractor's Default) be responsible for paying the Transfer Fee. For the avoidance of doubt, the Authority shall have no liability for any Transfer Fee that the Contractor has incurred without obtaining Approval; and
 - (d) repay to the Authority the Fees (or any part(s) thereof) the Contractor has been paid in advance in respect of Services not provided by the Contractor as at the date of expiry or termination.
- 5.14 Where the Authority has issued a Termination Notice to the Contractor pursuant to Clause H1.1 (b), the Contractor shall provide all assistance under Paragraphs 5.13(a) and (b) free of charge. Otherwise, the Authority shall pay the Contractor's reasonable costs of providing the assistance and the Contractor shall take all reasonable steps to mitigate such costs.

6 SUB-CONTRACTS

- 6.1 Following notice of termination of this Contract and during the Termination Assistance Period, the Contractor shall not, without the Authority's prior written consent, terminate, enter into or vary any Sub-contract except to the extent that such change does not or will not affect the provision of Services or the Fees.

- 6.2 Within 20 Working Days of receipt of the up-to-date Registers provided by the Contractor pursuant to Paragraph 5.3(e), the Authority shall provide written notice to the Contractor setting out which, if any, of Transferable Contracts the Authority requires to be assigned or novated to the Authority and/or the Replacement Contractor (the “**Transferring Contracts**”), in order for the Authority and/or its Replacement Contractor to provide the Services from the expiry of the Termination Assistance Period. Where requested by the Authority and/or its Replacement Contractor, the Contractor shall provide all reasonable assistance to the Authority and/or its Replacement Contractor to enable it to determine which Transferable Contracts the Authority and/or its Replacement Contractor requires to provide the Services or Replacement Services.
- 6.3 The Contractor shall as soon as reasonably practicable assign or procure the novation to the Authority and/or the Replacement Contractor of the Transferring Contracts. The Contractor shall execute such documents and provide such other assistance as the Authority reasonably requires to effect this novation or assignment.
- 6.7 The Authority shall:
- (a) accept assignments from the Contractor or join with the Contractor in procuring a novation of each Transferring Contract; and
 - (b) once a Transferring Contract is novated or assigned to the Authority and/or the Replacement Contractor, carry out, perform and discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Contractor does the same.
- 6.8 The Contractor shall hold any Transferring Contracts on trust for the Authority until such time as the transfer of the relevant Transferring Contract to the Authority and/or the Replacement Contractor has been effected.
- 6.9 The Contractor shall within three (3) Working Days of demand, indemnify fully, keep the Authority (and/or the Replacement Contractor, as applicable) indemnified and hold harmless the Authority (and/or the Replacement Contractor, as applicable) at all times from and against all claims, proceedings, actions, damages, costs and expenses (including, but not limited to, legal costs and disbursements), losses, amounts, sums, outgoings of any description and any other liabilities caused to the Authority (and/or the Replacement Contractor, as applicable) whether directly or indirectly in whole or in part by reason of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Authority (and/or Replacement Contractor) pursuant to Paragraph 6.6 in relation to any matters arising prior to the date of assignment or novation of such Sub-contract.
- 6.10 All outgoings and expenses (including any remuneration due) and all periodical payments receivable in respect of the Transferring Contracts shall be apportioned between the Authority and the Contractor and/or the Replacement Contractor and the Contractor (as applicable) as follows:
- (a) the amounts shall be annualised and divided by 365 to reach a daily rate;
 - (b) the Authority shall be responsible for (or shall procure that the Replacement Contractor shall be responsible for) or entitled to (as the case may be) that part of the value of the invoice pro rata to the number of complete days following the transfer, multiplied by the daily rate; and
 - (c) the Contractor shall be responsible for or entitled to (as the case may be) the rest of the invoice.
- 6.11 Each Party shall pay (and/or the Authority shall procure that the Replacement Contractor shall pay) any monies due under Paragraph 6.10 as soon as reasonably practicable.

7 STAFF

- 7.1 The Authority and Contractor agree and acknowledge that in the event of the Contractor ceasing to provide the Services or part of them for any reason, Schedule 19 (Employee Provisions and TUPE) shall apply.
- 7.2 The Contractor shall not and shall procure that any relevant Sub-contractor shall not take any step (expressly or implicitly or directly or indirectly by itself or through any other person) without

the prior written consent of the Authority to dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Authority and/or the Replacement Contractor and/or a Replacement Sub-contractor.

- 7.3 During the Termination Assistance Period, the Contractor shall and shall procure that any relevant Sub-contractor shall:
- (a) give the Authority and/or the Replacement Contractor and/or a Replacement Sub-contractor reasonable access to the Contractor's personnel and/or their consultation representatives to present the case for transferring their employment to the Authority and/or the Replacement Contractor and/or a Replacement Sub-contractor; and
 - (b) co-operate with the Authority and/or a Replacement Contractor and/or a Replacement Sub-contractor to ensure an effective consultation process and smooth transfer in respect of Transferring Contractor Employees in line with good employee relations and the effective continuity of the Services.
- 7.4 The Contractor shall immediately notify the Authority or, at the direction of the Authority, the Replacement Contractor of any period of notice given by the Contractor or received from any person referred to in the Staffing Information, regardless of when such notice takes effect.
- 7.5 The Contractor shall not and shall procure that any relevant Sub-contractor shall not for a period of 12 months from the date of transfer reemploy or re-engage or entice any employees, Contractors or Sub-contractors whose employment or engagement is transferred to the Authority and/or the Replacement Contractor and/or a Replacement Sub-contractor, except that this paragraph shall not apply where the employee, Contractor or Sub-contractor applies in response to a public advertisement of a vacancy or where such an offer is made pursuant to an express right to make such an offer under Schedule 19 (Employee Provisions and TUPE).

8 FEES

- 8.1 During the Termination Assistance Period (or for such shorter period as the Authority may require the Contractor to provide the Termination Services), the Authority shall pay the Fees to the Contractor in respect of the Termination Services in accordance with the rates set out in the Exit Plan (but shall not be required to pay costs in excess of the estimate set out in the Exit Plan). If the scope or timing of the Termination Services is changed and this results in a change to the costs of such Termination Services, the estimate may be varied in accordance with the Change Control Procedure.
- 8.2 For the purpose of calculating the costs of providing the Termination Services for inclusion in the Exit Plan or, if no Exit Plan has been agreed, the costs of providing Termination Services shall be determined in accordance with the Change Control Procedure.
- 8.3 Except as otherwise expressly specified in this Contract, the Contractor shall not make any charges for the Services provided by the Contractor pursuant to, and the Authority shall not be obliged to pay for costs incurred by the Contractor in relation to its compliance with, this Schedule including the preparation and implementation of the Exit Plan and any activities mutually agreed between the Parties to carry on after the expiry of the Termination Assistance Period.

Schedule 11

Allocation of Costs on Termination

Payments on Termination

1 DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

“Anticipated Contract Life Profit Margin” means the anticipated Contractor Profit Margin over Contract Period;

“Compensation Payment” means the payment calculated in accordance with Paragraph 6;

“Contract Breakage Costs” means the amounts payable by the Contractor to its Sub-contractors for terminating all relevant Sub-contracts as a direct result of the early termination of this Contract as at the Termination Date as determined in accordance with Paragraph 3;

“Contractor Profit” means the difference between the total Fees (in nominal cash flow terms but excluding any deductions paid or payable to the Authority under this Contract) and total Costs (in nominal cash flow terms) paid or payable to the Contractor under this Contract;

“Contractor Profit Margin” means in relation to a period, the Contractor Profit for the relevant period divided by the total Fees over the same period and expressed as a percentage;

“Costs” the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Contractor in providing the Services:

- (i) costs incurred in respect of those Assets which are detailed on the Registers and which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Assets by the Contractor to the Authority or (to the extent that risk and title in any Asset is not held by the Contractor) any cost actually incurred by the Contractor in respect of those Assets; and
- (ii) operational costs which are not included within (i) above, to the extent that such costs are necessary and properly incurred by the Contractor in the delivery of the Services;

but excluding:

- (i) redundancy costs or any costs related to Staff;
- (ii) Overhead;
- (iii) financing or similar costs;
- (iv) maintenance and support costs to the extent that these relate to maintenance and/or support services provided beyond the Contract Period, whether in relation to Assets or otherwise;
- (v) taxation;
- (vi) fines and penalties; and
- (vii) non-cash items (including depreciation, amortisation, impairments and movements in provisions);

“Overhead” means those amounts which are intended to recover a proportion of the Contractor's indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Staff;

“Profit Already Paid” means the Contractor Profit paid or payable to the Contractor under this Contract for the period from the Commencement Date up to (and including) the Termination Date;

“Request for Estimate” means a written request sent by the Authority to the Contractor, requiring that the Contractor provide it with an accurate estimate of the Termination Payment and Compensation Payment that would be payable if the Authority exercised its right under Clause H1 (Termination by the Authority) to terminate this Contract for convenience on a specified Termination Date;

“Shortfall Period” has the meaning given in Paragraph 6.2;

“Termination Estimate” has the meaning given in Paragraph 11.2;

“Total Costs Incurred” means the Costs incurred by the Contractor up to the Termination Date in the performance of this Contract (but excluding any costs relating to Staff, Contract Breakage Costs and any costs the Contractor would not otherwise be able to recover through the Charges) less any Deductions up to (and including) the Termination Date;

“Unrecovered Costs” means the Costs incurred by the Contractor in the performance of this Contract to the extent that the same remain at the Termination Date to be recovered through Charges that but for the termination of this Contract would have been payable by the Authority after the Termination Date in accordance with Schedule 4 (Fees and Payment);

“Unrecovered Payment” means an amount equal to the lower of:

- (a) the sum of the Unrecovered Costs and the Unrecovered Profit; and
- (b) the amount specified in Paragraph 4; and

“Unrecovered Profit” means (Total Costs Incurred x Anticipated Contract Life Profit Margin) - Profit Already Paid remaining unpaid at the Termination Date.

2 TERMINATION PAYMENT

The Termination Payment payable pursuant to Clause H6.1 (Payments by the Authority) shall be an amount equal to the aggregate of the Contract Breakage Costs and the Unrecovered Payment.

3 CONTRACT BREAKAGE COSTS

3.1 The Contractor may recover through the Contract Breakage Costs only those costs incurred by the Contractor directly as a result of the termination of this Contract which:

- (a) would not have been incurred had this Contract continued until the scheduled expiry of the Contract Period;
- (b) are unavoidable, proven, reasonable, and not capable of recovery;
- (c) are incurred under arrangements or agreements that are directly associated with this Contract;
- (d) are not Contract Breakage Costs relating to contracts or Sub-contracts with Affiliates of the Contractor; and
- (e) relate directly to the termination of the Contract.

Limitation on Contract Breakage Costs

3.2 The Contract Breakage Costs shall not exceed the lower of:

- (a) 100% of the Average Annual Contract Value; and
- (b) 120% of the estimate for the Contract Breakage Costs set out in any relevant Termination Estimate.

Contract Breakage Costs

- 3.3 The Contractor shall be entitled to Contract Breakage Costs only in respect of Sub-contracts which:
- (a) are not assigned or novated to a Replacement Contractor at the request of the Authority in accordance with Schedule 10 (Exit Management); and
 - (b) the Contractor can demonstrate:
 - (i) are surplus to the Contractor's requirements after the Termination Date, whether in relation to use internally within its business or in providing services to any of its other customers; and
 - (ii) have been entered into by it in the ordinary course of business.
- 3.4 The Contractor shall seek to negotiate termination of any Sub-contracts with the relevant Sub-contractor using all reasonable endeavours to minimise the cancellation or termination charges.
- 3.5 Except with the prior written agreement of the Authority, the Authority shall not be liable for any costs (including cancellation or termination charges) that the Contractor is obliged to pay in respect of:
- (a) the termination of any contractual arrangements for occupation of, support of and/or services provided for Contractor premises which may arise as a consequence of the termination of this Contract; and/or
 - (b) Assets not yet installed at the Termination Date.

4 UNRECOVERED PAYMENT

The Unrecovered Payment shall not exceed the lowest of:

- (a) 100% of the Average Annual Contract Value;
- (b) 120% of the estimate for the Unrecovered Payment set out in any relevant Termination Estimate; and
- (c) the Charges that but for the termination of this Contract would have been payable by the Authority after the Termination Date in accordance with Schedule 4 (Fees and Payment) as forecast in the Financial Model.

5 MITIGATION OF CONTRACT BREAKAGE COSTS AND UNRECOVERED COSTS

- 5.1 The Contractor agrees to use all reasonable endeavours to minimise and mitigate Contract Breakage Costs and Unrecovered Costs by:
- (a) the appropriation of Assets, employees and resources for other purposes;
 - (b) at the Authority's request, assigning any Sub-contracts to the Authority or a third party acting on behalf of the Authority;
- and
- (c) in relation to Sub-contracts that are not to be assigned to the Authority or to another third party, terminating those contracts at the earliest possible date without breach or where contractually permitted.

- 5.2 If Assets, employees and resources can be used by the Contractor for other purposes, then there shall be an equitable reduction in the Contract Breakage Costs and Unrecovered Costs payable by the Authority or a third party to the Contractor. In the event of any Dispute arising over whether the Contractor can use any Assets, employees and/or resources for other

purposes and/or over the amount of the relevant equitable reduction, the Dispute shall be referred to an Expert for determination in accordance with the procedure detailed in Schedule 16 (Dispute Resolution Procedure).

6 FULL AND FINAL SETTLEMENT

Any Termination Payment and/or Compensation Payment paid under this Schedule shall be in full and final settlement of any claim, demand and/or proceedings of the Contractor in relation to any termination by the Authority pursuant to Clause H.11 (Termination by the Authority) or termination by the Contractor pursuant to Clause H1.2 (Termination by the Contractor) (as applicable), and the Contractor shall be excluded from all other rights and remedies it would otherwise have been entitled to in respect of any such termination.

7 INVOICING FOR THE PAYMENTS ON TERMINATION

All sums due under this Schedule shall be payable by the Authority to the Contractor in accordance with the payment terms set out in Schedule 4 (Fees and Payments).

8 SET OFF

The Authority shall be entitled to set off any outstanding liabilities of the Contractor against any amounts that are payable by it pursuant to this Schedule.

9 NO DOUBLE RECOVERY

9.1 If any amount payable under this Schedule (in whole or in part) relates to or arises from any Transferring Assets then, to the extent that the Authority makes any payments pursuant to Schedule 10 (Exit Management) in respect of such Transferring Assets, such payments shall be deducted from the amount payable pursuant to this Schedule.

9.2 The value of the Termination Payment and/or the Compensation Payment shall be reduced or extinguished to the extent that the Contractor has already received the Charges or the financial benefit of any other rights or remedy given under this Contract so that there is no double counting in calculating the relevant payment.

9.3 Any payments that are due in respect of the Transferring Assets shall be calculated in accordance with the provisions of the Exit Plan.

10 ESTIMATE OF TERMINATION PAYMENT AND COMPENSATION PAYMENT

10.1 The Authority may issue a Request for Estimate at any time during the Contract Period provided that no more than 2 Requests for Estimate may be issued in any 6 month period.

10.2 The Contractor shall within 20 Working Days of receiving the Request for Estimate (or such other timescale agreed between the Parties), provide an accurate written estimate of the Termination Payment and the Compensation Payment that would be payable by the Authority based on a postulated Termination Date specified in the Request for Estimate (such estimate being the "Termination Estimate"). The Termination Estimate shall:

- (a) include:
 - (i) details of the mechanism by which the Termination Payment is calculated;
 - (ii) full particulars of the estimated Contract Breakage Costs in respect of each Sub-contract and appropriate supporting documentation; and
 - (iii) such information as the Authority may reasonably require; and
- (b) state the period for which that Termination Estimate remains valid, which shall be not less than 20 Working Days.

- 10.3 The Contractor acknowledges that issue of a Request for Estimate shall not be construed in any way as to represent an intention by the Authority to terminate this Contract.
- 10.4 If the Authority issues a Termination Notice to the Contractor within the stated period for which a Termination Estimate remains valid, the Contractor shall use the same mechanism to calculate the Termination Payment as was detailed in the Termination Estimate unless otherwise agreed in writing between the Contractor and the Authority.

Schedule 12

Not used

Schedule 13

Change Control Procedure

1 General Principles Of Change Control Procedure

- 1.1 This Schedule sets out the procedure for dealing with Contract Changes and Operational Changes and Substantial Changes.
- 1.2 If either Party is in doubt about whether a change falls within the definition of an Operational Change or a Substantial Change, it must be processed as a Contract Change.
- 1.3 For any Change Communication to be valid under this Schedule, it must be sent in accordance with the provisions of clause A5 (Notices) as if it were a notice.

2 Costs

- 2.1 The Contractor shall be entitled to increase the Fees only if it can demonstrate in the Impact Assessment that the proposed Contract Change requires additional resources.
- 2.2 The Contractor shall decrease the Fees if the Impact Assessment demonstrates that the proposed Contract Change would result in fewer resources being required to deliver the Services after that Contract Change is implemented than before that Contract Change is implemented.
- 2.3 Any change to the Fees resulting from a Contract Change, whether the change will cause an increase or a decrease in the Fees, will be strictly proportionate to the increase or decrease in the level of resources required for the provision of the Services affected by the change.
- 2.4 Both Parties costs incurred in respect of any use of this Change Control Procedure as a result of any error or Default by the Contractor shall be paid for by the Contractor.

3 Substantial Change Procedure

- 3.1 Subject to the Parties following the dispute resolution procedure set out at Schedule 16 (Dispute Resolution Procedure), any Substantial Change which is identified within a settlement and/or compromise agreement that is entered into by the Parties under or in connection with this Contract shall constitute a binding change to this Contract and may be implemented by the Parties without following the Change Control Procedure provided that:

- (a) the Substantial Change relates to:
 - (i) the scope of the Services (including any change which limits, amends or extends the Services to be provided by the Contractor); and/or
 - (ii) an agreement between the Parties to waive the application of remedies for breach of this Contract; and/or
 - (iii) the standards by which the Services must be performed by the Contractor (including any change that limits, amends or extends the Customer Service Standards and/or the Tender Minimum Performance Levels (tMPLs) and/or the RNOs); and/or
 - (iv) an agreement by the Parties to change the amounts payable by the Authority to the Contractor under or in connection with this Contract (including any change to the manner in which the Fees are calculated),

provided always that such Substantial Change would not alter the overall nature of the Contract.

4 Operational Change Procedure

- 4.1 Any Operational Changes identified by either Party to improve operational efficiency of the Services may be implemented by the Contractor without following the Change Control Procedure provided they do not:
- (a) involve the Authority in paying any additional Fees or other costs;
 - (b) have an impact on the business of the Authority;
 - (c) require a change to the Terms and Conditions; or
 - (d) have a direct impact on use of the Services.
- 4.2 Either Party may request an Operational Change by submitting an Operational Change Request to other Party at any time during the Contract Period.
- 4.3 If the Party that receives an Operational Change Request wishes to agree to the Operational Change it must submit an Operational Change Confirmation to the other Party.
- 4.4 The Contractor shall inform the Authority of any impact on the Services that may arise from the proposed Operational Change.
- 4.5 The Contractor shall complete the Operational Change by the date agreed by the Parties in the Operational Change Confirmation and shall promptly notify the Authority when it is completed.

5 Contract Change Procedure

- 5.1 Either Party may issue a Change Request to the other Party at any time during the Contract Period. A Change Request shall be substantially in the form of Appendix 1.
- 5.2 If the Authority issues a Change Request, then the Contractor shall provide as soon as reasonably practical, and in any event within ten (10) Working Days of the date of receiving the Change Request, an Impact Assessment to the Authority.
- 5.3 If the Contractor issues the Change Request, then it shall provide an Impact Assessment to the Authority at the same time as the Change Request.
- 5.4 If the Contractor requires any clarification in relation to the Change Request before it can deliver the Impact Assessment, then it shall make a request for clarification to the Authority within three (3) Working Days of the date of receiving the Change Request.
- 5.5 Provided that sufficient information is received by the Authority to fully understand the nature of the request for clarification and the reasonable justification for the request, the time period to complete the Impact Assessment shall be extended by the time taken by the Authority to provide that clarification. The Authority shall respond to the request for clarification as soon as is reasonably practicable.

