

CONNECT TO WORK AGREEMENT

BERKSHIRE CONNECT TO WORK PROGRAMME - SUPPLY OF SERVICES AGREEMENT

BETWEEN

WOKINGHAM BOROUGH COUNCIL

AND

PALLADIUM INTERNATIONAL LIMITED

THIS AGREEMENT is dated the 16th day of December 2025

BETWEEN

- (1) **WOKINGHAM BOROUGH COUNCIL** of Shute End, Wokingham, Berkshire RG40 1BN (“**the Accountable Body**”); and
- (2) **PALLADIUM INTERNATIONAL LIMITED** incorporated and registered in England and Wales with company number 02394229 whose registered office is at 16th Floor, Hylo, 105, Bunhill Row, London, EC1Y 8LZ (“**the Prime Contractor**”)

RECITALS:

- (A) The Accountable Body, a local authority as defined by section 270 of the Local Government Act 1972 acting on behalf of, and with the consent of, the Participating Councils comprising the Berkshire Economic Prosperity Board Joint Committee pursuant to the Inter Authority Agreement dated 7 February 2025.
- (B) The Accountable Body sought proposals for the delivery of the Berkshire Connect to Work Programme by means of a public tender exercise. The Accountable Body placed a Tender Notice (Ref 2025/S 000-058679) on 22 September 2025 in the UK e-notification service Find a Tender (FTS), seeking Tenders from potential providers for the provision of the Berkshire Connect to Work Programme. This programme delivers supported employment through two different types of interventions based on participants' needs: Individual Placement and Support (IPS) and the Supported Employment Quality Framework (SEQF).
- (C) The Accountable Body has, through a competitive process, selected the Prime Contractor to provide these services and the Prime Contractor is willing and able to provide the services in accordance with the terms and conditions of this Agreement.

IT IS AGREED:

- 1. This Agreement is comprised of the following documents:
 - 1.1 this Form of Agreement;
 - 1.2 the Contract Particulars;
 - 1.3 ‘Not Used’

- 1.4 the Conditions of Contract;
- 1.5 the Schedules (excluding Schedule 2 (the Tender));
- 1.6 the Appendices; and
- 1.7 Schedule 2 (the Tender)

and (unless otherwise expressly stated) any inconsistency between them shall be resolved in accordance with the descending order of priority in which they are listed above, save that, where any standards contained in Schedule 2 (the Tender) exceed those in the Specification, the higher standards contained in Schedule 2 (the Tender) shall take precedence.

- 2. Terms and expressions used in this Agreement shall have the meanings given in clause 1 (Definitions and Interpretation) of the Conditions of Contract.

EXECUTION AS A DEED

IN WITNESS whereof this Agreement has been executed by the Parties as a deed:

THE COMMON SEAL of)
WOKINGHAM BOROUGH)
COUNCIL was hereunto affixed in)
the presence of:)



37498

DocuSigned by:
Sibhan Allen
EA0AA1307DE948A...
Authorised Signatory

Legal Assistant

EXECUTED AS A DEED by)
PALLADIUM INTERNATIONAL)
LIMITED acting by Amelia Beeley,)
a director and Elizabeth Stockley,)
its secretary)

Signed by:
Amelia Beeley
5C17478F56A0439...

Signed by:
Liz Stockley
22AD802E542940E...

Director/Company Secretary

CONTRACT PARTICULARS

No.	Particular	Amendment to Conditions of Contract	Clause affected
1.	Commencement Date:	The Commencement date shall be the date on which the Accountable Body issues its Contract Award letter, which is 26 November 2025.	(clause 2)
2.	Initial Term:	3 years from Commencement Date	(clause 2 and clause 3)
3.	Charges:	As set out in Schedule 2	(clause 11)
4.	Contract Extension:	Yes	(clause 3)

If Yes, the extension provision shall be a maximum period of up to 24 months. Any extension beyond 31 March 2030 shall be subject to funding outside the current DWP Connect to Work grant funding. The period of notice given prior to an extension shall be 3 months.