6 Impact Assessment

- 6.1 Each Impact Assessment shall be completed in good faith and shall include:
- (a) details of the impact the proposed Contract Change will have on the Services and the Contractor's ability to meet its other obligations under this Contract;
 - (b) any additional changes to the terms of this Contract that will be required as a result of that impact which may include changes to:
 - (i) the Services and/or the Customer Service Standards and/or the Tender Minimum Performance Levels (tMPLs) and/or the RNOs;
 - (ii) the format of Authority Data, as set out in the Services;

- (iii) the Implementation Plan and any other timetable previously agreed by the Parties; and
 - (iv) other services provided by third party contractors to the Authority, including any changes required by the proposed Contract Change to the Authority ICT System;
- (c) a timetable for the implementation, together with any proposals for the testing of the Contract Change;
 - (d) details of how the proposed Contract Change will ensure compliance with any applicable change in Law which impacts on the performance of the Services which comes into force after the Commencement Date;
 - (e) any amendments to the Contract wording proposed in the Change Request Form;
 - (f) such other information as the Authority may reasonably request in (or in response to) the Change Request;
 - (g) details of the cost of implementing the proposed Contract Change; and
 - (h) details of any ongoing costs required by the proposed Contract Change when implemented, including any increase or decrease in the Fees, any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party.
- 6.2 The calculation of costs for the purposes of paragraphs 6.1(g) and (h) shall:
- (a) include estimated volumes of each type of resource to be employed and the applicable rate card, where appropriate;
 - (b) include full disclosure of any assumptions underlying such Impact Assessment;
 - (c) include evidence of the cost of any assets required for the Change; and
 - (d) include details of any new Sub-contracts necessary to accomplish the Change.
- 6.3 If the Contract Change involves the processing or transfer of any Personal Data outside the European Economic Area, the preparation of the Impact Assessment shall also be subject to clause **Error! Reference source not found.** (Protection of Personal Data).
- 6.4 Subject to the provisions of paragraph 6.5, the Authority shall review the Impact Assessment and respond to the Contractor in accordance with paragraph 7 within fifteen (15) Working Days of receiving the Impact Assessment.
- 6.5 If the Authority is the Receiving Party and the Authority reasonably considers that it requires further information regarding the proposed Contract Change so that it may properly evaluate the Change Request and the Impact Assessment or that a Change Request or Impact Assessment contains errors it shall notify the Contractor of this fact and detail any further information that it requires. The Contractor shall then re-issue the relevant Impact Assessment to the Authority within ten (10) Working Days of receiving such notification.
- 6.6 At the Authority's discretion, the Parties may repeat the process described in paragraph 6.5 until the Authority is satisfied that it has sufficient information to properly evaluate the Change Request and Impact Assessment to enable it to take one of the steps prescribed by paragraph 7.
- 7 Authority's Right of Approval**
- 7.1 Subject to paragraph 7.5, within fifteen (15) Working Days of receiving the Impact Assessment from the Contractor, the Authority shall do one of the following:

- (a) approve the proposed Contract Change, in which case the Parties shall follow the procedure set out in paragraph 7.5; or
 - (b) in its absolute discretion reject the Contract Change, in which case it shall notify the Contractor of the rejection. The Authority shall not reject any proposed Contract Change to the extent that the Contract Change is necessary for the Contractor or the Services to comply with any changes in Law.
- 7.2 No proposed Contract Change shall be implemented by the Contractor until a Change Authorisation Note has been signed and issued by the Authority in accordance with paragraph 7.5.
- 7.3 Unless the Authority expressly agrees (or requires) otherwise in writing, the Contractor shall continue to supply the Services in accordance with the existing terms of this Contract as if the proposed Contract Change did not apply.
- 7.4 Any discussions, negotiations or other communications which may take place between the Authority and the Contractor in connection with any proposed Contract Change, including the submission of any Change Communications, shall be without prejudice to each Party's other rights under this Contract.
- 7.5 If the Authority approves the proposed Contract Change pursuant to paragraph 7.1 and it has not been rejected by the Contractor in accordance with paragraph 8, then the Authority shall prepare two copies of a Change Authorisation Note in the form of Appendix 2 and send them to the Contractor, the Contractor shall sign both copies and deliver both signed copies to the Authority for its signature. Following receipt by the Authority of the Change Authorisation Note, it shall sign both copies and return one copy to the Contractor. On the Authority's signature the Change Authorisation Note shall constitute a binding change to this Contract.

8 Contractor's Right of Rejection

- 8.1 Following an Impact Assessment, if the Contractor reasonably believes that any proposed Contract Change which is requested by the Authority would:
- (a) materially and adversely affect the risks to the health and safety of any person; and/or
 - (b) require the Services to be performed in a way that infringes any Law,

then the Contractor shall be entitled to reject the proposed Contract Change and shall notify the Authority of its reasons for doing so within five (5) Working Days after the date on which it is obliged to deliver the Impact Assessment pursuant to paragraph 5.2.

- 8.2 The Contractor shall have the right to reject a Change Request solely in the manner set out in paragraph 8.1.

9 Contract Management

- 9.1 The Parties shall update their contracts to reflect all Contract Changes or Operational Changes agreed in the relevant Change Authorisation Note or Operational Change Letter and annotate with a reference to the Change Authorisation Note or Operational Change Letter pursuant to which the relevant Contract Changes or Operational Changes were agreed.

Appendix 1
Change Request Form

(For Completion by Party Requesting Change)

Contract Reference No:	Contract Title & Contract Number:	Contractor Name:
Contract Change Title:		Contract Change Implementation Date:
Full Description of Requested Contract Change (including proposed changes to wording of the contract):		
Reasons for and Benefits of Requested Contract Change:		
Name of Requesting Change Owner:		
Signature of Requesting Change Owner:		
Date of Request:		
(For Completion by Contractor)		
Disadvantages of Requested Contract Change, if any:		
Details of any proposed alternative scenarios, if any;		
Assigned for Impact Assessment by (Name?):		
Assigned for Impact Assessment to (Name?):		
Assigned for Impact Assessment (Date?):		

Appendix 2

Change Authorisation Note

(For Completion by the Authority)

Contract Reference No:	Contract Title & Contract No:	Contractor Name:
Contract Change Title:		Contract Change Implementation Date:
Detailed Description of Agreed Contract Change for which the Impact Assessment has been prepared. Provide details;		
Details of Agreed adjusted Fees resulting from the Contract Change for which the Impact Assessment has been prepared. Provide details;		
Amended/New Contract Wording – must include details of Cross Referencing to Original Contract Documents;		
In consideration of the rights and obligations created, granted and assumed by each party to the other party pursuant to this Change Authorisation Note, the parties have agreed to enter into this Change Authorisation Note.		
The provisions of the Contract shall, save as amended in this Change Authorisation Note, continue in full force and effect, and shall be read and construed as one document with this Change Authorisation Note.		

SIGNED ON BEHALF OF THE CONTACTING BODY:	SIGNED ON BEHALF OF THE CONTRACTOR:
Signature:	Signature:
Name:	Name:
Position:	Position:
Date:	Date:

Schedule 14

Key Personnel

Contractor and Sub-contractor Key Staff

Name	Position Held	Period of involvement in the Contract

* To denote Staff dedicated full time to the project.

Details of Key Roles

Schedule 15

Sub-contractors

Part A – Supply Chain Rights and Protections

1 Appointment of Sub-contractors

- 1.1 The Contractor shall exercise due skill and care in the selection and appointment of any Sub-contractors to ensure that the Contractor is able to:
- (a) manage any Sub-contractors in accordance with Good Industry Practice;
 - (b) comply with its obligations under this Contract in the delivery of the Services; and
 - (c) assign, novate or otherwise transfer to the Authority or any Replacement Contractor any of its rights and/or obligations under each Sub-contract that relates exclusively to this Contract.
- 1.2 Unless it has obtained Approval, the Contractor shall advertise any Sub-contract to deliver any part of the Services:
- in England on Contracts Finder (or any successor or replacement service); or
 - (a) in Wales on Sell2Wales (or any successor or replacement service).
- 1.3 When requesting Approval for sub-contracting any of its obligations under this Contract, the Contractor shall notify the Authority in writing of:
- (a) the proposed Sub-contractor's name, registered office and company registration number;
 - (b) the scope of any Services to be provided by the proposed Sub-contractor; and
 - (c) where the proposed Sub-contractor is an Affiliate of the Contractor, evidence that demonstrates to the reasonable satisfaction of the Authority that the proposed Sub-contract has been agreed on "arm's-length" terms.
- 1.4 If requested by the Authority within 10 Working Days of receipt of the Authority's request the Contractor shall also provide:
- (a) a copy of the proposed Sub-contract or the Sub-contract; and
 - (b) any further information reasonably requested by the Authority.
- 1.5 The Contractor shall, as soon as reasonably practicable after appointing such Sub-contractor in accordance with this Schedule, provide to the Authority an up-to-date list of all of the Contractor's Sub-contractors that have been appointed in connection with the performance of the Services under this Contract, in a form substantially similar to the list annexed to this Schedule (or in such other form as notified to the Contractor by the Authority from time to time).
- 1.6 The Contractor notes and acknowledge that the inclusion of SMEs in the supply chain is an important policy driver for the Authority and when requesting Approval for a replacement Sub-contractor the Contractor notes that whilst the Authority would

normally expect the replacement Sub-contractor to be an organisation of equal standing to the incumbent Sub-contractor, the Authority would consider favourably a request for a replacement Sub-contractor which was an SME.

2 Supply chain protection

2.1 The Contractor shall ensure that each Sub-contract (which in this paragraph includes any contract in the Contractor's supply chain made wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract) shall include:

- (a) provisions which will enable the Contractor to discharge its obligations under the Contract, including but not limited to adherence to the Tender Minimum Performance Levels and the Customer Service Standards and achievement of the RNOs;
- (b) a right under the Contracts (Rights of Third Parties) Act 1999 for the Authority to enforce any provisions under each Sub-contract which are capable of conferring a benefit on the Authority;
- (c) a provision enabling the Contractor to assign, novate or otherwise transfer any of its rights and/or obligations under each Sub-contract to the Authority or any Replacement Contractor without restriction (which for the avoidance of doubt shall mean without any need to obtain any consent or approval from any Sub-contractor) or payment by the Authority;
- (d) obligations no less onerous on each Sub-contractor than those imposed on the Contractor under this Contract in respect of
 - (i) data protection requirements set out in clause E;
 - (ii) FOIA requirements set out in clause E;
 - (iii) the obligation not to cause material adverse publicity or damage the reputation of the Authority set out in clause E;
 - (iv) the keeping of records in respect of the services being provided under the Sub-contract; and
 - (v) the conduct of audits set out in clause E
- (e) provisions enabling the Contractor to terminate each Sub-contract on terms no more onerous on the Contractor than those imposed on the Authority under clause H of the Contract;
- (f) provisions enabling the Contractor to terminate the Sub-contract if the Sub-contractor fails to comply in the performance of the Sub-contract with legal obligations under applicable Law, including but not limited to legal obligations in the fields of environmental, social or labour law;
- (g) provisions enabling the Contractor to terminate the Sub-contract if (in the opinion of the Authority), any Sub-contractor has or may have engaged in any agreement, arrangement, practice or conduct which would amount to an infringement of competition law and the Authority elects in its absolute discretion to require the Contractor to terminate the Sub-contract with immediate effect. For the avoidance of doubt, the Authority shall not be liable

for any costs incurred by the Contractor (or the Sub-contractor) in connection with the termination of such Sub-contract;

- (h) a provision restricting the ability of the Sub-contractor to sub-contract all or any part of the services supplied under each Sub-contract without first seeking Approval;
 - (i) a provision enabling the Contractor, the Authority or any other person on behalf of the Authority to itself supply or procure the supply or all or part of the services being supplied under each Sub-contract on substantially the same terms as are set out in clause B19;
 - (j) requiring the Contractor or other party receiving goods or services under the contract to consider and verify invoices under that contract in a timely fashion;
 - (k) that if the Contractor or other party fails to consider and verify an invoice in accordance with sub-paragraph (j), the invoice shall be regarded as valid and undisputed for the purpose of sub-paragraph (l) after a reasonable time has passed;
 - (l) requiring the Contractor or other party to pay any undisputed sums which are due from it to the Sub-contractor within a specified period not exceeding thirty (30) days of verifying that the invoice is valid and undisputed;
 - (m) giving the Authority a right to publish the Contractor's compliance with its obligation to pay undisputed invoices within the specified payment period; and
 - (n) requiring the Sub-contractor to include a clause to the same effect as this paragraph 2.1 in any contracts it enters into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract; and
 - (o) all such other provisions as may be required to be set out elsewhere in this Contract.
- 2.2 The Contractor shall pay any undisputed sums which are due from it to a Sub-contractor within 30 days of verifying that the invoice is valid and undisputed.
- 2.3 For the avoidance of doubt, the Authority does not expect that all the Terms and Conditions will be replicated through the supply chain and the Contractor shall ensure that each Sub-contract is drafted on the basis of good industry practice reflecting the nature of the services and of the Sub-contractor.
- 2.4 Notwithstanding any provision of Clause E4 (Confidentiality) if the Contractor notifies the Authority that the Contractor has failed to pay a Sub-contractor's undisputed invoice within 30 days of receipt, or the Authority otherwise discovers the same, the Authority shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).

3 Termination of Sub-contracts

- 3.1 The Contractor shall not terminate or materially amend the terms of any Sub-contract without Approval.
- 3.2 The Authority may require the Contractor to terminate a Sub-contract where:

- (a) the acts or omissions of the relevant Sub-contractor have caused or materially contributed to the Authority's right of termination pursuant to Clause H1 (Termination by the Authority);
- (b) the relevant Sub-contractor or any of its Affiliates have embarrassed the Authority or otherwise brought the Authority into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Authority, regardless of whether or not such act or omission is related to the Sub-contractor's obligations in relation to the Services or otherwise;
- (c) the relevant Sub-contractor has failed to comply in the performance of its Sub-contract with legal obligations in the fields of environmental, social or labour law;
- (d) (in the opinion of the Authority), any Sub-contractor has or may have engaged in any agreement, arrangement, practice or conduct which would amount to an infringement of Law, the Authority may require the Contractor to terminate the Sub-contract with immediate effect; and/or
- (e) the Authority has found grounds for exclusion of the Sub-contractor in accordance with paragraph 6.1,

for the avoidance of doubt, the Authority shall not be liable for any costs incurred by the Contractor (or the Sub-contractor) in connection with the termination of such Sub-contract.

4 Competitive Terms

- 4.1 If the Authority is able to obtain from any Sub-contractor or any other third party (on a like-for-like basis) more favourable commercial terms with respect to the supply of any goods, software or services used by the Contractor or the Staff in the supply of the Services, then the Authority may:
 - (a) require the Contractor to replace its existing commercial terms with that person with the more favourable commercial terms obtained by the Authority in respect of the relevant item; or
 - (b) subject to paragraph 3.1, enter into a direct agreement with that Sub-contractor or third party in respect of the relevant item.
- 4.2 If the Authority exercises either of its options pursuant to paragraph 4.1, then the Fees shall be reduced by an amount that is agreed in accordance with the Change Control Procedure.
- 4.3 The Authority's right to enter into a direct agreement for the supply of the relevant items is subject to:
 - (a) the Authority making the relevant item available to the Contractor where this is necessary for the Contractor to provide the Services; and
 - (b) any reduction in the Fees taking into account any unavoidable costs payable by the Contractor in respect of the substituted item, including in respect of any licence fees or early termination charges.

5 Retention of Legal Obligations

- 5.1 Notwithstanding the Contractor's right to sub-contract pursuant to this Schedule 15, the Contractor shall remain responsible for all acts and omissions of its Sub-contractors and the acts and omissions of those employed or engaged by the Sub-contractors as if they were its own.

6 Exclusion of Sub-contractors

- 6.1 Where the Authority considers whether there are grounds for the exclusion of a Sub-contractor under Regulation 57 of the Public Contracts Regulations 2015, then:
- (a) if the Authority finds there are compulsory grounds for exclusion, the Contractor shall replace or shall not appoint the Sub-contractor;
 - (b) if the Authority finds there are non-compulsory grounds for exclusion, the Authority may require the Contractor to replace or not to appoint the Sub-contractor and the Contractor shall comply with such a requirement.

7 Advertising Sub-contracting Opportunities: Improving visibility of Sub-contract opportunities available to SMEs and VCSEs in the supply chain

- 7.1 The Contractor shall:
- (a) subject to paragraph 7.3, advertise on Contracts Finder all Sub-contract opportunities arising from or in connection with the provision of the Services above a minimum threshold of £25,000 that arise during the Contract Period;
 - (b) within 90 days of awarding a Sub-contract to a Sub-contractor, update the notice on Contracts Finder with details of the successful Sub-contractor;
 - (c) monitor the number, type and value of the Sub-contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Contract Period;
 - (d) provide reports on the information at paragraph 8.1(c) to the Authority in the format and frequency as reasonably specified by the Authority; and
 - (e) promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.
- 7.2 Each advert referred to at paragraph 7.1(a) above shall provide a full and detailed description of the Sub-contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Contractor.
- 7.3 The obligation at paragraph 7.1(a) shall only apply in respect of Sub-contract opportunities arising after the contract award date.
- 7.4 Notwithstanding paragraph 7.1, the Authority may by giving its Approval, agree that a Sub-contract opportunity is not required to be advertised on Contracts Finder.

8 Supply Chain Spend with SMEs: Management Charges and Information

- 8.1 In addition to any other management information requirements set out in this Contract, the Contractor agrees and acknowledges that it shall, at no charge, provide timely, full,

accurate and complete SME Management Information (MI) Reports to the Authority which incorporate the data described in the MI Reporting template which is:

- (a) the total contract revenue received directly on a specific contract;
- (b) the total value of sub-contracted revenues under the contract (including revenues for non-SMEs/non-VCSEs); and
- (c) the total value of sub-contracted revenues to SMEs and VCSEs.

8.2 The SME Management Information Reports shall be provided in the correct format as required by the MI Reporting Template and any guidance issued by the Authority from time to time. The Contractor shall use the MI Reporting Template as provided to it by the Authority and which may be changed from time to time (including the data required and/or format) by the Authority by issuing a replacement version. The Authority shall give at least thirty (30) days' notice in writing of any such change and shall specify the date from which it must be used.

8.3 The Contractor further agrees and acknowledges that it may not make any amendment to the current MI Reporting Template without the prior written approval of the Authority.

Schedule 16

Dispute Resolution Procedure

1 DEFINITIONS

In this Schedule, the following definitions shall apply:

“CEDR”	the Centre for Effective Dispute Resolution of International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU;
“Counter Notice”	has the meaning given in paragraph 7.2;
“Expert”	in relation to a Dispute, a person appointed in accordance with paragraph 6.2 to act as an expert in relation to that Dispute;
“Expert Determination”	determination by an Expert in accordance with paragraph 6;
“Mediation Notice”	has the meaning given in paragraph 4.2;
“Mediator”	the independent third party appointed in accordance with paragraph 5.2 to mediate a Dispute;
“Multi-Party Dispute”	a Dispute which involves the Parties and one or more Related Third Parties;
“Multi-Party Dispute Representatives”	has the meaning given in paragraph 9.6;
“Multi-Party Dispute Resolution Board”	has the meaning given in paragraph 9.6;
“Related Third Party”	a party to: (a) another contract with the Authority or the Contractor which is relevant to this Contract; or (b) a Sub-contract; and
“Contractor Request”	a notice served by the Contractor requesting that the Dispute be treated as a Multi-Party Dispute, setting out its grounds for that request and specifying each Related Third Party that it believes should be involved in the Multi-Dispute Resolution Procedure in respect of that Dispute.

2 DISPUTE NOTICES

2.1 If a Dispute arises then:

- (a) the Authority's Representative and the Contractor's Representative shall attempt in good faith to resolve the Dispute; and
 - (b) if such attempts are not successful within a reasonable period, not being longer than twenty (20) Working Days, either Party may issue to the other a Dispute Notice.
- 2.2 A Dispute Notice:
 - (a) shall set out:
 - (i) the material particulars of the Dispute;
 - (ii) the reasons why the Party serving the Dispute Notice believes that the Dispute has arisen; and
 - (iii) if the Party serving the Dispute Notice believes that the Dispute should be dealt with under the Expedited Dispute Timetable as set out in paragraph 3, the reason why; and
 - (b) may specify in accordance with the requirements of paragraphs 9.2 and 9.3 that the Party issuing the Dispute Notice has determined (in the case of the Authority) or considers (in the case of the Contractor) that the Dispute is a Multi-Party Dispute, in which case paragraph 2.3 shall apply.
- 2.3 If a Dispute Notice specifies that the Dispute has been determined or is considered to be a Multi-Party Dispute pursuant to paragraph 2.2(b), then:
 - (a) if it is served by the Authority it shall be treated as a Multi-Party Procedure Initiation Notice; and
 - (b) if it is served by the Contractor it shall be treated as a Contractor Request, and in each case the provisions of paragraph 9 shall apply.
- 2.4 Subject to paragraphs 2.5 and 3.2 and so long as the Authority has not served a Multi-Party Procedure Initiation Notice in respect of the relevant Dispute, following the issue of a Dispute Notice the Parties shall seek to resolve the Dispute:
 - (a) first by commercial negotiation (as prescribed in paragraph 4);
 - (b) then, if either Party serves a Mediation Notice, by mediation (as prescribed in paragraph 5); and
 - (c) lastly by recourse to arbitration (as prescribed in paragraph 7) or litigation (in accordance with clause I1 (Governing Law and Jurisdiction)).
- 2.5 Specific issues shall be referred to Expert Determination (as prescribed in paragraph 6) where specified under the provisions of this Contract and may also be referred to Expert Determination where otherwise appropriate as specified in paragraph 6.1.
- 2.6 Unless agreed otherwise in writing, the Parties shall continue to comply with their respective obligations under this Contract regardless of the nature of the Dispute and notwithstanding any issue of a Dispute Notice or a Multi-Party Procedure Initiation Notice or proceedings under paragraph 8 (Urgent Relief).

3 EXPEDITED DISPUTE TIMETABLE

- 3.1 In exceptional circumstances where the use of the times in this Schedule would be unreasonable, including (by way of example) where one Party would be materially disadvantaged by a delay in resolving the Dispute, the Parties may agree to use the Expedited Dispute Timetable. If the Parties are unable to reach agreement on whether to use the Expedited Dispute Timetable within five (5) Working Days of the issue of a Dispute Notice, the use of the Expedited Dispute Timetable shall be at the sole discretion of the Authority.
- 3.2 If the Expedited Dispute Timetable is to be used pursuant to the provisions of paragraph 3.1 or is otherwise specified under the provisions of this Contract, then the following periods of time shall apply in lieu of the time periods specified in the applicable paragraphs:
- (a) in paragraph 4.2(b), ten (10) Working Days;
 - (b) in paragraph 5.2, ten (10) Working Days;
 - (c) in paragraph 6.2, five (5) Working Days; and
 - (d) in paragraph 7.2, ten (10) Working Days.
- 3.3 If at any point it becomes clear that an applicable deadline cannot be met or has passed, the Parties may (but shall be under no obligation to) agree in writing to extend the deadline. If the Parties fail to agree within two (2) Working Days after the deadline has passed, the Authority may set a revised deadline provided that it is no less than five (5) Working Days before the end of the period of time specified in the applicable paragraphs (or two (2) Working Days in the case of paragraph 6.2). Any agreed extension shall have the effect of delaying the start of the subsequent stages by the period agreed in the extension. If the Authority fails to set such a revised deadline then the use of the Expedited Dispute Timetable shall cease and the normal time periods shall apply from that point onwards.

4 COMMERCIAL NEGOTIATION

- 4.1 Following the service of a Dispute Notice, then, so long as the Authority has not served a Multi-Party Procedure Initiation Notice in respect of the relevant Dispute, the Authority and the Contractor shall make reasonable endeavours to resolve the Dispute as soon as possible by commercial negotiation between a person nominated in writing by the Authority by notice to the Contractor and a person nominated in writing by the Contractor by notice to the Authority.
- 4.2 If either Party is of the reasonable opinion that the resolution of a Dispute by commercial negotiation, or the continuance of commercial negotiation, will not result in an appropriate solution:
- (a) the Parties have already held discussions of a nature and intent (or otherwise were conducted in the spirit) that would equate to the conduct of commercial negotiation in accordance with this paragraph 4; or
 - (b) the Parties have not settled the Dispute in accordance with paragraph 4.1 within thirty (30) Working Days of service of the Dispute Notice,

either Party may serve a written notice to proceed to mediation in accordance with paragraph 5 (a "**Mediation Notice**").

5 MEDIATION

- 5.1 If a Mediation Notice is served, the Parties shall attempt to resolve the dispute in accordance with the version of CEDR's Model Mediation Procedure which is current at the time the Mediation Notice is served (or such other version as the Parties may agree).
- 5.2 If the Parties are unable to agree on the joint appointment of an independent person to mediate the Dispute within twenty (20) Working Days from (and including) the service of a Mediation Notice then either Party may apply to CEDR to nominate such a person.
- 5.3 If the Parties are unable to reach a settlement in the negotiations at the mediation, and only if both Parties so request and the Mediator agrees, the Mediator shall produce for the Parties a non-binding recommendation on terms of settlement. This shall not attempt to anticipate what a court might order but shall set out what the Mediator suggests are appropriate settlement terms in all of the circumstances.
- 5.4 Any settlement reached in the mediation shall not be legally binding until it has been reduced to writing and signed by, or on behalf of, the Parties (in accordance with the Change Control Procedure where appropriate). The Mediator shall assist the Parties in recording the outcome of the mediation.

6 EXPERT DETERMINATION

- 6.1 If a Dispute relates to any aspect of the technology underlying the provision of the Services or otherwise relates to a technical matter of an IT, accounting or financing nature and the Dispute has not been resolved by commercial negotiation in accordance with paragraph 4 or, if applicable, mediation in accordance with paragraph 5, then either Party may by written notice to the other request (agreement to which request shall not be unreasonably withheld or delayed) that the Dispute be referred to an expert for determination.
- 6.2 The expert shall be appointed by agreement in writing between the Parties, but in the event of a failure to agree within ten (10) Working Days of the relevant request made pursuant to paragraph 6.1, or if the person appointed is unable or unwilling to act, the expert shall be appointed:
- (a) if the Dispute relates to any aspect of the technology underlying the provision of the Services or a matter of an IT technical nature, on the instructions of the President of the British Computer Society (or any other association that has replaced the British Computer Society);
 - (b) if the Dispute relates to a matter of a financial technical nature, on the instructions of the President of the Institute of Chartered Accountants of England and Wales; or
 - (c) if the Dispute relates to a matter of a technical nature not falling within paragraphs 6.2(a) or (b), on the instructions of the president (or equivalent) of:
 - (i) an appropriate body agreed between the Parties; or
 - (ii) if the Parties do not reach agreement on the relevant body within fifteen (15) Working Days of the relevant request made pursuant to paragraph 6.1, such body as may be specified by the President of the law Society on application by either Party.

6.3 The Expert shall act on the following basis:

- (a) he/she shall act as an expert and not as an arbitrator and shall act fairly and impartially;
- (b) the Expert's determination shall (in the absence of a material failure to follow the agreed procedures) be final and binding on the Parties;
- (c) the Expert shall decide the procedure to be followed in the determination and shall be requested to make his/her determination within thirty (30) Working Days of his appointment or as soon as reasonably practicable thereafter and the Parties shall assist and provide the documentation that the Expert requires for the purpose of the determination;
- (d) any amount payable by one Party to another as a result of the Expert's determination shall be due and payable within twenty (20) Working Days of the Expert's determination being notified to the Parties;
- (e) the process shall be conducted in private and shall be confidential; and
- (f) the Expert shall determine how and by whom the costs of the determination, including his/her fees and expenses, are to be paid.

7 ARBITRATION

7.1 Subject to compliance with its obligations under paragraph 4.1 and to the provisions of paragraph 6, the Authority may at any time before court proceedings are commenced refer the Dispute to arbitration in accordance with the provisions of paragraph 7.5.

7.2 Before the Contractor commences court proceedings or arbitration, it shall serve written notice on the Authority of its intentions and the Authority shall have fifteen (15) Working Days following receipt of such notice to serve a reply (a "**Counter Notice**") on the Contractor requiring the Dispute to be referred to and resolved by arbitration in accordance with paragraph 7.5 or be subject to the exclusive jurisdiction of the courts of England and Wales. The Contractor shall not commence any court proceedings or arbitration until the expiry of such fifteen (15) Working Day period.

7.3 If the Authority serves a Counter Notice, then:

- (a) if the Counter Notice requires the Dispute to be referred to arbitration, the provisions of paragraph 7.5 shall apply; or
- (b) if the Counter Notice requires the Dispute to be subject to the exclusive jurisdiction of the courts of England and Wales, the Dispute shall be so referred to those courts and the Contractor shall not commence arbitration proceedings.

7.4 If the Authority does not serve a Counter Notice within the fifteen (15) Working Day period referred to in paragraph 7.2, the Contractor may either commence arbitration proceedings in accordance with paragraph 7.5 or commence court proceedings in the Courts of England and Wales which shall (in those circumstances) have exclusive jurisdiction.

7.5 The Parties hereby confirm that if any arbitration proceedings are commenced pursuant to paragraphs 7.1 to 7.4:

- (a) the Dispute shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration (“**LCIA**”) (subject to paragraphs 7.5(e), (f) and (g));
- (b) the arbitration shall be administered by the LCIA;
- (c) the LCIA procedural rules in force at the date that the Dispute was referred to arbitration shall be applied and are deemed to be incorporated by reference into this Contract and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;
- (d) if the Parties fail to agree the appointment of the arbitrator within ten (10) Working Days from the date on which arbitration proceedings are commenced or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
- (e) the chair of the arbitral tribunal shall be British;
- (f) the arbitration proceedings shall take place in London and in the English language; and
- (g) the seat of the arbitration shall be London.

8 URGENT RELIEF

Either Party may at any time take proceedings or seek remedies before any court or tribunal of competent jurisdiction:

- (a) for interim or interlocutory remedies in relation to this Contract or infringement by the other Party of that Party’s Intellectual Property Rights; and/or
- (b) where compliance with paragraph 2.1 and/or referring the Dispute to mediation may leave insufficient time for that Party to commence proceedings before the expiry of the limitation period.

9 MULTI-PARTY DISPUTES

9.1 All Multi-Party Disputes shall be resolved in accordance with the procedure set out in this paragraph 9 (the “**Multi-Party Dispute Resolution Procedure**”).

9.2 If at any time following the issue of a Dispute Notice, the Authority reasonably considers that the matters giving rise to the Dispute involve one or more Related Third Parties, then the Authority shall be entitled to determine that the Dispute is a Multi-Party Dispute and to serve a notice on the Contractor which sets out the Authority’s determination that the Dispute is a Multi-Party Dispute and specifies the Related Third Parties which are to be involved in the Multi-Party Dispute Resolution Procedure, such notice a “**Multi-Party Procedure Initiation Notice**”.

9.3 If following the issue of a Dispute Notice but before the Dispute has been referred to Expert Determination or to arbitration in accordance with paragraph 7, the Contractor has reasonable grounds to believe that the matters giving rise to the

Dispute have been contributed to by one or more Related Third Parties, the Contractor may serve a Contractor Request on the Authority.

- 9.4 The Authority shall (acting reasonably) consider each Contractor Request and shall determine within five (5) Working Days whether the Dispute is:
- (a) a Multi-Party Dispute, in which case the Authority shall serve a Multi-Party Procedure Initiation Notice on the Contractor; or
 - (b) not a Multi-Party Dispute, in which case the Authority shall serve written notice of such determination upon the Contractor and the Dispute shall be treated in accordance with paragraphs 3 to 8.
- 9.5 If the Authority has determined, following a Contractor Request, that a Dispute is not a Multi-Party Dispute, the Contractor may not serve another Contractor Request with reference to the same Dispute.
- 9.6 Following service of a Multi-Party Procedure Initiation Notice a Multi-Party Dispute shall be dealt with by a board (in relation to such Multi-Party Dispute, the “**Multi-Party Dispute Resolution Board**”) comprising representatives from the following parties to the Multi-Party Dispute, at least one of whom from each of the parties shall be of a suitable level of seniority and have full authority to finalise any agreement with the other parties to settle the Multi-Party Dispute:
- (a) the Authority;
 - (b) the Contractor;
 - (c) each Related Third Party involved in the Multi-Party Dispute; and
 - (d) any other representatives of any of the Parties and/or any Related Third Parties whom the Authority considers necessary,
- (together “**Multi-Party Dispute Representatives**”).
- 9.7 The Parties agree that the Multi -Party Dispute Resolution Board shall seek to resolve the relevant Multi-Party Dispute in accordance with the following principles and procedures:
- (a) the Parties shall procure that their Multi-Party Dispute Representatives attend, and shall use their best endeavours to procure that the Multi-Party Dispute Representatives of each Related Third Party attend, all meetings of the Multi-Party Dispute Resolution Board in respect of the Multi-Party Dispute;
 - (b) the Multi-Party Dispute Resolution Board shall first meet within ten (10) Working Days of service of the relevant Multi-Party Procedure Initiation Notice at such time and place as the Parties may agree or, if the Parties do not reach agreement on the time and place within five (5) Working Days of service of the relevant Multi-Party Procedure Initiation Notice, at the time and place specified by the Authority, provided such place is at a neutral location within England and that the meeting is to take place between 9.00 a.m. and 5.00 p.m. on a Working Day; and
 - (c) in seeking to resolve or settle any Multi-Party Dispute, the members of the Multi-Party Dispute Resolution Board shall have regard to the principle that

a Multi-Party Dispute should be determined based on the contractual rights and obligations between the Parties and the Related Third Parties and that any apportionment of costs should reflect the separate components of the Multi-Party Dispute.

9.8 If a Multi-Party Dispute is not resolved between the Parties and all Related Third Parties within twenty-five (25) Working Days of the issue of the Multi-Party Procedure Initiation Notice (or such longer period as the Parties may agree in writing), then:

- (a) either Party may serve a Mediation Notice in respect of the Multi-Party Dispute in which case paragraph 5 shall apply;
- (b) either Party may request that the Multi-Party Dispute is referred to an expert in which case paragraph 6 shall apply; and/or
- (c) subject to paragraph 9.9, paragraph 7 shall apply to the Multi-Party Dispute,

and in each case references to the "Contractor" or the "Parties" in such provisions shall include a reference to all Related Third Parties.

9.9 If a Multi-Party Dispute is referred to arbitration in accordance with paragraph 7 or a Dispute becomes a Multi-Party Dispute during the course of arbitration proceedings and either Party is unable to compel a Related Third Party to submit to such arbitration proceedings, the Authority or the Contractor may discontinue such arbitration proceedings and instead initiate court proceedings. The costs of any such discontinued arbitration proceedings shall be borne by the Party which is in a direct contractual relationship with the Related Third Party or, where the Related Third Party is a Sub-contractor, by the Contractor.

Schedule 17

Life Chances

1 General

- 1.1 The Contractor acknowledges that the Crown is committed to assisting people to move from welfare to employment and driving forward improvements in economic, social and environmental well-being.
- 1.2 The Contractor (a) acknowledges that the Authority has a responsibility to support and promote wider social sustainability objectives for the benefit of society; and (b) agrees to cooperate with the Authority to improve life chances for those most disadvantaged and furthest from the labour market.
- 1.3 The Contractor acknowledges that the Authority is supporting the Crown's life chances and social value agendas by aiming to promote opportunities for groups of persons ("**DWP Priority Groups**") which the Authority regards as meriting priority assistance including but not limited to Apprentices, Disabled People, Young People, Older Workers, Ex-Offenders and Black and Minority Ethnic People.

2 Diversity and Equality Delivery Plan

- 2.1 In addition to complying with its obligations set out in clause D2 and this Schedule 17 (Life Chances), the Authority requires the Contractor to provide such information as the Authority may request on (a) the action(s) the Contractor is taking in the course of supplying the Services to comply with its obligations set out in clause D2 and in this Schedule 17 (Life Chances) and (b) the effect such action(s) have on the Staff used in the performance of its obligations under the Contract.
- 2.2 As part of the information to be provided by the Contractor under paragraph 2.1 of this Schedule 17 (Life Chances), the Authority requires the Contractor to provide to the Authority:
- (a) a diversity and equality delivery plan ("**Diversity and Equality Delivery Plan**") six (6) Months after the Commencement Date, and annually thereafter. The Diversity and Equality Delivery Plan must be specific to the Contract and include details of all Staff including but not limited to all Sub-contractors involved in the performance of the Contractor's obligations under the Contract.
 - (b) details of the action(s) the Contractor is taking to support the Crown's social value agenda including but not limited to the action(s) the Contractor is taking to meet its obligations under paragraph 2.3 of this Schedule.
- 2.3 The Contractor shall, and shall ensure that its Sub-contractors, take the following action(s) in respect of DWP Priority Groups:
- (a) **Apprentices**
 - (i) Ensure that (5) % of the Staff used in the performance of the Contractor's obligations under the Contract are Apprentices.
 - (ii) Make available to potential members of Staff used in the performance of the Contractor's obligations information about the National Apprenticeship Service.

(b) **Disabled People**

- (i) Take steps to become a Disability Confident Employer and achieve level 3 within 12 months of the Commencement Date and maintain such Disability Confident Employer status at all times thereafter during the Contract Period. For the purposes of this Schedule, the term “**Disability Confident Employer**” (including the levels associated with such definition) is more particularly described in the Authority’s Disability Confident accreditation publication, as updated and/or replaced by the Authority and notified to the Contractor from time to time. Any breach by the Contractor of this paragraph 2.3(b)(i) shall entitle the Authority to terminate this Contract by issuing a Termination Notice to the Contractor.
- (ii) Make appropriate use of Access to Work to support recruit and retain disabled workers.
- (iii) When recruiting Staff to be used in the performance of the Contractor’s obligations under the Contract, offer Disabled People interviews under a guaranteed interview scheme for vacancies for Staff where the Disabled People meet the minimum criteria for such vacancies.
- (iv) Offer Work Trials to Disabled People to support filling vacancies for Staff.
- (v) Provide Employment Experience to Disabled People as members of Staff used in the performance of the Contractor’s obligations under the Contract to develop their skills and experience and increase their employability.

(c) **Young People – Under 25**

- (i) Offer Work Trials to Young People to support filling vacancies for Staff.
- (ii) Provide Employment Experience to Young People as members of Staff used in the performance of the Contractor’s obligations under the Contract to develop their skills and experience and increase their employability.

(d) **Older Workers – Over 50**

- (i) Offer Work Trials to Older Workers to support filling vacancies for Staff.
- (ii) Provide Employment Experience to Older People as members of Staff used in the performance of the Contractor’s obligations under the Contract to develop their skills and experience and increase their employability.

(e) **Ex-Offenders**

- (i) Offer Work Trials to Ex-Offenders to support filling vacancies for Staff.
- (ii) Provide Employment Experience to Ex-Offenders as members of Staff used in the performance of the Contractor’s obligations under the Contract to develop their skills and experience and increase their employability.

- (f) **Black and Minority Ethnic People**
 - (i) Offer Work Trials to Black and Minority Ethnic people to support filling vacancies for Staff.
 - (ii) Provide Employment Experience to Black and Minority Ethnic people as members of Staff used in the performance of the Contractor's obligations under the Contract to develop their skills and experience and increase their employability.
- (g) **Employee Vacancies**
 - (i) Advertise all vacancies for Staff via Universal Jobmatch in addition to any other recruitment agencies with whom the Contractor advertises such vacancies and any other actions the Contractor takes to recruit Staff.