5.	Address for Service of Notices	<p>For the Accountable Body: Wokingham Borough Council Address: Shute End, Wokingham Borough Council, Wokingham, Berkshire RG40 1BN</p> <p>For the attention of: Karen Yeomans Email: Karen.Yeomans@wokingham.gov.uk</p> <p>For the Prime Contractor: Address:</p>	(clause 43)
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16th Floor, Hylo, 105, Bunhill Row, London,
EC1Y 8LZ
Becky Brocklehurst
Email:
Becky.Brocklehurst@thepalladiumgroup.com

- | | | | |
|-----|---------------------------|--|-----------------------|
| 6. | Service Levels | Clause 6 does not apply

AND

Clause 30.5 applies | (clause 6, clause 30) |
| 7. | Transport | clause 8.6 applies | (clause 8.6) |
| 8. | Key Personnel | clause 13 applies | (clause 13) |
| 9. | Safeguarding | clause 15 applies | (clause 15) |
| 10. | Accountable Body Premises | Does not apply | |
| 11. | Parent Company Guarantee | clause 4.11 and Schedule 9 applies, on request of the Accountable Body | |
| 12. | Performance Bond | clause 4.12 does not apply | |

- | | | | |
|-----|-------------------------|--|-------------|
| 13. | Payment and VAT | Charges and Payments are set out in (Pricing schedule in schedule 2 (Tender) | |
| 14. | Price Adjustment | clause 11.14 applies | |
| 15. | Review | clause 18.4 applies | |
| 16. | Audit | <p>Period for which records must be maintained after the end of the Agreement:</p> <p>Where the Agreement is signed under hand:
six (6) years</p> <p>Where the Agreement is executed as a deed:
twelve (12) years</p> | (clause 28) |
| 17. | Liability and Indemnity | No limit of liability. | (clause 23) |
| 18. | Insurance | <p>Public Liability Insurance: Minimum £10 million for any one occurrence</p> <p>Employer's Liability Insurance: Minimum £10 million for any one occurrence or series of claims arising out of any one occurrence)</p> <p>Professional Indemnity Insurance: Minimum £5 million for any one claim and in the aggregate for the Period of Insurance)</p> <p>Cyber Risks Insurance: Minimum £2 million for any one occurrence or series of claims arising out of any one occurrence</p> | (clause 24) |

- | | | | |
|-----|---------------------|---|--------------|
| 19. | Business Continuity | clause 10 applies | (clause 10) |
| 20. | Branding Principles | Schedule 8 applies | (Schedule 8) |
| 21. | Break Clause | Clause 31_applies
The period of notice for the break provision shall be 30 days. | (clause 31) |

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1. CONDITIONS OF CONTRACT - DEFINITIONS AND INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

Accountable Body Assets: any materials, plant or equipment owned or held by the Accountable Body and provided to the Prime Contractor by the Accountable Body for use in providing the Services.

Accountable Body's Premises: Not Applicable.

Agreement: all those documents which are set out in paragraph 1 of the Form of Agreement.

Appendix: means an appendix to this Agreement, and **Appendices** shall mean more than one Appendix.

Associated Company: any holding company from time to time of the Prime Contractor and any subsidiary from time to time of the Prime Contractor, or any subsidiary of any such holding company.

Authorised Representatives: the persons respectively designated as such by the Accountable Body and the Prime Contractor, the first such persons being set out in Schedule 3 (Performance Management Framework).

Best Industry Practice: the standards which fall within the upper quartile in the relevant industry for the provision of comparable services which are substantially similar to the Services or the relevant part of them, having regard to factors such as the nature and size of the parties, the Service Levels, the Term, the Charges and any other relevant factors.

Bribery Act: 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 government department concerning the legislation.

Catastrophic Failure: any action by the Prime Contractor, whether in relation to the Services or otherwise, which in the reasonable opinion of the Accountable Body's Representative has or may cause significant harm to the reputation of the Accountable Body.

Change: any change to this Agreement including to any of the Services.

Change Control Procedure: the procedure for changing this Agreement, as set out in Schedule 4 (Change Control).

Change Control Note: the written record of a Change agreed or to be agreed by the parties pursuant to the Change Control Procedure.

Charges: the charges which shall become due and payable by the Accountable Body to the Prime contractor in respect of the Services in accordance with the provisions of this Agreement, as such charges are set out in Schedule 2 (Tender).

Commencement Date: the date specified in the Contract Particulars or if no date is stated, the date of this Agreement.