2.4 The Diversity and Equality Delivery Plan must also include:

- (a) an overview of Contractor and any Sub-contractor's policies and procedures for preventing unlawful discrimination and promoting equality of opportunity in respect of:
 - (i) age;
 - (ii) disability;
 - (iii) gender reassignment;
 - (iv) marriage and civil partnership;
 - (v) pregnancy and maternity;
 - (vi) race;
 - (vii) religion or belief;
 - (viii) sex; and
 - (ix) sexual orientation.
- (b) an overview of Contractor and any Sub-contractor's policies and procedures covering:
 - (i) harassment
 - (ii) bullying
 - (iii) victimisation
 - (iv) Staff training and development
- (c) details of the way in which the above policies and procedures are, or will be (and by when), communicated to Staff;

- (d) details of what general diversity and equality related training has been, or will be delivered (and by when), to Staff;
 - (e) details of what structure and resources are currently directed towards active promotion of diversity and equality within the Staff used in the performance of the Contractor's obligations under this Contract, or if not currently in place, what will be put in place and by when.
- 2.5 The Authority will consider and must agree the contents of Diversity and Equality Delivery Plan. Any issues will be raised with the Contractor by the contract manager acting on behalf of the Authority. If an issue relates to a Sub-contractor, the Contractor must raise and resolve the issue with the Sub-contractor.

Life Chances Workforce Monitoring Template

- 2.6 The Contractor shall provide the Life Chances Workforce Monitoring template (contained in Appendix 1 to this Schedule 17 (Life Chances)), as may be updated and amended by the Authority from time to time, duly completed in full by the Contractor in respect of all Staff (including but not limited to all Sub-contractors used in the performance of the Contractor's obligations under the Contract), six (6) Months after the Commencement Date and annually thereafter.
- 2.7 The Contractor shall complete the Life Chances Workforce Monitoring template in line with the 'Life Chances through Procurement Guidance for DWP Contractors' and the contract definitions.
- 2.8 The Contractor will compare figures in all categories listed in the Appendix 1 - Workforce Monitoring template and provide (where possible) comparisons against any official national/regional statistics that are publicly available in accordance with the "Social Value Guidance for Contractors" provided by the Authority to the Contractor.
- 2.9 The 'Social Value Guidance for Contractors' provides links to a number of data collection sources, this is not an exhaustive list and other sources are available. The Authority recognises that there may be regional variations in terms of population demographics and some data categories and coverage may not be complete or fully aligned, however, the Contractor agrees to provide high level analysis and identification of trends as and when requested by the Authority.
- 2.10 The Contractor shall provide and shall ensure that its Sub-contractors provide such evidence as the Authority may require of action(s) undertaken or planned by the Contractor and/or any Sub-contractor to improve the numbers in the Social Value Workforce Monitoring template (contained in Appendix 1 to this Schedule 17 (Life Chances)) to the satisfaction of the Authority.
- 2.11 Diversity and Equality, the Crown's social value agenda and DWP Priority Groups will be discussed jointly by the Authority and the Contractor as an on-going item at Contract review meetings. Such meetings will discuss the information provided by the Contractor in accordance with paragraph 2.2 of this Schedule 17 (Life Chances).

APPENDIX 1 – LIFE CHANCES WORKFORCE MONITORING

The format of appendix is subject to change from time to time at the Authority's
absolute discretion

Important – the figures the Contractor provides must relate specifically to the staff used in the performance of the contractor's obligations under the contract only, which for the avoidance of doubt includes any Sub-contractor.

Date of Return Month: Year	
Name of Contract:	
Contract Number:	
Name of Contractor:	
Commencement Date:	
Total Number of Staff, which for the avoidance of doubt includes any Sub-contractors	

1 – Number of new Staff posts created in the performance of the Contractor's obligations under the Contract

New Staff Posts	Number of new Staff posts created in period	
	1-34 hr per week posts	35 hr + per week posts
Baseline return (at 6 months for months 0-6)		
1 st annual return (at 18 months for months 7-18)		
2 nd annual return (at 30 months for months 19 - 30)		
3 rd annual return		

(at 42 months for months 31-42)		
4 rd annual return (at 54 months for months 43-54)		
5 rd annual return (at 66 months for months 55-66)		

2 – Number of Apprentices in Staff used in the performance of the Contractor’s obligations under the Contract

DWP Priority Group - Apprentices	Number of Apprentices in Staff which have been employed for 26 weeks or longer in period	% of Apprentices in Staff at the end of the period	Number of Apprentices who began apprenticeships as part of the Staff during the period
Baseline return (at 6 months for months 0-6)			
1 st annual return (at 18 months for months 7-18)			
2 nd annual return (at 30 months for months 19 - 30)			
3 rd annual return (at 42 months for months 31-42)			
4 rd annual return (at 54 months for months 43-54)			

5 rd annual return (at 66 months for months 55-66)			
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3 – Number of Disabled People in Staff used in the performance of the Contractor’s obligations under the Contract

DWP Priority Group - Disabled People	Number of Disabled People in Staff which have been employed for 26 weeks or longer in period	% of Disabled People in Staff at end of period	Number of Disabled People who began employment as part of the Staff during the period
Baseline return (at 6 months for months 0-6)			
1 st annual return (at 18 months for months 7-18)			
2 nd annual return (at 30 months for months 19 - 30)			
3 rd annual return (at 42 months for months 31-42)			
4 rd annual return (at 54 months for months 43-54)			
5 rd annual return (at 66 months for months 55-66)			

4 – Number of Disabled People, who had been interviewed by the Contractor under the Guaranteed Interview Scheme (GIS) for Staff posts used in the performance of the Contractor’s obligations under the Contract,

DWP Priority Group – Disabled People in the Staff who had been interviewed by the Contractor under the GIS	Number of Disabled People who have been interviewed for Staff posts by the Contractor under the GIS during the period
Baseline return (at 6 months for months 0-6)	
1 st annual return (at 18 months for months 7-18)	
2 nd annual return (at 30 months for months 19 - 30)	
3 rd annual return (at 42 months for months 31-42)	
4 rd annual return (at 54 months for months 43-54)	
5 rd annual return (at 66 months for months 55-66)	

5 – Number of Young People in Staff used in the performance of the Contractor’s obligations under the Contract

DWP Priority Group - Young People	Number of Young People in Staff which have been employed for 26 weeks or longer in period	% Young People in Staff at end of period	Number of Young People who began employment as part of the Staff during the period
Baseline return (at 6 months for months 0-6)			
1 st annual return (at 18 months for months 7-18)			

2 nd annual return (at 30 months for months 19 - 30)			
3 rd annual return (at 42 months for months 31-42)			
4 rd annual return (at 54 months for months 43-54)			
5 rd annual return (at 66 months for months 55-66)			

6 – Number of Older Workers in Staff used in the performance of the Contractor’s obligations under the Contract

DWP Priority Group - Older Workers	Number of Older Workers in Staff which have been employed for 26 weeks or longer in period	% Older Workers in Staff at end of period	Number of Older Workers who began employment as part of the Staff during the period
Baseline return (at 6 months for months 0-6)			
1 st annual return (at 18 months for months 7-18)			
2 nd annual return (at 30 months for months 19 - 30)			
3 rd annual return (at 42 months for months 31-42)			
4 rd annual return			

(at 54 months for months 43-54)			
5 rd annual return (at 66 months for months 55-66)			

7 – Number of Ex-Offenders in Staff used in the performance of the Contractor’s obligations under the Contract.

DWP Priority Group - Ex-Offenders	Number of ex-offenders in Staff which have been employed for 26 weeks or longer in period	% ex-offenders in Staff at end of period	Number of ex-offenders who began employment as part of the Staff during the period
Baseline return (at 6 months for months 0-6)			
1 st annual return (at 18 months for months 7-18)			
2 nd annual return (at 30 months for months 19 - 30)			
3 rd annual return (at 42 months for months 31-42)			
4 rd annual return (at 54 months for months 43-54)			
5 rd annual return (at 66 months for months 55-66)			

8 – Number of Black or Minority Ethnic (BME) in Staff used in the performance of the Contractor’s obligations under the Contract.

DWP Priority Group - Ex-Offenders	Number BME in Staff which have been employed for 26 weeks or longer in period	% BME in Staff at end of period	Number of BME who began employment as part of the Staff during the period
Baseline return (at 6 months for months 0-6)			
1 st annual return (at 18 months for months 7-18)			
2 nd annual return (at 30 months for months 19 - 30)			
3 rd annual return (at 42 months for months 31-42)			
4 rd annual return (at 54 months for months 43-54)			
5 rd annual return (at 66 months for months 55-66)			

9 – Number of Employment Experience placements conducted in the performance of the Contractor’s obligations under the Contract

Employment placements	Experience	Number of Employment Experience placements conducted during the period

Baseline return (at 6 months for months 0-6)	
1 st annual return (at 18 months for months 7-18)	
2 nd annual return (at 30 months for months 19 - 30)	
3 rd annual return (at 42 months for months 31-42)	
4 rd annual return (at 54 months for months 43-54)	
5 rd annual return (at 66 months for months 55-66)	

10 – Number of Work Trials conducted as part of the recruitment of Staff used in the performance of the Contractor’s obligations under the Contract.

Work Trials	Number of Work Trials conducted during the period
Baseline return (at 6 months for months 0-6)	
1 st annual return (at 18 months for months 7-18)	
2 nd annual return (at 30 months for months 19 - 30)	
3 rd annual return (at 42 months for months 31-42)	
4 rd annual return (at 54 months for months 43-54)	
5 rd annual return	

(at 66 months for months 55-66)	
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11 – Number of vacancies for Staff advertised via Universal Jobmatch

Staff vacancies advertised via Universal Jobmatch	Number of vacancies for Staff advertised via Universal Jobmatch during the period	% of all vacancies for Staff advertised via Universal Jobmatch during the period.
Baseline return (at 6 months for months 0-6)		
1 st annual return (at 18 months for months 7-18)		
2 nd annual return (at 30 months for months 19 - 30)		
3 rd annual return (at 42 months for months 31-42)		
4 rd annual return (at 54 months for months 43-54)		
5 rd annual return (at 66 months for months 55-66)		

Schedule 18

Business Continuity and Disaster Recovery

1. DEFINITIONS

1.1 In this Schedule 18, the following definitions shall apply:

"Business Continuity Plan"	has the meaning given to it in paragraph 2.2.1(b) of this Schedule 18;
"Contractor's Proposals"	has the meaning given to it in paragraph 6.2.3 of this Schedule 18;
"Disaster"	means the occurrence of one or more events which, either separately or cumulatively, mean that the Services, or a material part thereof, will be unavailable (or could reasonably be anticipated to be unavailable) for the period specified in the Contract;
"Disaster Recovery Plan"	has the meaning given to it in paragraph 2.2.1(c) of this Schedule 18;
"Disaster Recovery Services"	means the services embodied in the processes and procedures for restoring the provision of Services following the occurrence of a Disaster, as detailed further in this Schedule 18;
"Disaster Recovery System"	means the system embodied in the processes and procedures for restoring the provision of Services following the occurrence of a disaster;
"Related Supplier"	means any person who provides goods and/or services to the Authority which are related to the Services from time to time;
"Review Report"	has the meaning given to it in paragraph 6.2 of this Schedule 18.

2. BCDR PLAN

2.1 Within sixty (60) Working Days from the Commencement Date the Contractor shall prepare and deliver to the Authority for the Authority's written approval a plan, which shall detail the processes and arrangements that the Contractor shall follow to:

2.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Services; and

2.1.2 the recovery of the Services in the event of a Disaster.

2.2 The BCDR Plan shall:

2.2.1 be divided into three parts:

(a) Part A which shall set out general principles applicable to the BCDR Plan;

(b) Part B which shall relate to business continuity (the "**Business Continuity Plan**"); and

- (c) Part C which shall relate to disaster recovery (the “**Disaster Recovery Plan**”); and
 - 2.2.2 unless otherwise required by the Authority in writing, be based upon and be consistent with the provisions of paragraphs 3, 4 and 5.
- 2.3 Following receipt of the draft BCDR Plan from the Contractor, the Authority shall:
 - 2.3.1 review and comment on the draft BCDR Plan as soon as reasonably practicable; and
 - 2.3.2 notify the Contractor in writing that it approves or rejects the draft BCDR Plan no later than twenty (20) Working Days after the date on which the draft BCDR Plan is first delivered to the Authority.
- 2.4 If the Authority rejects the draft BCDR Plan:
 - 2.4.1 the Authority shall inform the Contractor in writing of its reasons for its rejection; and
 - 2.4.2 the Contractor shall then revise the draft BCDR Plan (taking reasonable account of the Authority’s comments) and shall re-submit a revised draft BCDR Plan to the Authority for Approval within twenty (20) Working Days of the date of the Authority’s notice of rejection. The provisions of paragraphs 2.3 and 2.4 of this Schedule 18 shall apply again to any resubmitted draft BCDR Plan, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.

3. PART A OF THE BCDR PLAN AND GENERAL PRINCIPLES AND REQUIREMENTS

- 3.1 Part A of the BCDR Plan shall:
 - 3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
 - 3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the operation of the provision of the Services and any services provided to the Authority by a Related Supplier;
 - 3.1.3 contain an obligation upon the Contractor to liaise with the Authority and (at the Authority’s request) any Related Suppliers with respect to issues concerning business continuity and disaster recovery where applicable;
 - 3.1.4 detail how the BCDR Plan links and interoperates with any overarching and/or connected disaster recovery or business continuity plan of the Authority and any of its other Related Supplier in each case as notified to the Contractor by the Authority from time to time;
 - 3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multi-channels (including but without limitation a web-site (with FAQs), e-mail, phone and fax) for both portable and desk top configurations, where required by the Authority;
 - 3.1.6 contain a risk analysis, including:
 - (a) failure or disruption scenarios and assessments and estimates of frequency of occurrence;
 - (b) identification of any single points of failure within the provision of Services and processes for managing the risks arising therefrom;

- (c) identification of risks arising from the interaction of the provision of Services and with the services provided by a Related Supplier; and
 - (d) a business impact analysis (detailing the impact on business processes and operations) of different anticipated failures or disruptions;
 - 3.1.7 provide for documentation of processes, including business processes, and procedures;
 - 3.1.8 set out key contact details (including roles and responsibilities) for the Contractor (and any Sub-contractors) and for the Authority;
 - 3.1.9 identify the procedures for reverting to “normal service”;
 - 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to ensure that there is no more than the accepted amount of data loss and to preserve data integrity;
 - 3.1.11 identify the responsibilities (if any) that the Authority has agreed it will assume in the event of the invocation of the BCDR Plan; and
 - 3.1.12 provide for the provision of technical advice and assistance to key contacts at the Authority as notified by the Authority from time to time to inform decisions in support of the Authority’s business continuity plans.
- 3.2 The BCDR Plan shall be designed so as to ensure that:
- 3.2.1 the Services are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
 - 3.2.2 the adverse impact of any Disaster, service failure, or disruption on the operations of the Authority is minimal as far as reasonably possible;
 - 3.2.3 it complies with the relevant provisions of ISO22031 and all other industry standards from time to time in force; and
 - 3.2.4 there is a process for the management of disaster recovery testing detailed in the BCDR Plan.
- 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Services or to the business processes facilitated by and the business operations supported by the provision of Services.
- 3.4 The Contractor shall not be entitled to any relief from its obligations to meet or exceed the Customer Service Standards and/or the RNOs or to any increase in the Fees to the extent that a Disaster occurs as a consequence of any breach by the Contractor of this Contract.

4. BUSINESS CONTINUITY PLAN - PRINCIPLES AND CONTENTS

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes and operations facilitated by the provision of Services remain supported and to ensure continuity of the business operations supported by the Services including, unless the Authority expressly states otherwise in writing:
 - 4.1.1 the alternative processes (including business processes), options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Services; and

- 4.1.2 the steps to be taken by the Contractor upon resumption of the provision of Services in order to address any prevailing effect of the failure or disruption including a root cause analysis of the failure or disruption.
- 4.2 The Business Continuity Plan shall:
 - 4.2.1 address the various possible levels of failures of or disruptions to the provision of Services;
 - 4.2.2 set out the services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Services (such goods, services and steps, the “**Business Continuity Services**”);
 - 4.2.3 specify any applicable Customer Service Standards, Tender Minimum Performance Levels or RNOs with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Customer Service Standards, Tender Minimum Performance Levels or RNOs in respect of the provision of other Services during any period of invocation of the Business Continuity Plan; and
 - 4.2.4 clearly set out the conditions and/or circumstances under which the Business Continuity Plan is invoked.

5. DISASTER RECOVERY PLAN - PRINCIPLES AND CONTENTS

- 5.1 The Disaster Recovery Plan shall be designed so as to ensure that upon the occurrence of a Disaster the Contractor ensures continuity of the business operations of the Authority supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Disaster Recovery Plan shall be invoked only upon the occurrence of a Disaster.
- 5.3 The Disaster Recovery Plan shall include the following:
 - 5.3.1 the technical design and build specification of the Disaster Recovery System;
 - 5.3.2 details of the procedures and processes to be put in place by the Contractor in relation to the Disaster Recovery System and the provision of the Disaster Recovery Services and any testing of the same including but not limited to the following:
 - (a) data centre and disaster recovery site audits;
 - (b) backup methodology and details of the Contractor's approach to data back-up and data verification;
 - (c) identification of all potential disaster scenarios;
 - (d) risk analysis;
 - (e) documentation of processes and procedures;
 - (f) hardware configuration details;
 - (g) network planning including details of all relevant data networks and communication links;
 - (h) invocation rules;
 - (i) Service recovery procedures; and

- (j) steps to be taken upon resumption of the provision of Services to address any prevailing effect of the failure or disruption of the provision of Services;
- 5.3.3 any applicable Customer Service Standards or Tender Minimum Performance Levels or RNOs with respect to the provision of the Disaster Recovery Services and details of any agreed relaxation to the Customer Service Standards or Tender Minimum Performance Levels or RNOs in respect of the provision of other Services during any period of invocation of the Disaster Recovery Plan;
- 5.3.4 details of how the Contractor shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
- 5.3.5 access controls to any disaster recovery sites used by the Contractor in relation to its obligations pursuant to this Schedule; and
- 5.3.6 testing and management arrangements.

6. REVIEW AND AMENDMENT OF THE BCDR PLAN

- 6.1 The Contractor shall review the BCDR Plan (and the risk analysis on which it is based):
 - 6.1.1 on a regular basis and as a minimum once every six (6) months;
 - 6.1.2 within three (3) Months of the BCDR Plan (or any part) having been invoked pursuant to paragraph 7; and
 - 6.1.3 where the Authority requests any additional reviews (over and above those provided for in paragraphs 6.1.1 and 6.1.2 of this Schedule 18) by notifying the Contractor to such effect in writing, whereupon the Contractor shall conduct such reviews in accordance with the Authority's written requirements. Prior to starting its review, the Contractor shall provide an accurate written estimate of the total costs payable by the Authority for the Authority's approval. The costs of both Parties of any such additional reviews shall be met by the Authority except that the Contractor shall not be entitled to charge the Authority for any costs that it may incur above any estimate without the Authority's prior written approval.
- 6.2 Each review of the BCDR Plan pursuant to paragraph 6.1 of this Schedule 18 shall be a review of the procedures and methodologies set out in the BCDR Plan and shall assess their suitability having regard to any change to the Services or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Contractor within the period required by the BCDR Plan or, if no such period is required, within such period as the Authority shall reasonably require. The Contractor shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Authority a report (a "**Review Report**") setting out:
 - 6.2.1 the findings of the review;
 - 6.2.2 any changes in the risk profile associated with the provision of Services; and

- 6.2.3 the Contractor's proposals (the “**Contractor's Proposals**”) for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan following the review detailing the impact (if any and to the extent that the Contractor can reasonably be expected to be aware of the same) that the implementation of such proposals may have on any goods, services or systems provided by a third party.
- 6.3 Following receipt of the Review Report and the Contractor's Proposals, the Authority shall:
 - 6.3.1 review and comment on the Review Report and the Contractor's Proposals as soon as reasonably practicable; and
 - 6.3.2 notify the Contractor in writing that it approves or rejects the Review Report and the Contractor's Proposals no later than twenty (20) Working Days after the date on which they are first delivered to the Authority.
- 6.4 If the Authority rejects the Review Report and/or the Contractor's Proposals:
 - 6.4.1 the Authority shall inform the Contractor in writing of its reasons for its rejection; and
 - 6.4.2 the Contractor shall then revise the Review Report and/or the Contractor's Proposals as the case may be (taking reasonable account of the Authority's comments and carrying out any necessary actions in connection with the revision) and shall re-submit a revised Review Report and/or revised Contractor's Proposals to the Authority for the Authority's approval within twenty (20) Working Days of the date of the Authority's notice of rejection. The provisions of paragraphs 6.3 and 6.4 of this Schedule 18 shall apply again to any resubmitted Review Report and Contractor's Proposals, provided that either Party may refer any disputed matters for resolution by the Dispute Resolution Procedure at any time.
- 6.5 The Contractor shall as soon as is reasonably practicable after receiving the Authority's approval of the Contractor's Proposals (having regard to the significance of any risks highlighted in the Review Report) effect any change in its practices or procedures necessary so as to give effect to the Contractor's Proposals. Any such change shall be at the Contractor's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Services.