Commercially Sensitive Information: the information listed in Schedule 7 (Commercially Sensitive Information) comprising the information of a commercially sensitive nature relating to the Prime Contractor, its intellectual property rights or its business or which the Prime Contractor has indicated to the Accountable Body that, if disclosed by the Accountable Body, would cause the Prime Contractor significant commercial disadvantage or material financial loss.

Consistent Failure: Not Applicable.

Contract Particulars: the contract particulars forming part of this Agreement.

Contract Year: a period of twelve (12) months, commencing on the Commencement Date.

Data Controller: as defined in the Data Protection Legislation.

Data Loss Event: any event that results, or may result, in unauthorised access to Personal Data held by the Prime Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.

Data Protection Impact Assessment: an assessment by the Data Controller of the impact of the envisaged processing on the protection of Personal Data.

Data Protection Legislation: (i) the DPA; (ii) the UK General Data Protection Regulation (as defined in s.3(10) (as supplemented by section 205(4) of the DPA) (UK GDPR) and (iii) any other applicable Law about the processing of Personal Data and privacy (including, without limitation, the privacy of electronic communications) in force from time to time in the UK.

Data Protection Officer: as defined in the Data Protection Legislation.

Data Subject: as defined in the Data Protection Legislation.

Data Subject Access Request: a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

Default Notice: is defined in clause 5.2 (Supply of Services).

Disaster: an event defined as a disaster in the Business Continuity Plan.

Dispute Resolution Procedure: the procedure set out in clause 20 (Dispute Resolution).

DPA: the Data Protection Act 2018.

DWP Funding Agreement: the agreement attached in Appendix 1.

EIRs: the Environmental Information Regulations 2004 (SI 2004/3391) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

Exit Management Plan: the plan set out in Schedule 5 (Exit).

Extremist Activity: vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs.

FOIA: the Freedom of Information Act 2000, and any subordinate legislation made under that 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: any event, occurrence, circumstance, matter or cause that affects the performance by a party of its obligations under this Agreement arising from acts, events, omissions, happenings or non-happenings that are not within a party's reasonable control which prevents or materially delays it from performing its obligations under the Agreement including, without limitation:

- a) acts of Gods, flood, drought, earthquakes or other natural disaster;
- b) epidemic, outbreak, pandemic, or disease;
- c) failure in the Prime Contractor's supply chain;
- d) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation of war, armed conflict, imposition of sanctions, political unrest or embargo;
- e) nuclear, chemical or biological contamination or sonic boom;
- f) any Law or any action taken by a government or public authority (excluding any action by the Accountable Body whilst acting in its role as a customer under this Agreement);
- g) collapse of a building(s), fire, explosion or accident.

Form of Agreement: the form of agreement included within this Agreement.

Information: as defined in section 84 of FOIA.

Initial Term: the period stated in the Contract Particulars commencing on the Commencement Date.

Insolvency Event: where:

- a) the Prime Contractor 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 (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- b) the Prime Contractor commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;

- c) a petition is filed, 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 (being a company);
- d) 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 given or if an administrator is appointed, over the Prime Contractor (being a company);
- e) the holder of a qualifying floating charge over the assets of the Prime Contractor (being a company) has become entitled to appoint or has appointed an administrative receiver;
- f) a person becomes entitled to appoint a receiver over the assets of the Prime Contractor or a receiver is appointed over the assets of the Prime Contractor;
- g) the Prime Contractor (if an individual) is the subject of a bankruptcy petition or order;
- h) a creditor or encumbrancer of the Prime Contractor attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within fourteen (14) days;
- i) 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 in (a) to (h) (inclusive);
- j) the Prime Contractor suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- k) the Prime Contractor (if an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

Intellectual Property: any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites.

Key Personnel: those personnel identified Schedule 3 (Performance Management Framework) for the roles attributed to such personnel, as modified pursuant to clause 13 (Key Personnel).

Law: any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Prime Contractor is bound to comply.

Management Reports: the reports to be prepared and presented by the Prime Contractor in accordance with clause 17 (Reporting and Meetings) and Schedule 3 (Performance Management Framework) to include a comparison of Achieved KPIs in the measurement period in question and measures to be taken to remedy any deficiency in Achieved Service Levels.