7. TESTING OF THE BCDR PLAN

- 7.1 The Contractor shall test the BCDR Plan on a regular basis (and in any event not less than once in every Contract Year). Subject to paragraph 7.2 of this Schedule 18, the Authority may require the Contractor to conduct additional tests of some or all aspects of the BCDR Plan at any time where the Authority considers it necessary, including where there has been any change to the Services or any underlying business processes, or on the occurrence of any event which may increase the likelihood of the need to implement the BCDR Plan.
- 7.2 If the Authority requires an additional test of the BCDR Plan, it shall give the Contractor written notice and the Contractor shall conduct the test in accordance with the Authority's requirements and the relevant provisions of the BCDR Plan. The Contractor's costs of the additional test shall be borne by the Authority unless the BCDR Plan fails the additional test in which case the Contractor's costs of that failed test shall be borne by the Contractor.

- 7.3 The Contractor shall undertake and manage testing of the BCDR Plan in full consultation with the Authority and shall liaise with the Authority in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Authority in this regard. Each test shall be carried out under the supervision of the Authority or its nominee.
- 7.4 The Contractor shall ensure that any use by it or any Sub-contractor of "live" data in such testing is first approved with the Authority. Copies of live test data used in any such testing shall be (if so required by the Authority) destroyed or returned to the Authority on completion of the test.
- 7.5 The Contractor shall, within twenty (20) Working Days of the conclusion of each test, provide to the Authority a report setting out:
 - 7.5.1 the outcome of the test;
 - 7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
 - 7.5.3 the Contractor's proposals for remedying any such failures.
- 7.6 Following each test, the Contractor shall take all measures requested by the Authority, (including requests for the re-testing of the BCDR Plan) to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Contractor, at no additional cost to the Authority, by the date reasonably required by the Authority and set out in such notice.
- 7.7 For the avoidance of doubt, the carrying out of a test of the BCDR Plan (including a test of the BCDR Plan's procedures) shall not relieve the Contractor of any of its obligations under this Contract.
- 7.8 The Contractor shall also perform a test of the BCDR Plan in the event of any major reconfiguration of the Services or as otherwise reasonably requested by the Authority.

8. INVOCATION OF THE BCDR PLAN

- 8.1 In the event of a complete loss of service or in the event of a Disaster, the Contractor shall immediately invoke the BCDR Plan (and shall inform the Authority promptly of such invocation). In all other instances the Contractor shall invoke the BCDR Plan only with the prior consent of the Authority.

Schedule 19

Employee Provisions and TUPE

1 Definitions

In this Schedule, the following definitions shall apply:

"Admission Agreement"	An admission agreement in the form available on the Civil Service Pensions website immediately prior to the Relevant Transfer Date to be entered into by the Contractor and/or Sub-contractor where the Contractor and/or Sub-contractor agree to participate in the Schemes, as amended from time to time, in respect of the Services;
"Contractor's Final Contractor Personnel List"	a list provided by the Contractor of all Contractor Personnel who will transfer under the TUPE Regulations on the Service Transfer Date;
"Contractor's Provisional Contractor Personnel List"	a list prepared and updated by the Contractor of all Contractor Personnel who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Contractor;
"Eligible Employee"	any Fair Deal Employee who at the relevant time remains is an eligible employee as defined in the Admission Agreement;
"Fair Deal Employees"	those Transferring Authority Employees who are on the Relevant Transfer Date entitled to the protection of New Fair Deal (and, in the event that Part B of this Schedule applies, and any Transferring Former Contractor Employees who originally transferred pursuant to a Relevant Transfer under the TUPE Regulations (or the predecessor legislation to the TUPE Regulations), from employment with a public sector employer and who were once eligible to participate in the Schemes and who at the Relevant Transfer Date become entitled to the protection of New Fair Deal);
"Former Contractor"	a Contractor supplying services to the Authority before the Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such Contractor (or any sub-contractor of any such sub-contractor);
"New Fair Deal"	the revised Fair Deal position set out in the HM Treasury guidance: "Fair Deal for staff pensions: staff transfer from central government" issued in October 2013 including any amendments to that document immediately prior to the Relevant Transfer Date;

“Notified Sub-contractor”	a Sub-contractor identified in the Annex to this Schedule to whom Transferring Authority Employees and/or Transferring Former Contractor Employees will transfer on a Relevant Transfer Date;
“Replacement Sub-contractor”	a sub-contractor of the Replacement Contractor to whom Transferring Contractor Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor);
“Relevant Transfer”	a transfer of employment to which the TUPE Regulations applies;
“Relevant Transfer Date”	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place;
“Schemes”	the Principal Civil Service Pension Scheme available to Civil Servants and employees of bodies under Schedule 1 of the Superannuation Act 1972 (and eligible employees of other bodies admitted to participate under a determination under section 25 of the Public Service Pensions Act 2013), as governed by rules adopted by Parliament; the Partnership Pension Account and its (i) Ill health Benefits Scheme and (ii) Death Benefits Scheme; the Civil Service Additional Voluntary Contribution Scheme the Designated Stakeholder Pension Scheme and “alpha” introduced under The Public Service (Civil Servants and Others) Pensions Regulations 2014;
“Service Transfer”	any transfer of the Services (or any part of the Services), for whatever reason, from the Contractor or any Sub-contractor to the Authority or any third party (whether during or on Expiry, Termination);
“Service Transfer Date”	the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires;
“Staffing Information”	<p>in relation to all persons identified on the Contractor's Provisional Contractor Personnel List or Contractor's Final Contractor Personnel List, as the case may be, such information as the Authority may reasonably request (subject to all applicable provisions of the DPA), but including in an anonymised format:</p> <p>(a) their ages, dates of commencement of employment or engagement, gender and place of work;</p> <p>(b) details of whether they are employed, self employed contractors or consultants, agency workers or otherwise;</p> <p>(c) the identity of the employer or relevant contracting Party;</p>

	<p>(d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;</p> <p>(e) their wages, salaries, bonuses and profit sharing arrangements as applicable;</p> <p>(f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;</p> <p>(g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);</p> <p>(h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;</p> <p>(i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and</p> <p>(j) any other “employee liability information” as such term is defined in regulation 11 of the TUPE Regulations;</p>
“Transferring Authority Employees”	those employees of the Authority to whom the TUPE Regulations will apply on the Relevant Transfer Date;
“Transferring Former Contractor Employees”	in relation to a Former Contractor, those employees of the Former Contractor to whom the TUPE Regulations will apply on the Relevant Transfer Date; and
“Transferring Contractor Employees”	those employees of the Contractor and/or the Contractor’s Sub-contractors to whom the TUPE Regulations will apply on the Service Transfer Date.

2 Interpretation

Where a provision in this Schedule imposes an obligation on the Contractor to provide an indemnity, undertaking or warranty, the Contractor shall procure that each of its Sub-contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Authority, Former Contractor, Replacement Contractor or Replacement Sub-contractor, as the case may be.

PART A

Transferring Authority Employees at commencement of Services

3 Relevant Transfers

- 3.1 The Authority and the Contractor agree that:
- (a) the commencement of the provision of the Services or of each relevant part of the Services will be a Relevant Transfer in relation to the Transferring Authority Employees; and
 - (b) as a result of the operation of the TUPE Regulations, the contracts of employment between the Authority and the Transferring Authority Employees (except in relation to any terms disapplied through operation of regulation 10(2) of the TUPE Regulations) will have effect on and from the Relevant Transfer Date as if originally made between the Contractor and/or any Notified Sub-contractor and each such Transferring Authority Employee.
- 3.2 The Authority shall comply with all its obligations under the TUPE Regulations and shall perform and discharge all its obligations in respect of the Transferring Authority Employees in respect of the period arising up to (but not including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period up to (but not including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Authority; and (ii) the Contractor and/or any Notified Sub-contractor (as appropriate).

4 Authority Indemnities

- 4.1 Subject to Paragraph 4.2, the Authority shall indemnify the Contractor and any Notified Sub-contractor against any Employee Liabilities arising from or as a result of:
- (a) any act or omission by the Authority in respect of any Transferring Authority Employee or any appropriate employee representative (as defined in the TUPE Regulations) of any Transferring Authority Employee occurring before the Relevant Transfer Date;
 - (b) the breach or non-observance by the Authority before the Relevant Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Authority Employees; and/or
 - (ii) any custom or practice in respect of any Transferring Authority Employees which the Authority is contractually bound to honour;
 - (c) any claim by any trade union or other body or person representing the Transferring Authority Employees arising from or connected with any failure by the Authority to comply with any legal obligation to such trade union, body or person arising before the Relevant Transfer Date;

- (d) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Transferring Authority Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
 - (ii) in relation to any employee who is not a Transferring Authority Employee and in respect of whom it is later alleged or determined that the TUPE Regulations applied so as to transfer his/her employment from the Authority to the Contractor and/or any Notified Sub-contractor as appropriate, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date.
- (e) a failure of the Authority to discharge, or procure the discharge of, all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Authority Employees arising before the Relevant Transfer Date;
- (f) any claim made by or in respect of any person employed or formerly employed by the Authority other than a Transferring Authority Employee for whom it is alleged the Contractor and/or any Notified Sub-contractor as appropriate may be liable by virtue of the TUPE Regulations and/or the Acquired Rights Directive; and
- (g) any claim made by or in respect of a Transferring Authority Employee or any appropriate employee representative (as defined in the TUPE Regulations) of any Transferring Authority Employee relating to any act or omission of the Authority in relation to its obligations under regulation 13 of the TUPE Regulations, except to the extent that the liability arises from the failure by the Contractor or any Sub-contractor to comply with regulation 13(4) of the TUPE Regulations.

4.2 The indemnities in Paragraph 4.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Contractor or any Sub-contractor (whether or not a Notified Sub-contractor) whether occurring or having its origin before, on or after the Relevant Transfer Date including any Employee Liabilities:

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

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

- (a) the Contractor shall, or shall procure that the Notified Sub-contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Authority; and
 - (b) the Authority may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of receipt of the notification by the Contractor and/or any Notified Sub-contractor, or take such other reasonable steps as the Authority considers appropriate to deal with the matter provided always that such steps are in compliance with Law.
- 4.4 If an offer referred to in Paragraph 4.3(b) is accepted, or if the situation has otherwise been resolved by the Authority, the Contractor shall, or shall procure that the Notified Sub-contractor shall, immediately release the person from his/her employment or alleged employment.
- 4.5 If by the end of the 15 Working Day period specified in Paragraph 4.3(b):
- (a) no such offer of employment has been made;
 - (b) such offer has been made but not accepted; or
 - (c) the situation has not otherwise been resolved,
- the Contractor and/or any Notified Sub-contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 4.6 Subject to the Contractor and/or any Notified Sub-contractor acting in accordance with the provisions of Paragraphs 4.3 to 4.5 and in accordance with all applicable proper employment procedures set out in applicable Law, the Authority shall indemnify the Contractor and/or any Notified Sub-contractor (as appropriate) against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 4.5 provided that the Contractor takes, or procures that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 4.7 The indemnity in Paragraph 4.6:
- (a) shall not apply to:
 - (i) any claim for:
 - (A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - (B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Contractor and/or any Sub-contractor; or
 - (ii) any claim that the termination of employment was unfair because the Contractor and/or Notified Sub-contractor neglected to follow a fair dismissal procedure; and

- (b) shall apply only where the notification referred to in Paragraph 4.3(a) is made by the Contractor and/or any Notified Sub-contractor (as appropriate) to the Authority within 6 months of the Effective Date.

4.8 If any such person as is referred to in Paragraph 4.3 is neither re-employed by the Authority nor dismissed by the Contractor and/or any Notified Sub-contractor within the time scales set out in Paragraph 4.5 such person shall be treated as having transferred to the Contractor and/or any Notified Sub-contractor and the Contractor shall, or shall procure that the Notified Sub-contractor shall, comply with such obligations as may be imposed upon it under applicable Law.

5 Contractor Indemnities and Obligations

5.1 Subject to Paragraph 5.2, the Contractor shall indemnify the Authority against any Employee Liabilities arising from or as a result of:

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

- (i) in relation to any Transferring Authority Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
 - (ii) in relation to any employee who is not a Transferring Authority Employee, and in respect of whom it is later alleged or determined that the TUPE Regulations applied so as to transfer his/her employment from the Authority to the Contractor or a Sub-contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
- (g) a failure of the Contractor or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Authority Employees in respect of the period from (and including) the Relevant Transfer Date;
- (h) any claim made by or in respect of a Transferring Authority Employee or any appropriate employee representative (as defined in the TUPE Regulations) of any Transferring Authority Employee relating to any act or omission of the Contractor or any Sub-contractor in relation to their obligations under regulation 13 of the TUPE Regulations, except to the extent that the liability arises from the Authority's failure to comply with its obligations under regulation 13 of the TUPE Regulations; and
- (i) a failure by the Contractor or any Sub-contractor to comply with its obligations under Paragraph 4.6 above.
- 5.2 The indemnities in Paragraph 5.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Authority whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Authority's failure to comply with its obligations under the TUPE Regulations.
- 5.3 The Contractor shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the TUPE Regulations (including its obligation to inform and consult in accordance with regulation 13 of the TUPE Regulations) and shall perform and discharge, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of the Transferring Authority Employees, from (and including) the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and any other sums due under the Admission Agreement which in any case are attributable in whole or in part to the period from and including the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Authority and the Contractor.

6 Information

The Contractor shall, and shall procure that each Sub-contractor shall, promptly provide to the Authority in writing such information as is necessary to enable the Authority to carry out its duties under regulation 13 of the TUPE Regulations. The Authority shall promptly provide to the Contractor and each Notified Sub-contractor in writing such information as is necessary to enable the Contractor and each Notified

Sub-contractor to carry out their respective duties under regulation 13 of the TUPE Regulations.

7 Principles of Good Employment Practice

7.1 The Parties agree that the Principles of Good Employment Practice issued by the Cabinet Office in December 2010 apply to the treatment by the Contractor of employees whose employment begins after the Relevant Transfer Date, and the Contractor undertakes to treat such employees in accordance with the provisions of the Principles of Good Employment Practice.

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

- (a) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007;
- (b) HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999;
- (c) HM Treasury's guidance "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or
- (d) the New Fair Deal.

7.3 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraphs 7.1 or 7.2 shall be agreed in accordance with the Change Control Procedure.

8 Pensions

The Contractor shall, and/or shall procure that each of its Sub-contractors shall, comply with the pensions provisions in the following Annex.

ANNEX TO PART A PENSIONS

1 Participation

- 1.1 The Contractor undertakes to enter into the Admission Agreement.
- 1.2 The Contractor and the Authority undertake to do all such things and execute any documents (including the Admission Agreement) as may be required to enable the Contractor to participate in the Schemes in respect of the Fair Deal Employees
- 1.3 The Contractor and the Authority agree:
- (a) that the arrangements under paragraph 1.1 of this Annex include the body responsible for the Schemes notifying the Authority if the Contractor breaches any obligations it has under the Admission Agreement;
 - (b) notwithstanding sub-paragraph 1.3(a) of this Annex, the Contractor shall notify the Authority in the event that it breaches any obligations it has under the Admission Agreement and when it intends to remedy such breaches; and
 - (c) that the Authority shall be entitled to terminate this Agreement in the event that the Contractor:
 - (i) commits an irremediable breach of the Admission Agreement; or
 - (ii) commits a breach of the Admission Agreement which, where capable of remedy, it fails to remedy within a reasonable time and in any event within 28 days of the date of a notice giving particulars of the breach and requiring the Contractor to remedy it
- 1.4 The Contractor shall bear its own costs and all costs that the Authority reasonably incurs in connection with the negotiation, preparation and execution of documents to facilitate the Contractor participating in the Schemes including without limitation MyCSP's on-boarding costs.

2 Future Service Benefits

- 2.1 The Contractor shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the Schemes that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date and the Contractor shall procure that the Fair Deal Employees continue to accrue benefits in accordance with the provisions governing the relevant section of Schemes for service from (and including) the Relevant Transfer Date.
- 2.2 The Contractor undertakes that should it cease to participate in the Schemes for whatever reason at a time when it has Eligible Employees, that it will, at no extra cost to the Authority, provide to any Fair Deal Employee who immediately prior to such cessation remained an Eligible Employee with access to an occupational pension scheme certified by the Government Actuary's Department or any actuary nominated by the Authority in accordance with relevant guidance produced by the Government Actuary's Department as providing benefits which are broadly comparable to those provided by the Schemes on the date the Eligible Employees ceased to participate in the Schemes.

- 2.3 The Parties acknowledge that the Civil Service Compensation Scheme and the Civil Service Injury Benefit Scheme (established pursuant to section 1 of the Superannuation Act 1972) are not covered by the protection of New Fair Deal.

3 Funding

- 3.1 The Contractor undertakes to pay to the Schemes all such amounts as are due under the Admission Agreement and shall deduct and pay to the Schemes such employee contributions as are required by the Schemes.

- 3.2 The Contractor shall indemnify and keep indemnified the Authority on demand against any claim by, payment to, or loss incurred by, the Schemes in respect of the failure to account to the Schemes for payments received and the non-payment or the late payment of any sum payable by the Contractor to or in respect of the Schemes.

4 Provision of information

The Contractor and the Authority respectively undertake to each other:

- (a) to provide all information which the other Party may reasonably request concerning matters (i) referred to in this Annex and (ii) set out in the Admission Agreement, and to supply the information as expeditiously as possible; and
- (b) not to issue any announcements to the Fair Deal Employees prior to the Relevant Transfer Date concerning the matters stated in this Annex without the consent in writing of the other Party (not to be unreasonably withheld or delayed).

5 Indemnity

The Contractor undertakes to the Authority to indemnify and keep indemnified the Authority on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards the Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which relate to the payment of benefits under and/or participation in an occupational pension scheme (within the meaning provided for in section 1 of the Pension Schemes Act 1993) or the Schemes.

6 Employer obligation

The Contractor shall comply with the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff.

7 Subsequent transfers

The Contractor shall:

- (a) not adversely affect pension rights accrued by any Fair Deal Employee in the period ending on the date of the Service Transfer Date;
- (b) provide all such co-operation and assistance as the Schemes and the Replacement Contractor and/or the Authority may reasonably require to enable the Replacement Contractor to participate in the Schemes in respect of any Eligible Employee and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal; and

- (c) for the period either
 - (i) after notice (for whatever reason) is given, in accordance with the other provisions of this Contract, to terminate the Contract or any part of the Services; or
 - (ii) after the date which is two (2) years prior to the date of expiry of this Contract,

ensure that no change is made to pension, retirement and death benefits provided for or in respect of any person who will transfer to the Replacement Contractor or the Authority, no category of earnings which were not previously pensionable are made pensionable and the contributions (if any) payable by such employees are not reduced without (in any case) the prior approval of the Authority (such approval not to be unreasonably withheld). Save that this subparagraph shall not apply to any change made as a consequence of participation in an Admission Agreement.

8 Bulk Transfer

Where the Contractor has set up a broadly comparable pension scheme in accordance with the provisions of paragraph 2.2 above of this Annex, the Contractor agrees to:

- (a) fully fund any such broadly comparable pension scheme in accordance with the funding requirements set by that broadly comparable pension scheme's actuary or by the Government Actuary's Department;
- (b) instruct any such broadly comparable pension scheme's actuary to, and to provide all such co-operation and assistance in respect of any such broadly comparable pension scheme as the Replacement Contractor and/or the Authority may reasonably require, to enable the Replacement Contractor to participate in the Schemes in respect of any Fair Deal Employee that remain eligible for New Fair Deal protection following a Service Transfer;
- (c) allow, in respect of any Fair Deal Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such broadly comparable pension scheme into the Schemes on a day for day service basis and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal, for the avoidance of doubt should the amount offered by the broadly comparable pension scheme be less than the amount required by the Schemes to fund day for day service ("the **Shortfall**"), the Contractor agrees to pay the Shortfall to the Schemes;

indemnify the Authority on demand for any failure to pay the Shortfall as required under Paragraph 8(c) above.