Mandatory Policies: the Accountable Body's policies which the Prime Contractor shall adhere to in delivery of the Services as listed in Schedule 11 (Mandatory Policies), copies of which shall be provided to the Supplier on request.

Necessary Consents: all approvals, certificates, authorisations, permissions, licences, permits, regulations and consents necessary from time to time for the performance of the Services.

Participating Local Authorities: In addition to the Accountable Body, the Royal Borough of Windsor & Maidenhead; Reading Borough Council; Bracknell Forest Borough Council; West Berkshire Council and Slough Borough Council (also referred to as the "Berkshire Boroughs").

Party: the Prime Contractor's agents and service providers, including each Sub-Contractor.

Payment Plan: the plan for payment of the Charges as set out in Schedule 1 (Specification).

Personal Data / Personal Data Breach: as defined in the Data Protection Legislation.

Data Processor: as defined in the Data Protection Legislation.

Prime Contractor: the selected Contractor

Prime Contractor Party: the Prime Contractor's agents and service providers, including each Sub-Contractor.

Prime Contractor's Personnel: all employees, staff, other workers, agents and consultants of the Prime Contractor and of any Sub-Contractors who are engaged in the provision of the Services from time to time.

Prime Contractor's Personnel: all employees, staff, other workers, agents and consultants of the Prime Contractor and of any Sub-Contractors who are engaged in the provision of the Services from time to time.

Prime Contractor's Tender: the tender submitted by the Prime Contractor and other associated documentation set out in Schedule 2 (Tender).

Programme Year: each Financial Year of the Programme beginning 1 April 2025 and ending on 31 March 2030

Prohibited Act: the following constitute Prohibited Acts:

- a) offering, promising or agreeing to give to any servant of the Accountable Body any gift or consideration of any kind as an inducement or reward for:

- (i) doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other Agreement with the Accountable Body; or
 - (ii) showing favour or disfavour to any person in relation to this Agreement or any other Agreement with the Accountable Body;
- b) committing any offence:
- (i) under the Bribery Act and or the Data Protection Legislation; or
 - (ii) under legislation creating offences in respect of fraudulent acts; or
 - (iii) at common law in respect of fraudulent acts in relation to this Agreement or any other Agreement with the Accountable Body; or
 - (iv) defrauding or attempting to defraud or conspiring to defraud the Accountable Body;
 - (v) any action that may reasonably be considered to be to the detriment of the Accountable Body and or any Service User's welfare, either by positive action or by omission. Such action shall include but is not limited to; breach of any Law related to health, safety and or care, safeguarding, abuse, sexual allegations and/or misconduct; financial malpractice or business continuity failure;

Protective Measures: appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the measures adopted by it.

Regulated Activity: either:

- a) in relation to children, as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006; or
- b) in relation to vulnerable adults, as defined in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.

Regulated Activity Provider: as defined in section 6 of the Safeguarding Vulnerable Groups Act 2006.

Relevant Transfer: a relevant transfer for the purposes of TUPE.

Remediation Notice: a notice served by the Accountable Body in accordance with clause 30.1(a) (Termination for Breach).

Replacement Services: any services that are identical or substantially similar to any of the Services and which the Accountable Body receives in substitution for any of the Services following the

termination or expiry of this Agreement, whether those services are provided by the Accountable Body internally or by any Replacement Prime Contractor.

Replacement Prime Contractor: any third party Replacement Prime Contractor appointed by the Accountable Body from time to time.

Request for Information: a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the EIRs.

Schedule: any schedule to this Agreement (and **Schedules** shall mean more than one such Schedule).

Services: the services to be delivered by or on behalf of the Prime Contractor under this Agreement, as more particularly described in Schedule 1 (Specification).

Service Failure: a failure by the Prime Contractor to provide the Services in accordance with any individual Service Level.

Service Levels: the minimum service levels to which the Services are to be provided, as set out in Schedule 1 (Specification).

Service User: means a person receiving the benefit of the Services from the Prime Contractor. Also referred to as Participant/s;

Sub-Contract: a contract between the Prime Contractor and one (1) or more suppliers, at any stage of remoteness from the Accountable Body in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement.

Sub-Contractor: the service providers that enter into a Sub-Contract with the Prime Contractor.