PART B

Transferring Former Contractor Employees at commencement of Services

9 Relevant transfers

9.1 The Authority and the Contractor agree that:

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

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

10 Former Contractor Indemnities

10.1 Subject to Paragraph 10.2, the Authority shall procure that each Former Contractor shall indemnify the Contractor and any Notified Sub-contractor against any Employee Liabilities arising from or as a result of:

- (a) any act or omission by the Former Contractor in respect of any Transferring Former Contractor Employee or any appropriate employee representative (as defined in the TUPE Regulations) of any Transferring Former Contractor Employee arising before the Relevant Transfer Date;
- (b) the breach or non-observance by the Former Contractor arising before the Relevant Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Former Contractor Employees; and/or
 - (ii) any custom or practice in respect of any Transferring Former Contractor Employees which the Former Contractor is contractually bound to honour;
- (c) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

- (i) in relation to any Transferring Former Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before the Relevant Transfer Date; and
 - (ii) in relation to any employee who is not a Transferring Former Contractor Employee and in respect of whom it is later alleged or determined that the TUPE Regulations applied so as to transfer his/her employment from the Former Contractor to the Contractor and/or any Notified Sub-contractor as appropriate, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations in respect of the period to (but excluding) the Relevant Transfer Date;
- (d) a failure of the Former Contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Contractor Employees in respect of the period to (but excluding) the Relevant Transfer Date;
- (e) any claim made by or in respect of any person employed or formerly employed by the Former Contractor other than a Transferring Former Contractor Employee for whom it is alleged the Contractor and/or any Notified Sub-contractor as appropriate may be liable by virtue of this Contract and/or the TUPE Regulations and/or the Acquired Rights Directive; and
- (f) any claim made by or in respect of a Transferring Former Contractor Employee or any appropriate employee representative (as defined in the TUPE Regulations) of any Transferring Former Contractor Employee relating to any act or omission of the Former Contractor in relation to its obligations under regulation 13 of the TUPE Regulations, except to the extent that the liability arises from the failure by the Contractor or any Sub-contractor to comply with regulation 13(4) of the TUPE Regulations.

10.2 The indemnities in Paragraph 10.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Contractor or any Sub-contractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities:

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

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

- (a) the Contractor shall, or shall procure that the Notified Sub-contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to

the Authority and, where required by the Authority, to the Former Contractor;
and

- (b) the Former Contractor may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification by the Contractor and/or the Notified Sub-contractor or take such other reasonable steps as the Former Contractor considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.

10.4 If an offer referred to in Paragraph 10.3(b) is accepted, or if the situation has otherwise been resolved by the Former Contractor and/or the Authority, the Contractor shall, or shall procure that the Notified Sub-contractor shall, immediately release the person from his/her employment or alleged employment.

10.5 If by the end of the 15 Working Day period specified in Paragraph 10.3(b):

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

the Contractor and/or any Notified Sub-contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.

10.6 Subject to the Contractor and/or any Notified Sub-contractor acting in accordance with the provisions of Paragraphs 10.3 to 10.5 and in accordance with all applicable proper employment procedures set out in Law, the Authority shall procure that the Former Contractor indemnifies the Contractor and/or any Notified Sub-contractor (as appropriate) against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 10.5 provided that the Contractor takes, or shall procure that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

10.7 The indemnity in Paragraph 10.6:

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

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

- (ii) any claim that the termination of employment was unfair because the Contractor and/or Notified Sub-contractor neglected to follow a fair dismissal procedure; and

- (b) shall apply only where the notification referred to in Paragraph 10.3(a) is made by the Contractor and/or any Notified Sub-contractor (as appropriate) to the Authority and, if applicable, the Former Contractor, within 6 months of the Effective Date.

10.8 If any such person as is described in Paragraph 10.3 is neither re-employed by the Former Contractor nor dismissed by the Contractor and/or any Notified Sub-contractor within the time scales set out in Paragraph 10.5, such person shall be treated as having transferred to the Contractor or Notified Sub-contractor and the Contractor shall, or shall procure that the Notified Sub-contractor shall, comply with such obligations as may be imposed upon it under the Law.

11 Contractor indemnities and obligations

11.1 Subject to Paragraph 11.2, the Contractor shall indemnify the Authority and/or the Former Contractor against any Employee Liabilities arising from or as a result of:

- (a) any act or omission by the Contractor or any Sub-contractor in respect of any Transferring Former Contractor Employee or any appropriate employee representative (as defined in the TUPE Regulations) of any Transferring Former Contractor Employee whether occurring before, on or after the Relevant Transfer Date;
- (b) the breach or non-observance by the Contractor or any Sub-contractor on or after the Relevant Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Former Contractor Employee; and/or
 - (ii) any custom or practice in respect of any Transferring Former Contractor Employees which the Contractor or any Sub-contractor is contractually bound to honour;
- (c) any claim by any trade union or other body or person representing any Transferring Former Contractor Employees arising from or connected with any failure by the Contractor or a Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Relevant Transfer Date;
- (d) any proposal by the Contractor or a Sub-contractor prior to the Relevant Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Former Contractor Employees to their material detriment on or after their transfer to the Contractor or a Sub-contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Former Contractor Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the TUPE Regulations) before the Relevant Transfer Date as a result of or for a reason connected to such proposed changes;
- (e) any statement communicated to or action undertaken by the Contractor or a Sub-contractor to, or in respect of, any Transferring Former Contractor Employee before the Relevant Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Authority and/or the Former Contractor in writing;

- (f) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Transferring Former Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date; and
 - (ii) in relation to any employee who is not a Transferring Former Contractor Employee, and in respect of whom it is later alleged or determined that the TUPE Regulations applied so as to transfer his/her employment from the Former Contractor to the Contractor or a Sub-contractor, to the extent that the proceeding, claim or demand by the HMRC or other statutory authority relates to financial obligations arising on or after the Relevant Transfer Date;
 - (g) a failure of the Contractor or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Former Contractor Employees in respect of the period from (and including) the Relevant Transfer Date;
 - (h) any claim made by or in respect of a Transferring Former Contractor Employee or any appropriate employee representative (as defined in the TUPE Regulations) of any Transferring Former Contractor Employee relating to any act or omission of the Contractor or any Sub-contractor in relation to obligations under regulation 13 of the TUPE Regulations, except to the extent that the liability arises from the Former Contractor's failure to comply with its obligations under regulation 13 of the TUPE Regulations; and
 - (i) a failure by the Contractor or any Sub-contractor to comply with its obligations under Paragraph 10.8 above.
- 11.2 The indemnities in Paragraph 11.1 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Former Contractor whether occurring or having its origin before, on or after the Relevant Transfer Date including, without limitation, any Employee Liabilities arising from the Former Contractor's failure to comply with its obligations under the TUPE Regulations.
- 11.3 The Contractor shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the TUPE Regulations (including without limitation its obligation to inform and consult in accordance with regulation 13 of the TUPE Regulations) and shall perform and discharge, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of all the Transferring Former Contractor Employees, on and from the Relevant Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and any other sums due under the Admission Agreement which in any case are attributable in whole or in part to the period from (and including) the Relevant Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between the Contractor and the Former Contractor.

12 Information

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

13 Principles of good employment practice

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

- (a) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007;
- (b) HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999;
- (c) HM Treasury's guidance: "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or
- (d) the New Fair Deal.

13.2 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in Paragraph 13.1 shall be agreed in accordance with the Change Control Procedure.

14 Procurement obligations

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

15 Pensions

The Contractor shall, and shall procure that each Sub-contractor shall, comply with the pensions provisions in the following Annex.

ANNEX TO PART B PENSIONS

1 Participation

- 1.1 The Contractor undertakes to enter into the Admission Agreement.
- 1.2 The Contractor and the Authority undertake to do all such things and execute any documents (including the Admission Agreement) as may be required to enable the Contractor to participate in the Schemes in respect of the Fair Deal Employees
- 1.3 The Contractor and the Authority agree:
- (a) that the arrangements under Paragraph 1.1 of this Annex include the body responsible for the Schemes notifying the Authority if the Contractor breaches any obligations it has under the Admission Agreement;
 - (b) notwithstanding sub-paragraph 1.3(a) of this Annex, the Contractor shall notify the Authority in the event that it breaches any obligations it has under the Admission Agreement and when it intends to remedy such breaches; and
 - (c) that the Authority shall be entitled to terminate this Agreement in the event that the Contractor:
 - (i) commits an irremediable breach of the Admission Agreement; or
 - (ii) commits a breach of the Admission Agreement which, where capable of remedy, it fails to remedy within a reasonable time and in any event within 28 days of the date of a notice giving particulars of the breach and requiring the Contractor to remedy it
- 1.4 The Contractor shall bear its own costs and all costs that the Authority reasonably incurs in connection with the negotiation, preparation and execution of documents to facilitate the Contractor participating in the Schemes including without limitation MyCSP's on-boarding costs.

2 Future service benefits

- 2.1 If the Contractor is rejoining the Schemes for the first time, the Contractor shall procure that the Fair Deal Employees shall be either admitted to or offered continued membership of the relevant section of the Schemes that they became eligible to join on the Relevant Transfer Date and shall continue to accrue or accrue benefits in accordance with the provisions governing the relevant section of the Schemes for service from (and including) the Relevant Transfer Date.
- 2.2 If staff have already been readmitted to the Schemes, the Contractor shall procure that the Fair Deal Employees, shall be either admitted into, or offered continued membership of, the relevant section of the Schemes that they currently contribute to, or were eligible to join immediately prior to the Relevant Transfer Date and the Contractor shall procure that the Fair Deal Employees continue to accrue benefits in

accordance with the provisions governing the relevant section of the Schemes for service from (and including) the Relevant Transfer Date.

- 2.3 The Contractor undertakes that should it cease to participate in the Schemes for whatever reason at a time when it has Eligible Employees, that it will, at no extra cost to the Authority, provide to any Fair Deal Employee who immediately prior to such cessation remained an Eligible Employee with access to an occupational pension scheme certified by the Government Actuary's Department or any actuary nominated by the Authority in accordance with relevant guidance produced by the Government Actuary's Department as providing benefits which are broadly comparable to those provided by the Schemes on the date the Eligible Employees ceased to participate in the Schemes.
- 2.4 The Parties acknowledge that the Civil Service Compensation Scheme and the Civil Service Injury Benefit Scheme (established pursuant to section 1 of the Superannuation Act 1972) are not covered by the protection of New Fair Deal.

3 Funding

- 3.1 The Contractor undertakes to pay to the Schemes all such amounts as are due under the Admission Agreement and shall deduct and pay to the Schemes such employee contributions as are required by the Schemes.
- 3.2 The Contractor shall indemnify and keep indemnified the Authority on demand against any claim by, payment to, or loss incurred by the Schemes in respect of the failure to account to the Schemes for payments received and the non-payment or the late payment of any sum payable by the Contractor to or in respect of the Schemes.

4 Provision of information

The Contractor and the Authority respectively undertake to each other:

- (a) to provide all information which the other Party may reasonably request concerning matters (i) referred to in this Annex and (ii) set out in the Admission Agreement, and to supply the information as expeditiously as possible; and
- (b) not to issue any announcements to the Fair Deal Employees prior to the Relevant Transfer Date concerning the matters stated in this Annex without the consent in writing of the other Party (not to be unreasonably withheld or delayed).

5 Indemnity

The Contractor undertakes to the Authority to indemnify and keep indemnified the Authority on demand from and against all and any Losses whatsoever arising out of or in connection with any liability towards the Fair Deal Employees arising in respect of service on or after the Relevant Transfer Date which relate to the payment of benefits under and/or participation in an occupational pension scheme (within the meaning provided for in section 1 of the Pension Schemes Act 1993) or the Schemes.

6 Employer obligation

The Contractor shall comply with the requirements of Part 1 of the Pensions Act 2008, section 258 of the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 for all transferring staff.

7 Subsequent transfers

The Contractor shall:

- (a) not adversely affect pension rights accrued by any Fair Deal Employee in the period ending on the date of the Service Transfer Date;
- (b) provide all such co-operation and assistance as the Schemes and the Replacement Contractor and/or the Authority may reasonably require to enable the Replacement Contractor to participate in the Schemes in respect of any Eligible Employee and to give effect to any transfer of accrued rights required as part of participation under the New Fair Deal; and
- (c) for the period either:
 - (i) after notice (for whatever reason) is given, in accordance with the other provisions of this Contract, to terminate the Contract or any part of the Services; or
 - (ii) after the date which is two (2) years prior to the date of expiry of this Contract,

ensure that no change is made to pension, retirement and death benefits provided for or in respect of any person who will transfer to the Replacement Contractor or the Authority, no category of earnings which were not previously pensionable are made pensionable and the contributions (if any) payable by such employees are not reduced without (in any case) the prior approval of the Authority (such approval not to be unreasonably withheld). Save that this sub-paragraph shall not apply to any change made as a consequence of participation in an Admission Agreement.

8 Bulk Transfer

Where the Contractor has set up a broadly comparable pension scheme in accordance with the provisions of paragraph 2.3 above of this Annex, the Contractor agrees to:

- (a) fully fund any such broadly comparable pension scheme in accordance with the funding requirements set by that broadly comparable pension scheme's actuary or by the Government Actuary's Department;
- (b) instruct any such broadly comparable pension scheme's actuary to, and to provide all such co-operation and assistance in respect of any such broadly comparable pension scheme as the Replacement Contractor and/or the Authority may reasonably require, to enable the Replacement Contractor to

participate in the Schemes in respect of any Fair Deal Employee that remain eligible for New Fair Deal protection following a Service Transfer;

- (c) allow, in respect of any Fair Deal Employee that remains eligible for New Fair Deal protection, following a Service Transfer, the bulk transfer of past service from any such broadly comparable pension scheme into the Schemes on a day for day service basis and to give effect to any transfer of accrued rights required as part of participation under New Fair Deal, for the avoidance of doubt should the amount offered by the broadly comparable pension scheme be less than the amount required by the Schemes to fund day for day service ("the **Shortfall**"), the Contractor agrees to pay the Shortfall to the Schemes;
- (d) indemnify the Authority on demand for any failure to pay the Shortfall as required under Paragraph 8(c) above.

PART C

No transfer of employees at commencement of Services

1 Procedure in the event of Transfer

1.1 The Authority and the Contractor agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Authority and/or any Former Contractor.

1.2 If any employee of the Authority and/or a Former Contractor claims, or it is determined in relation to any employee of the Authority and/or a Former Contractor, that his/her contract of employment has been transferred from the Authority and/or the Former Contractor to the Contractor and/or any Sub-contractor pursuant to the TUPE Regulations or the Acquired Rights Directive then:

(a) the Contractor shall, and shall procure that the relevant Sub-contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Authority and, where required by the Authority, give notice to the Former Contractor; and

(b) the Authority and/or the Former Contractor may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification by the Contractor or the Sub-contractor (as appropriate) or take such other reasonable steps as the Authority or Former Contractor (as the case may be) considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.

1.3 If an offer referred to in 1.2(b) is accepted (or if the situation has otherwise been resolved by the Authority and/or the Former Contractor), the Contractor shall, or shall procure that the Sub-contractor shall, immediately release the person from his/her employment or alleged employment.

1.4 If by the end of the 15 Working Day period specified in Paragraph 1.2(b):

(a) no such offer of employment has been made;

(b) such offer has been made but not accepted; or

(c) the situation has not otherwise been resolved,

the Contractor and/or the Sub-contractor may within 5 Working Days give notice to terminate the employment or alleged employment of such person.

2 Indemnities

2.1 Subject to the Contractor and/or the relevant Sub-contractor acting in accordance with the provisions of Paragraphs 1.2 to 1.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to Paragraph 2.4, the Authority shall:

(a) indemnify the Contractor and/or the relevant Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any employees of the Authority referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Contractor takes, or shall procure

that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities; and

- (b) procure that the Former Contractor indemnifies the Contractor and/or any Notified Sub-contractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Contractor referred to in Paragraph 1.2 made pursuant to the provisions of Paragraph 1.4 provided that the Contractor takes, or shall procure that the relevant Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

2.2 If any such person as is described in Paragraph 1.2 is neither re employed by the Authority and/or the Former Contractor as appropriate nor dismissed by the Contractor and/or any Sub-contractor within the 15 Working Day period referred to in Paragraph 1.4 such person shall be treated as having transferred to the Contractor and/or the Sub-contractor (as appropriate) and the Contractor shall, or shall procure that the Sub-contractor shall, comply with such obligations as may be imposed upon it under Law.

2.3 Where any person remains employed by the Contractor and/or any Sub-contractor pursuant to Paragraph 2.2, all Employee Liabilities in relation to such employee shall remain with the Contractor and/or the Sub-contractor and the Contractor shall indemnify the Authority and any Former Contractor, and shall procure that the Sub-contractor shall indemnify the Authority and any Former Contractor, against any Employee Liabilities that either of them may incur in respect of any such employees of the Contractor and/or employees of the Sub-contractor.

2.4 The indemnities in Paragraph 2.1:

- (a) shall not apply to:

- (i) any claim for:

- (A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
- (B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

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

- (ii) any claim that the termination of employment was unfair because the Contractor and/or any Sub-contractor neglected to follow a fair dismissal procedure; and

- (b) shall apply only where the notification referred to in Paragraph 1.2(a) is made by the Contractor and/or any Sub-contractor to the Authority and, if applicable, Former Contractor within 6 months of the Effective Date.

3 Procurement obligations

Where in this Part C the Authority accepts an obligation to procure that a Former Contractor does or does not do something, such obligation shall be limited so that it

extends only to the extent that the Authority's contract with the Former Contractor contains a contractual right in that regard which the Authority may enforce.

PART D

EMPLOYMENT EXIT PROVISIONS

1 Pre-service transfer obligations

- 1.1 The Contractor agrees that within 20 Working Days of the earliest of:
- (a) receipt of a notification from the Authority of a Service Transfer or intended Service Transfer;
 - (b) receipt of the giving of notice of early termination or any partial termination of this Contract;
 - (c) the date which is 12 months before the end of the Term; and
 - (d) receipt of a written request of the Authority at any time (provided that the Authority shall only be entitled to make one such request in any 6 month period),

it shall provide in a suitably anonymised format so as to comply with the DPA, the Contractor's Provisional Contractor Personnel List, together with the Staffing Information in relation to the Contractor's Provisional Contractor Personnel List and it shall provide an updated Contractor's Provisional Contractor Personnel List at such intervals as are reasonably requested by the Authority.

- 1.2 At least 28 Working Days prior to the Service Transfer Date, the Contractor shall provide to the Authority or at the direction of the Authority to any Replacement Contractor and/or any Replacement Sub-contractor:
- (a) the Contractor's Final Contractor Personnel List, which shall identify which of the Contractor Personnel are Transferring Contractor Employees; and
 - (b) the Staffing Information in relation to the Contractor's Final Contractor Personnel List (insofar as such information has not previously been provided).
- 1.3 The Authority shall be permitted to use and disclose information provided by the Contractor under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Contractor and/or Replacement Sub-contractor.
- 1.4 The Contractor warrants, for the benefit of the Authority, any Replacement Contractor, and any Replacement Sub-contractor that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.
- 1.5 From the date of the earliest event referred to in Paragraph 1.1(a), 1.1(b) and 1.1(c), the Contractor agrees, that it shall not, and agrees to procure that each Sub-contractor shall not, assign any person to the provision of the Services who is not listed on the Contractor's Provisional Contractor Personnel List and shall not without the approval of the Authority (not to be unreasonably withheld or delayed):
- (a) replace or re-deploy any Contractor Personnel listed on the Contractor Provisional Contractor Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;

- (b) make, promise, propose, permit or implement any material changes to the terms and conditions of employment of the Contractor Personnel (including any payments connected with the termination of employment);
- (c) increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Contractor Personnel save for fulfilling assignments and projects previously scheduled and agreed;
- (d) introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Contractor's Provisional Contractor Personnel List;
- (e) increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
- (f) terminate or give notice to terminate the employment or contracts of any persons on the Contractor's Provisional Contractor Personnel List save by due disciplinary process,

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

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

- (a) the numbers of employees engaged in providing the Services;
- (b) the percentage of time spent by each employee engaged in providing the Services;
- (c) the extent to which each employee qualifies for membership of any of the Schemes or any broadly comparable scheme set up pursuant to the provisions of paragraph 2.2 of the Annex (Pensions) to Part A of this Schedule or paragraph 2.3 of the Annex (Pensions) to Part B of this Schedule (as appropriate); and
- (d) a description of the nature of the work undertaken by each employee by location.

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

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

2 TUPE Regulations Exit Provisions

- 2.1 The Authority and the Contractor acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or partial termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Contractor and/or a Replacement Sub-contractor. Such change in the identity of the Contractor of such services may constitute a Relevant Transfer to which the TUPE Regulations and/or the Acquired Rights Directive will apply. The Authority and the Contractor further agree that, as a result of the operation of the TUPE Regulations, where a Relevant Transfer occurs, the contracts of employment between the Contractor and the Transferring Contractor Employees (except in relation to any contract terms disapplied through operation of regulation 10(2) of the TUPE Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Contractor and/or a Replacement Sub-contractor (as the case may be) and each such Transferring Contractor Employee.
- 2.2 The Contractor shall, and shall procure that each Sub-contractor shall, comply with all its obligations in respect of the Transferring Contractor Employees arising under the TUPE Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-contractor shall perform and discharge, all its obligations in respect of all the Transferring Contractor Employees arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Schemes which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Contractor and/or the Sub-contractor (as appropriate); and (ii) the Replacement Contractor and/or Replacement Sub-contractor.
- 2.3 Subject to Paragraph 2.4, the Contractor shall indemnify the Authority and/or the Replacement Contractor and/or any Replacement Sub-contractor against any Employee Liabilities arising from or as a result of:
- (a) any act or omission of the Contractor or any Sub-contractor in respect of any Transferring Contractor Employee or any appropriate employee representative (as defined in the TUPE Regulations) of any Transferring Contractor Employee whether occurring before, on or after the Service Transfer Date;
 - (b) the breach or non-observance by the Contractor or any Sub-contractor occurring on or before the Service Transfer Date of:

- (i) any collective agreement applicable to the Transferring Contractor Employees; and/or
 - (ii) any other custom or practice with a trade union or staff association in respect of any Transferring Contractor Employees which the Contractor or any Sub-contractor is contractually bound to honour;
- (c) any claim by any trade union or other body or person representing any Transferring Contractor Employees arising from or connected with any failure by the Contractor or a Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
- (d) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (i) in relation to any Transferring Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and
 - (ii) in relation to any employee who is not identified in the Contractor's Final Contractor Personnel List, and in respect of whom it is later alleged or determined that the TUPE Regulations applied so as to transfer his/her employment from the Contractor to the Authority and/or Replacement Contractor and/or any Replacement Sub-contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;
- (e) a failure of the Contractor or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Contractor Employees in respect of the period up to (and including) the Service Transfer Date);
- (f) any claim made by or in respect of any person employed or formerly employed by the Contractor or any Sub-contractor other than a Transferring Contractor Employee identified in the Contractor's Final Contractor Personnel List for whom it is alleged the Authority and/or the Replacement Contractor and/or any Replacement Sub-contractor may be liable by virtue of this Contract and/or the TUPE Regulations and/or the Acquired Rights Directive; and
- (g) any claim made by or in respect of a Transferring Contractor Employee or any appropriate employee representative (as defined in the TUPE Regulations) of any Transferring Contractor Employee relating to any act or omission of the Contractor or any Sub-contractor in relation to its obligations under regulation 13 of the TUPE Regulations, except to the extent that the liability arises from the failure by the Authority and/or Replacement Contractor to comply with regulation 13(4) of the TUPE Regulations.

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

- (a) arising out of the resignation of any Transferring Contractor Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Contractor and/or any Replacement Sub-contractor to occur in the period on or after the Service Transfer Date); or
 - (b) arising from the Replacement Contractor's failure, and/or Replacement Sub-contractor's failure, to comply with its obligations under the TUPE Regulations.
- 2.5 If any person who is not identified in the Contractor's Final Contractor Personnel List claims, or it is determined in relation to any person who is not identified in the Contractor's Final Contractor Personnel List, that his/her contract of employment has been transferred from the Contractor or any Sub-contractor to the Replacement Contractor and/or Replacement Sub-contractor pursuant to the TUPE Regulations or the Acquired Rights Directive, then:
 - (a) the Authority shall procure that the Replacement Contractor shall, or any Replacement Sub-contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Contractor; and
 - (b) the Contractor may offer (or may procure that a Sub-contractor may offer) employment to such person within 15 Working Days of the notification by the Replacement Contractor and/or any and/or Replacement Sub-contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.
- 2.6 If such offer is accepted, or if the situation has otherwise been resolved by the Contractor or a Sub-contractor, the Authority shall procure that the Replacement Contractor shall, or procure that the Replacement Sub-contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.
- 2.7 If after the 15 Working Day period specified in Paragraph 2.5(b) has elapsed:
 - (a) no such offer of employment has been made;
 - (b) such offer has been made but not accepted; or
 - (c) the situation has not otherwise been resolvedthe Replacement Contractor and/or Replacement Sub-contractor, as appropriate may within 5 Working Days give notice to terminate the employment or alleged employment of such person.
- 2.8 Subject to the Replacement Contractor and/or Replacement Sub-contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Contractor shall indemnify the Replacement Contractor and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.7 provided that the Replacement Contractor takes, or shall procure that the Replacement Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.
- 2.9 The indemnity in Paragraph 2.8:
 - (a) shall not apply to:

- (i) any claim for:
 - (A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or
 - (B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Replacement Contractor and/or Replacement Sub-contractor; or

- (ii) any claim that the termination of employment was unfair because the Replacement Contractor and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure; and

- (b) shall apply only where the notification referred to in Paragraph 2.5(a) is made by the Replacement Contractor and/or Replacement Sub-contractor to the Contractor within 6 months of the Service Transfer Date .

2.10 If any such person as is described in Paragraph 2.5 is neither re-employed by the Contractor or any Sub-contractor nor dismissed by the Replacement Contractor and/or Replacement Sub-contractor within the time scales set out in Paragraphs 2.5 to 2.7, such person shall be treated as a Transferring Contractor Employee.

2.11 The Contractor shall comply, and shall procure that each Sub-contractor shall comply, with all its obligations under the TUPE Regulations and shall perform and discharge, and shall procure that each Sub-contractor shall perform and discharge, all its obligations in respect of any person identified in the Contractor's Final Contractor Personnel List before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions and such sums due as a result of any Fair Deal Employees' participation in the Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

- (a) the Contractor and/or any Sub-contractor; and
- (b) the Replacement Contractor and/or the Replacement Sub-contractor.

2.12 The Contractor shall, and shall procure that each Sub-contractor shall, promptly provide to the Authority and any Replacement Contractor and/or Replacement Sub-contractor, in writing such information as is necessary to enable the Authority, the Replacement Contractor and/or Replacement Sub-contractor to carry out their respective duties under regulation 13 of the TUPE Regulations. The Authority shall procure that the Replacement Contractor and/or Replacement Sub-contractor, shall promptly provide to the Contractor and each Sub-contractor in writing such information as is necessary to enable the Contractor and each Sub-contractor to carry out their respective duties under regulation 13 of the TUPE Regulations.

2.13 Subject to Paragraph 2.14, the Authority shall procure that the Replacement Contractor indemnifies the Contractor on its own behalf and on behalf of any Replacement Sub-contractor and its sub-contractors against any Employee Liabilities arising from or as a result of:

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

TUPE Regulations applied so as to transfer his/her employment from the Contractor or Sub-contractor, to the Replacement Contractor or Replacement Sub-contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising after the Service Transfer Date;

- (g) a failure of the Replacement Contractor or Replacement Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Contractor Employees identified in the Contractor's Final Contractor Personnel List in respect of the period from (and including) the Service Transfer Date; and
- (h) any claim made by or in respect of a Transferring Contractor Employee identified in the Contractor's Final Contractor Personnel List or any appropriate employee representative (as defined in the TUPE Regulations) of any such Transferring Contractor Employee relating to any act or omission of the Replacement Contractor or Replacement Sub-contractor in relation to obligations under regulation 13 of the TUPE Regulations.

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

ANNEX
LIST OF NOTIFIED SUB-CONTRACTORS

Schedule 20

Management Information

1 General

1.1 The Contractor grants the Authority a non-exclusive, transferable, perpetual, irrevocable, royalty-free licence to:

- (a) use and share with:
 - (i) any Crown Body;
 - (ii) any other Contracting Authority; and
 - (iii) any other third party as may be agreed by the Authority and the Contractor from time to time (such Contractor's agreement not to be unreasonably withheld); and/or
- (b) publish (subject to any information that is exempt from disclosure in accordance with the provisions of FOIA being redacted),

any Management Information supplied to the Authority for the Authority's normal operational activities including but not limited to administering this Contract, monitoring public expenditure, identifying savings or potential savings and planning future procurement activity.

2 Management Information and Format

2.1 The Contractor agrees to provide timely Management Information and/or MI Reports to the Authority which incorporates the data listed below (together with any other information notified to the Contractor by the Authority to be provided as MI Information from that point onwards), in the correct format, and which the Contractor represents and warrants are full, accurate and complete as at the date of provision to the Authority.

Management Information required	Frequency or date required by
All MI relating to Customer Service Standards.	Each at the frequency required and immediately on request
Any material changes to the Contractor's and/or Guarantor's organisation that impacts on its ongoing financial viability including details of the revenue replacement strategy and impact awareness on the organisation's profitability and stability where significant contracts are due to end.	Immediately
Any proposed Change of Control, changes to the organisational control or group structure of the Contractor and/or the Guarantor, proposed mergers or acquisitions or proposed changes to the Contractor's financial viability.	Immediately

Any financial information relating to the Contractor which could include but is not limited to a copy of its Annual Accounts, Annual Returns, management accounts, evidence to the Authority's satisfaction of its assets, liabilities and funding position, and copies of its board papers and board minutes.	Immediately on request
Where a Guarantee has been provided in accordance with clause G4, a copy of the Guarantor's Annual Accounts, Annual Returns, management accounts, evidence to the satisfaction of its assets, liabilities and funding position, and copies of its board papers and board minutes for the Guarantor, including a translation and conversion (Profit and Loss, Balance Sheet and key Balance Sheet Notes) into pounds sterling, stating the conversion rate used.	Immediately on request
Any MI relating to Sub-contracts and Subcontractors required by Schedule 15 (Sub-contractors)	
Such evidence as the Authority may request in relation to Participant Starts, Intervention Plans, Outcomes and Outcome Payments.	Immediately on request
Details of the wages, salaries, bonuses and profit sharing arrangements as applicable in respect of all Staff	Immediately on request
Any further information as the Authority may reasonably request.	Immediately on request
The number of supplier and end-to-end supply chain staff working on this Contract (including data on absences) and in what roles, including a full-time equivalent (FTE) breakdown.	Monthly MI Report
The number of people participating within the main element of the Delivery Model.	Monthly MI Report
Contractor performance against the Customer Service Standards.	Monthly MI Report
Participant fail to attend rates by Participant group/Segment for	Monthly MI Report

interviews, group sessions and other interventions.	
Participant attendance at face-to-face and group sessions and potentially other agreed channels of engagement within the last two months.	Monthly MI Report
The performance and management of the Sub-contractors (including cohort performance against the t Customer Service Standards in the Contract).	Monthly MI Report
A summary of the Contractor's compliance with its obligation to pay any undisputed sums which are due from it to a Sub-contractor within thirty (30) days from the receipt of a valid invoice	Quarterly MI Report
Analysis of Participant complaints, analysis of trends and themes, and management action plans to reduce future occurrences	Quarterly MI Report
Marginal costs information, which is all costs, including financial and time costs, which the Contractor would have incurred to achieve one extra Outcome from each Cohort from which it has earned an Outcome in the immediately preceding 12 Months.	No less frequently than once in each Contract Year in an MI Report

- 2.2 The Authority may from time to time make changes to the data it requires the Contractor to provide in a MI Report including to the data required or format of the report and notify such changes to the Contractor. The Authority shall give notice in writing of any such change to the MI Report and shall specify the date from which such changes to the content or format of the MI Reports shall be effective which date shall be at least thirty (30) calendar days following the date of the notice.
- 2.3 If the Authority changes the data required or format of the MI Report at any time, then the Contractor agrees to provide all future MI Reports in accordance with such notification.
- 2.4 The Authority may provide the Contractor with supplemental guidance for completing the MI Report or submitting MI Reports from time to time which may for example indicate which fields are mandatory and which are optional. The Contractor agrees to complete the MI Report in accordance with any such guidance.
- 2.5 The Authority shall have the right from time to time (on reasonable written notice) to amend the nature of the Management Information which the Contractor is required to supply to the Authority.

3 Frequency and Coverage

- 3.1 All MI Reports must be returned to the Authority on or prior to the Reporting Date every Month during the Contract Period and thereafter, until all transactions relating to Contracts to which the Contractor is a party have permanently ceased.
- 3.2 The MI Report should be used (among other things) to report activity and transactions occurring during the Month(s) to which the MI Report relates.
- 3.3 Unless otherwise notified to the Contractor by the Authority, the Contractor must return the MI Report for each Month(s) even where there are no transactions to report in the relevant Month (a "**Nil Return**").
- 3.4 The Contractor must inform the Authority of any errors or corrections to the Management Information:
 - (a) in the next MI Report due immediately following discovery of the error by the Contractor; or
 - (b) as a result of the Authority querying any data contained in an MI Report.

4 Submission of the MI Report

The completed MI Report shall be completed electronically and returned to the Authority by uploading and/or sending the MI Report in accordance with the instructions notified by the Authority to the Contractor from time to time. The Contractor agrees to comply with any such instructions provided they do not materially increase the burden on the Contractor.

5 Defective Management Information

- 5.1 The Contractor acknowledges that it is essential that the Authority receives timely and accurate Management Information pursuant to this Contract because Management Information is used by the Authority to inform strategic decision making.
- 5.2 Following an MI Failure the Authority may issue reminders to the Contractor or require the Contractor to rectify defects in the MI Report provided to the Authority. The Contractor shall rectify any deficient or incomplete MI Report as soon as possible and not more than five (5) Working Days following receipt of any such reminder.

6 Meetings

The Contractor agrees to attend meetings between the Authority and the Contractor in person to discuss the circumstances of any MI Failure(s) at the request of the Authority (without prejudice to any other rights the Authority may have). If the Authority requests such a meeting the Contractor shall propose measures to ensure that the MI Failures are rectified and do not occur in the future. The Authority and the Contractor shall document these measures and continue to monitor the Contractor's performance.

7 Admin Fees

- 7.1 If, in any rolling three (3) Month period, two (2) or more MI Failures occur, the Contractor acknowledges and agrees that the Authority shall have the right to invoice the Contractor Admin Fees and (subject to paragraph 7.2) in respect of any MI Failures as they arise in subsequent Months.

- 7.2 If, following activation of the Authority's right to charge Admin Fee(s) in respect of MI Failures pursuant to paragraph 7.1, the Contractor submits the Monthly MI Report for two (2) consecutive Months and no MI Failure occurs then the right to charge the Admin Fee(s) shall lapse. For the avoidance of doubt the Authority shall not be prevented from exercising such right again during the Contract Period if the conditions in paragraph 7.1 are met.
- 7.3 The Contractor acknowledges and agrees that the Admin Fees are a fair reflection of the additional costs incurred by the Authority as a result of the Contractor failing to supply Management Information as required by this Contract.
- 7.4 The Authority shall notify the Contractor if any Admin Fees arise pursuant to paragraph 7.1 above and shall be entitled to invoice the Contractor for such Admin Fees, which shall be payable by the Contractor within thirty (30) days of the date of the relevant invoice. Any exercise by the Authority of its rights under this paragraph 7.4 shall be without prejudice to any other rights that may arise pursuant to the terms of this Contract.

Schedule 21

Insurance Requirements

1 OBLIGATION TO MAINTAIN INSURANCES

- 1.1 Without prejudice to its obligations to the Authority under this Contract, including its indemnity obligations, the Contractor shall for the periods specified in this Schedule take out and maintain, or procure the taking out and maintenance of the insurances as set out in Annex 1 and any other insurances as may be required by applicable Law (together the “**Insurances**”). The Contractor shall ensure that each of the Insurances is effective no later than the date on which the relevant risk commences.
- 1.2 The Insurances shall be maintained in accordance with Good Industry Practice and (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time.
- 1.3 The Insurances shall be taken out and maintained with insurers who are:
- (a) of good financial standing;
 - (b) appropriately regulated; and
 - (c) except in the case of any Insurances provided by an Affiliate of the Contractor, of good repute in the international insurance market.
- 1.4 Where any Insurances are provided by an Affiliate of the Contractor, the Contractor shall provide to the Authority on the Commencement Date (or inception of the relevant Insurances if later) and thereafter within 10 Working Days of written request from the Authority evidence of good financial standing of the relevant Affiliate in a form satisfactory to the Authority. In the absence of a Financial Distress Event, the Authority shall not make any such request more than annually.
- 1.5 The Contractor shall ensure that the public and products liability policy shall contain an indemnity to principals clause under which the Authority shall be indemnified in respect of claims made against the Authority in respect of death or bodily injury or third party property damage arising out of or in connection with the Services and for which the Contractor is legally liable.

2 GENERAL OBLIGATIONS

- 2.1 Without limiting the other provisions of this Contract, the Contractor shall:
- (a) take or procure the taking of all reasonable risk management and risk control measures in relation to the Services as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;
 - (b) promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Contractor is or becomes aware; and

- (c) hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

3 FAILURE TO INSURE

- 3.1 The Contractor shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances.
- 3.2 Where the Contractor has failed to purchase any of the Insurances or maintain any of the Insurances in full force and effect, the Authority may elect (but shall not be obliged) following written notice to the Contractor to purchase the relevant Insurances, and the Authority shall be entitled to recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Contractor.

4 EVIDENCE OF INSURANCES

The Contractor shall upon the Commencement Date and within 15 Working Days after the renewal or replacement of each of the Insurances, provide evidence, in a form satisfactory to the Authority, that the Insurances are in force and effect and meet in full the requirements of this Schedule. Receipt of such evidence by the Authority shall not in itself constitute acceptance by the Authority or relieve the Contractor of any of its liabilities and obligations under this Contract.

5 AGGREGATE LIMIT OF INDEMNITY

- 5.1 Where the minimum limit of indemnity required in relation to any of the Insurances is specified as being "in the aggregate":
 - (a) if a claim or claims which do not relate to this Contract are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party(ies), is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the Contractor shall immediately submit to the Authority:
 - (i) details of the policy concerned; and
 - (ii) its proposed solution for maintaining the minimum limit of indemnity specified; and
 - (b) if and to the extent that the level of insurance cover available falls below that minimum because a claim or claims which do not relate to this Contract are paid by insurers, the Contractor shall:
 - (i) ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to this Contract; or
 - (ii) if the Contractor is or has reason to believe that it will be unable to ensure that insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified, immediately submit to the Authority full details of the policy concerned and its proposed solution for maintaining the minimum limit of indemnity specified.

6 CANCELLATION

- 6.1 Subject to paragraph 6.2, the Contractor shall notify the Authority in writing at least 5 Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 6.2 Without prejudice to the Contractor's obligations under paragraph 4, paragraph 6.1 shall not apply where the termination of any Insurances occurs purely as a result of a change of insurer in respect of any of the Insurances required to be taken out and maintained in accordance with this Schedule.