Sub-Processor: any third party appointed to process Personal Data on behalf of the Prime Contractor related to this Agreement.

Term: the period of the Initial Term, as the same may be varied by:

- (a) any extensions to this Agreement which are agreed pursuant to clause 3 (Extending the Initial Term); or
- (b) the earlier termination of this Agreement in accordance with its terms.

Termination Date: the date of expiry or termination of this Agreement.

TUPE: the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) (as amended from time to time).

Working Day: Monday to Friday, excluding any public holidays in England and Wales.

1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.

- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Schedules and Appendices form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any reference to this Agreement includes the schedules, appendix and appendices (subject always to the order of precedence of such documents as set out in the Form of Agreement).
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Words in the singular shall include the plural and vice versa.
- 1.7 A reference to one gender shall include a reference to all other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.9 A reference to **writing** or **written** includes e-mail.
- 1.10 Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.11 A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of this Agreement) at any time.
- 1.12 References to clauses, Schedules and Appendices are to the clauses, Schedules and Appendices of this Agreement; references to paragraphs are to paragraphs of the relevant Schedule or Appendix (as the case may be).

2. **TERM**

This Agreement shall take effect on the Commencement Date and shall continue for the Term unless it is otherwise terminated in accordance with the provisions of the Agreement, or by operation of Law, or extended under clause 3 below.

3. EXTENDING THE INITIAL TERM

- 3.1 Where stipulated in the Contract Particulars, the Accountable Body may at its discretion extend this Agreement beyond the Initial Term by such further period, or periods, as is stated in the Contract Particulars (the “**Extension Period**”). If the Accountable Body wishes to extend this Agreement, it shall give the Prime Contractor the number of months' written notice of such intention required by the Contract Particulars before the expiry of the Initial Term or any Extension Period.
- 3.2 If the Accountable Body gives such notice then the Term shall be extended by the period set out in the notice served pursuant to clause 3.1 above and the provisions of this Agreement shall continue to apply throughout any Extension Period.
- 3.3 If the Accountable Body does not wish to extend this Agreement beyond the Initial Term this Agreement shall expire on the expiry of the Initial Term and the provisions of clause 36 (Consequences of Termination) shall apply.

4. CONSENTS, PRIME CONTRACTOR'S WARRANTY, DUE DILIGENCE AND PERFORMANCE GUARANTEES

- 4.1 The Prime Contractor shall ensure that all Necessary Consents are in place to provide the Services and the Accountable Body shall not (unless otherwise agreed) incur any additional costs associated with obtaining, maintaining or complying with the same.
- 4.2 Where there is any conflict or inconsistency between the provisions of this Agreement and the requirements of a Necessary Consent, then the latter shall prevail, provided that the Prime Contractor has used reasonable endeavours to obtain a Necessary Consent in line with the requirements of the Services.
- 4.3 The Prime Contractor shall be responsible for the accuracy of all drawings, documentation and information supplied to the Accountable Body by the Prime Contractor in connection with the supply of the Services and shall pay the Accountable Body any extra costs occasioned by any discrepancies, errors or omissions therein.
- 4.4 The Prime Contractor acknowledges and confirms that:
 - (a) it has had an opportunity to carry out a thorough due diligence exercise in relation to the Services and has asked the Accountable Body all the questions it considers to be relevant for the purpose of establishing whether it is able to provide the Services in accordance with the terms of this Agreement;

- (b) it has received all information requested by it from the Accountable Body pursuant to clause 4.4(a) to enable it to determine whether it is able to provide the Services in accordance with the terms of this Agreement;
- (c) it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the Accountable Body pursuant to clause 4.4(b);
- (d) it has raised all relevant due diligence questions with the Accountable Body before the Commencement Date; and
- (e) it has entered into this Agreement in reliance on its own due diligence.

4.5 Save as provided in this Agreement, no representations, warranties or conditions are given or assumed by the Accountable Body in respect of any information which is provided to the Prime Contractor by the Accountable Body and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by Law. Save as otherwise expressly provided, the obligations of the Accountable Body under the Agreement are obligations of the Accountable Body in its capacity as a contracting counterparty and nothing in the Agreement shall operate as an obligation upon, or in any other way fetter or constrain the Accountable Body in any other capacity, nor shall the exercise by the Accountable Body of its duties and powers in any other capacity lead to any liability under the Agreement (howsoever arising) on the part of the Accountable Body to the Prime Contractor.