7 INSURANCE CLAIMS

- 7.1 The Contractor shall promptly notify to insurers any matter arising from, or in relation to, the Services and/or this Contract for which it may be entitled to claim under any of the Insurances. In the event that the Authority receives a claim relating to or arising out of the Services and/or this Contract, the Contractor shall co-operate with the Authority and assist it in dealing with such claims at its own expense including without limitation providing information and documentation in a timely manner.
- 7.2 Except where the Authority is the claimant party, the Contractor shall give the Authority notice within 20 Working Days after any insurance claim relating to or arising out of the provision of the Services or this Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Authority) full details of the incident giving rise to the claim.
- 7.3 Where any Insurance requires payment of a premium, the Contractor shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Contractor shall be liable for such excess or deductible. The Contractor shall not be entitled to recover from the Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

ANNEX 1: REQUIRED INSURANCES

PART A: THIRD PARTY PUBLIC & PRODUCTS LIABILITY INSURANCE

1 Insured

The Contractor

2 Interest

2.1 To indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay as damages, including claimant's costs and expenses, in respect of accidental:

(a) death or bodily injury to or sickness, illness or disease contracted by any person;

(b) loss of or damage to property;

happening during the period of insurance (as specified in Paragraph 5 of this Annex 1 to this Schedule 21 (Insurance Requirements)) and arising out of or in connection with the provision of the Services and in connection with this Contract.

3 Limit of Indemnity

Not less than the limits of the indemnity under the insurance policy that the Insured has in place as at the Commencement Date (i) in respect of any one occurrence, the number of occurrences being unlimited, and (ii) in the aggregate per annum in respect of products and pollution liability.

4 Territorial limits

As in the insurance policy that Insured has in place as at the Commencement Date.

5 Period of Insurance

From the Commencement Date for the Contract Period and renewable on an annual basis unless agreed otherwise by the Authority in writing.

6 Cover Features and Extensions

Indemnity to principals clause.

7 Principal Exclusions

7.1 War and related perils.

7.2 Nuclear and radioactive risks.

7.3 Liability for death, illness, disease or bodily injury sustained by employees of the Insured during the course of their employment.

7.4 Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by applicable Law in respect of such vehicles.

- 7.5 Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the Insured.
- 7.6 Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.
- 7.7 Liability arising from the ownership, possession or use of any aircraft or marine vessel.
- 7.8 Liability arising from seepage and pollution unless caused by a sudden, unintended and unexpected occurrence.

8 Maximum Deductible Threshold

Not to exceed the applicable maximum deductible threshold in the insurance policy that Insured has in place as at the Commencement Date for each and every third party property damage claim (personal injury claims to be paid in full).

PART B: PROFESSIONAL INDEMNITY INSURANCE

1 Insured

The Contractor

2 Interest

To indemnify the Insured for all sums which the Insured shall become legally liable to pay (including claimants' costs and expenses) as a result of claims first made against the Insured during the period of insurance (as specific in paragraph 5) by reason of any negligent act, error and/or omission arising from or in connection with the provision of the Services.

3 Limit of Indemnity

Not less than the limits of the indemnity under the insurance policy that the Insured has in place as at the Commencement Date in respect of any one claim and in the aggregate per annum, exclusive of defence costs which are payable in addition.

4 Territorial Limits

As in the insurance policy that Insured has in place as at the Commencement Date.

5 Period of Insurance

From the Commencement Date and renewable on an annual basis unless agreed otherwise by the Authority in writing (a) throughout the Contract Period or until earlier termination of this Contract and (b) for a period of six (6) years thereafter.

6 Cover Features and Extensions

Retroactive cover to apply to any "claims made policy wording" in respect of this Contract or retroactive date to be no later than the Commencement Date.

7 Principal Exclusions

7.1 War and related perils.

7.2 Nuclear and radioactive risks.

8 Maximum Deductible Threshold

Not to exceed the applicable maximum deductible threshold in the insurance policy that Insured has in place as at the Commencement Date each and every claim.

PART C: UNITED KINGDOM COMPULSORY INSURANCES

The Contractor shall meet its insurance obligations under applicable Law in full, including, UK employers' liability insurance and motor third party liability insurance.

Schedule 22

Financial Distress

1. Introduction
 - 1.1. This Schedule 22 provides for the assessment of the financial standing of the Contractor and Guarantor, and the establishment of trigger events relating to changes in such financial standing which, if breached, will have specified consequences.
2. Financial Ratios
 - 2.1. The Contractor shall monitor the Financial Ratios on an ongoing basis and calculate the following Financial Ratio tests (on the basis of published accounts) as at the end of each Financial Ratios Calculation Period. The Contractor shall confirm to the Authority in writing on the earlier of:
 - (a) one (1) month following publication in the public domain of the financial accounts for the Financial Ratios Calculation Period; or
 - (b) one hundred and eighty (180) days of each such Financial Ratios Calculation Period,

that the Financial Ratios fall within the 'Acceptable' Financial Ratio Level as set out in the following tables. In the event that the Contractor is unable to confirm that the Financial Ratios for the Contractor or the Guarantor fall within the 'Acceptable' Financial Ratio Level, the provisions of paragraphs 3, 4 and 5 of this Schedule 22 shall apply (as applicable).

Test	Financial Ratio Levels			
	Acceptable	Level 1	Level 2	Level 3
Financial Ratios	Twenty (20) or above	Less than twenty (20) but not less than fifteen (15)	Less than fifteen (15) but not less than five (5)	Less than five (5)

Net Assets		Score	Debt Ratio		Score	Acid Test		Score	Operating Cash Flow Ratio		Score
£3.0m		5.0	< 0.3		10.0	> 1.4		15.0	10%		10.0
£2.7m	< £3.0m	4.5	> 0.3	0.4	9.0	< 1.4	1.3	13.5	9%	< 10%	9.0
£2.4m	< £2.7m	4.0	> 0.4	0.5	8.0	< 1.3	1.2	12.0	8%	< 9%	8.0
£2.1m	< £2.4m	3.5	> 0.5	0.6	7.0	< 1.2	1.1	10.5	7%	< 8%	7.0
£1.8m	< £2.1m	3.0	> 0.6	0.7	6.0	< 1.1	1.0	9.0	6%	< 7%	6.0
£1.5m	< £1.8m	2.5	> 0.7	0.8	5.0	< 1.0	0.9	7.5	5%	< 6%	5.0
£1.2m	< £1.5m	2.0	> 0.8	0.9	4.0	< 0.9	0.8	6.0	4%	< 5%	4.0
£0.9m	< £1.2m	1.5	> 0.9	1.0	3.0	< 0.8	0.7	4.5	3%	< 4%	3.0
£0.6m	< £0.9m	1.0	> 1.0	1.1	2.0	< 0.7	0.6	3.0	2%	< 3%	2.0
£0.3m	< £0.6m	0.5	> 1.1	1.2	1.0	< 0.6	0.5	1.5	1%	< 2%	1.0
	< £0.3m	0.0		> 1.2	0.0		< 0.5	0.0		< 1%	0.0

Trend	< 10%	+/-10%	> 10%		Net Assets	Score		
Net Assets	0	1	2		Debt Ratio	10		
Acid Test	0	1	3		Acid Test	15	Acceptable	20+
Debt Ratio	0	1	3		Operating Cash Flow	10	Level 1	15 - <20
Cash Flow	0	1	2		Trend	10	Level 2	5 - <15
Trend analysis over 3 years of accounts				10	Financial Ratios	50	Level 3	0 - <5

Ratio Calculations:			
Net Assets	As per balance sheet at year-end date		
Debt ratio	Total Liabilities / Total Assets		
Acid test	(Current Assets - Inventory) / Current Liabilities		
Operating Cash Flow	Operating Cash Flow / Revenue		

2.2. The Contractor warrants and represents to the Authority for the benefit of the Authority that as at the Commencement Date and for the duration of the Contract the Financial Ratios for the Contractor and the Guarantor do and shall fall within the “Acceptable” Financial Ratio Level.

2.3. The Contractor shall regularly monitor the indicators of risk, including without limitation the Financial Ratios relating to the Contractor and the Guarantor, in accordance with this Schedule 22 throughout the Contract Period and shall promptly notify, or shall procure that its auditors promptly notify, the Authority in writing following the occurrence of a Financial Distress Event (and in any event within ten (10) Working Days from the date on which the Contractor first becomes aware of any fact, circumstance or matter which has caused a Financial Distress Event).

3. Level 1 – Consequences of a Financial Distress Event

3.1. If the Financial Distress Event consists of:

- (a) the Contractor or the Guarantor having an adverse decline in the Financial Ratios specified in paragraph 2.1 of this Schedule 22 such that the value for the Financial Ratios fall within Financial Ratio Level 1;
- (b) the Contractor or the Guarantor issuing a profit warning to a stock exchange or making any other public announcement about a material deterioration in its financial position or prospects;
- (c) there being a public investigation into improper financial accounting and reporting, suspected Fraud or any other impropriety of the Contractor or the Guarantor; and/or

- (d) the Contractor or the Guarantor committing a material breach of covenants to its lenders,

then, immediately upon notification of the Financial Distress Event (or if the Authority becomes aware of the Financial Distress Event without notification and brings the Financial Distress Event to the attention of the Contractor), the Authority shall have the rights set out in paragraph 3.2 of this Schedule 22.

3.2. At the request of the Authority, the Contractor shall:

- (a) meet with the Authority (and, if the Financial Distress Event relates to the Guarantor, use all reasonable endeavours to procure that the Guarantor shall meet with the Authority) as soon as is reasonably practicable and in any event within three (3) Working Days to review the effect of the Financial Distress Event upon the continued performance of the Services or of the Guarantee (as the case may be); and
- (b) submit to the Authority for its, approval, the draft Financial Distress Event Service Continuity Plan as soon as possible and in any event not later than ten (10) Working Days (or such other period as the Authority may permit and notify to the Contractor in writing) after the initial notification under paragraph 2.3 of this Schedule 22.

3.3. The Authority shall not withhold its approval of a draft Financial Distress Event Service Continuity Plan unreasonably. If the Authority does not approve the draft Financial Distress Event Service Continuity Plan it shall inform the Contractor of its reasons and the Contractor shall take those reasons into account in the preparation of a further Financial Distress Event Service Continuity Plan, which shall be resubmitted to the Authority within five (5) Working Days of the rejection of the first draft.

3.4. If the Authority considers that the draft Financial Distress Event Service Continuity Plan is insufficiently detailed to be properly evaluated, or will take too long to complete or will not remedy the Financial Distress Event complained of, then it may either agree a further time period for the development and agreement of the Financial Distress Event Service Continuity Plan or escalate any issues with the draft using the Financial Distress Event Service Continuity Plan Escalation Process.

3.5. The Contractor shall comply with any Financial Distress Event Service Continuity Plan following its approval by the Authority.

4. Level 2 – Consequences of a Financial Distress Event

4.1. If the Financial Distress Event consists of:

- (a) The Contractor or the Guarantor having an adverse decline in the Financial Ratios specified in paragraph 2.1 of this Schedule 22 such that the value of those Financial Ratios falls within Financial Ratio Level 2;

- (b) A key Sub-contractor notifying the Authority that the Contractor has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute; and/or
- (c) The Contractor failing to notify the Authority of a Financial Distress Event that falls within paragraph 3 of this Schedule 22,

then, immediately upon notification of the Financial Distress Event (or if the Authority becomes aware of the Financial Distress Event without notification and brings the Financial Distress Event to the attention of the Contractor), the provisions of paragraphs 3.2 to 3.4 of this Schedule 22 shall apply to the extent applicable and the Authority shall also have the rights set out in paragraph 4.2 and this Schedule 22.

4.2. The Authority may:

- (a) Without cost to the Authority, require the Contractor to establish a Financial Distress Escrow Account;
- (b) Pay any undisputed Fees due to the Contractor in respect of each month during which Services have been received (less any deductions made in accordance with this Contract) into the Financial Distress Escrow Account;
- (c) Require the Contractor to provide (and, if applicable, use all reasonable endeavours to procure that the Guarantor provides) such financial information relating to the Contractor or Guarantor (as the case may be) as the Authority may reasonably require; and
- (d) Require any sums properly due to a key Sub-contractor to be paid (without set-off or deduction) directly from the Financial Distress Escrow Account to the relevant key Sub-contractor.

4.3. The Authority shall, prior to exercising its rights under paragraphs 3.2 and/or 4.2 of this Schedule 22 (as the case may be):

- (a) Where the Financial Distress Event relates to the issue of a profit warning by the Contractor or Guarantor pursuant to paragraph 3.1(b), give the Contractor a period of not more than ten (10) Working Days to demonstrate to the Authority's reasonable satisfaction that the profit warning relates to a general reduction in trade in the relevant industry sector and that it will not result in the Contractor becoming unable, within the next twelve (12) months, to pay key Sub-contractors or the Guarantor becoming unable, within the next twelve (12) months, to be able to perform the Guarantee (as the case may be); and
- (b) Where the Financial Distress Event relates to the non-payment of key Sub-contractors pursuant to paragraph 4.1(b), give the Contractor a period of not more than ten (10) Working Days in which to rectify that non-payment or to demonstrate to the Authority's reasonable satisfaction that there is a valid reason for non-payment.

4.4. Monies paid into the Financial Distress Escrow Account by the Authority shall be held on trust by the approved bank and shall be paid out on the joint instructions of the Parties in the following order:

- (a) The payment in full of any key Sub-contractors;
- (b) The payment in full of any other Sub-contractors;
- (c) The payment of any other liabilities of the Contractor that have a direct impact on the performance of the Contract; and
- (d) Subject to paragraphs 4.5 and 4.6 of this Schedule 22, repayment of the balance to the Contractor.

4.5. The Contractor shall demonstrate its compliance with paragraphs 4.4(a), (b) and (c) of this Schedule 22:

- (a) By the production of valid invoices against which payments from the Financial Distress Escrow Account have been made to the relevant key Sub-contractors, other Sub-contractors and any other liabilities (as applicable); or
- (b) At the Authority's sole discretion and notified in writing to the Contractor, by the certification by the nominated representative of the Contractor that the key Sub-contractors, other Sub-contractors and any other liabilities (as applicable) have been paid from the Contractor's general account.

4.6. The Parties shall instruct the bank to withhold an amount in the Financial Distress Escrow Account in respect of:

- (a) Any amount payable to a key Sub-contractor or other Sub-contractor under the relevant Sub-contract that is subject to a dispute between the key Sub-contractor or other Sub-contractor (as applicable) and the Contractor until the resolution of that dispute; and
- (b) Which the Authority requires further details of the satisfaction of any relevant key Sub-contractor's or Sub-contractor's invoices and/or any other liability.

5. Level 3 – Consequences of a Financial Distress Event

5.1. If the Financial Distress Event consists of:

- (a) The Contractor or Guarantor having an adverse decline in the Financial Ratios specified in paragraph 2.1 such that the value of those Financial Ratios falls within Level 3;
- (b) Commencement of any litigation against the Contractor or the Guarantor with respect to financial indebtedness or any obligation under a service contract, non-payment of any financial indebtedness, any financial indebtedness becoming due as a result of an event of default, the cancellation or suspension of any financial indebtedness, which will directly impact upon the Contractor's ability to deliver the Services;
- (c) An Insolvency Event; and/or
- (d) The Contractor failing to notify the Authority of a Financial Distress Event that falls within paragraph 4 of this Schedule 22,

then immediately upon notification of the Financial Distress Event (or if the Authority becomes aware of the Financial Distress Event without notification and brings the Financial Distress Event to the attention of the Contractor), the provisions of paragraphs 3.2 to 3.4 and 4.2 to 4.6 of this Schedule 22 shall apply to the extent applicable and the Authority shall also have the rights set out in paragraph 5.2 of this Schedule 22.

5.2. The Authority may:

- (a) Require the Contractor's chief financial officer to update the Authority as to its and/or the Guarantor's financial standing on a monthly basis and, if applicable, require the Contractor to use all reasonable endeavours to procure that the Guarantor directly provides monthly updates to the Authority;
- (b) Provide the Authority with a draft Financial Distress Event Service Continuity Plan setting out how the Contractor will ensure the continuity of provision of the Services in the event that the Contractor or the Guarantor becomes subject to the occurrence of an Insolvency Event (which, in respect of the latter, includes compliance with clause G4.6 of the Contract); and
- (c) Instruct the bank where the Financial Distress Escrow Account is held to retain in that Financial Distress Escrow Account, for the benefit of the Authority, such part of the Fees as the Authority shall specify (which the Parties acknowledge shall be a substantial part of the Fees after making payments in accordance with paragraphs 4.4(a), (b) and (c) and agree shall not constitute a breach of this Contract under clause H2 (Termination by the Contractor) for six (6) consecutive months.

5.3. The Authority shall not exercise its right under paragraph 5.2 (c) without first:

- (a) Notifying the Contractor in writing of its intention to do so; and
- (b) Where requested by the Contractor within three (3) Working Days of the date of the Authority's notification under paragraph 5.3(a) meeting with and considering any representations made by the Contractor.

6. Termination Rights

6.1. The Authority shall be entitled to terminate this Contract under clause H2 (Termination by the Authority) if:

- (a) The Contractor fails to notify the Authority in accordance with paragraph 4 and/or 5 in respect of a Financial Distress Event;
- (b) The Parties fail to agree a Financial Distress Event Service Continuity Plan in accordance with paragraphs 3.2 to 3.4 of this Schedule 22;
- (c) The Contractor fails to comply with the terms of the Financial Distress Event Service Continuity Plan in accordance with paragraph 3.5 of this Schedule 22; and/or
- (d) The Contractor fails to establish the Financial Distress Escrow Account and/or otherwise comply with its obligations in accordance with paragraph 4 or 5 of this Schedule 22; and/or
- (e) The Contractor fails to comply with clause G4.6.

7. Consequences of an Improvement in Financial Distress

7.1. Following the occurrence of a Financial Distress Event pursuant to paragraph 4 of this Schedule 22 then (as applicable):

- (a) If the Guarantor's Financial Ratios subsequently rise and are maintained above Level 2 pursuant to paragraph 4 of this Schedule 22 for a period of five (5) consecutive months; and/or
- (b) The relevant key Sub-contractor withdraws its claim that the Contractor has not satisfied any material sums properly due and invoices or the Contractor has demonstrated to the Authority's reasonable satisfaction that there is a valid reason for non-payments,

then, subject to any subsequent Financial Distress Event, the Contractor may request that the Authority pay the Fees direct to the Contractor and that the Authority gives its

consent to the closure of the Financial Distress Escrow Account and the Contractor's withdrawal of any sums standing to the credit of that account, and the Authority shall not unreasonably withhold or delay its agreement and consent in response to such request.

8. Sub-Contractor Payment

- 8.1. The Contractor shall ensure that all key Sub-contract include an obligation on the key Sub-contractors to report to the Authority, within ten (10) Working Days of the due date for payment, any material non-payment or late payment of any sums due to it from the Contractor under the provision of the key Sub-contract.

Schedule 23

Personal Data, Special Categories Of Personal Data And Data Subjects

ANNEX A – DATA PROCESSING

This Schedule 23 shall be completed by the Authority, who may take account of the view of the Contractor, however the final decision as to the content of this Schedule 23 shall be with the Authority at its absolute discretion.

1. The contact details of the Authority's Data Protection Officer are: [REDACTED]
2. The contact details of the Contractor's Data Protection Officer are: [REDACTED]
3. The Contractor shall comply with any further written instructions from the Authority with respect to Processing.
4. Any such further instructions shall be incorporated into this Schedule.

[To be completed at Contract Award stage]

Description	Details
Identity of the Controller and Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Contractor is the Processor except as detailed in Annex B of this Schedule 23.
Subject matter of the processing	
Duration of the processing	
Nature and purposes of the processing	
Type of Personal Data and Special Categories of Personal Data	

Categories of Data Subject	
Plan for return and destruction of the data once the processing is complete UNLESS requirement under European Union or European member state law to preserve that type of data	

ANNEX B – DATA CONTROLLER

PART 1

The Authority shall be the Data Controller of:

Any Personal Data and Special Category Personal Data relating to the Contract that it collects and transfers to the Contractor. The Department is also Controller for any sets of Personal Data and Special Category Personal Data which it prescribes the Contractor shall Process pursuant to the Contract.

PART 2

The Contractor shall be the Data Controller of:

Any sets of Personal Data and Special Category Personal Data which the Contractor Processes pursuant to or in connection with the Contract, of which the contents are not specifically prescribed by the Department.