4.6 The Prime Contractor:

- (a) as at the Commencement Date, warrants and represents that all information contained in the Prime Contractor's Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Accountable Body prior to execution of the Agreement;
- (b) shall promptly notify the Accountable Body in writing if it becomes aware during the performance of this Agreement of any inaccuracies in any information forming part of its due diligence in accordance with clause 4.4 above which materially and adversely affects its ability to perform the Services or meet any Service Levels; and
further warrants and represents that:
- (c) 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 Agreement and that the Agreement is executed by duly authorised representatives of the Prime Contractor;
- (d) in entering the Agreement, it has not committed any Prohibited Act;

- (e) 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 Agreement;
- (f) 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 Agreement;
- (g) 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 Prime 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 Prime Contractor's assets or revenue;
- (h) 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 Agreement;
- (i) in the three (3) years prior to the date of the Agreement:
 - (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 Agreement.

4.7 The Prime Contractor shall not be entitled to recover any additional costs from the Accountable Body which arise from, or be relieved from any of its obligations as a result of, any matters or inaccuracies notified to the Accountable Body by the Prime Contractor in accordance with clause 4.6(b) above save where such additional costs or adverse effect on performance have been caused by the Prime Contractor having been provided with fundamentally misleading information by or on behalf of the Accountable Body and the Prime Contractor could not reasonably have known that the information was misleading at the time such information was provided. If this exception applies, the Prime Contractor shall be entitled to recover such reasonable additional costs from the Accountable Body, or shall be relieved from performance of certain obligations, as shall be agreed by the parties pursuant to the Change Control Procedure.

4.8 Nothing in this clause 4 shall limit or exclude the liability of the Accountable Body for fraud or fraudulent misrepresentation.

- 4.9 The Prime Contractor shall take appropriate steps to ensure that neither the Prime Contractor nor any of the Prime Contractor's Personnel are placed in a position where, in the reasonable opinion of the Accountable Body, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Prime Contractor, or the Prime Contractor's Personnel, and any of their respective obligations to the Accountable Body under the provisions of the Agreement. The Prime Contractor will disclose to the Accountable Body full particulars of any such conflict of interest which may arise immediately on discovery of the same.
- 4.10 The Accountable Body reserves the right to terminate the Agreement immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Accountable Body, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Prime Contractor or any of the Prime Contractor's Personnel and any of their respective obligations to the Accountable Body under the provisions of the Agreement. The actions of the Accountable Body pursuant to this clause 4.10 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Accountable Body.
- 4.11 Where stipulated in the Contract Particulars as applicable, the Accountable Body may request that the Prime Contractor shall procure delivery of a parent company guarantee substantially in the form contained in Schedule 9 (Parent Company Guarantee) or another agreed form of Guarantee, if no Parent Company exists.
- 4.12 Not Used.
- 4.13 Note, the requirement for provision of a Parent Company Guarantee or other Form of Guarantee shall be notified to the Prime Contractor prior to the Commencement Date or, if the Prime Contractor's financial status merits such notification, during the Agreement.

THE SERVICES

5. SUPPLY OF SERVICES

- 5.1 The Prime Contractor shall provide the Services to the Accountable Body with effect from the Commencement Date and for the duration of this Agreement in accordance with the provisions of this Agreement.
- 5.2 In the event that the Prime Contractor does not comply with the provisions of clause 5.1 in any way, the Accountable Body may serve the Prime Contractor with a notice in writing setting out the details of the Prime Contractor's default (a **Default Notice**).

5.3 In delivering the Service, the Prime Contractor shall use reasonable endeavours to secure demonstrable, measurable and continuous improvement (having regard in particular to economy, effectiveness and efficiency) in the performance of the Service; the time, cost, quality and health and safety standards within the various processes of the Service and generally to provide best value to the Accountable Body and Service Users.

5.4 The Prime Contractor acknowledges that funding for the provision of the Services is provided by the Department for Work and Pensions. The Prime Contractor shall perform the Services in conformity with and so as not to put the Accountable Body in breach of and so as to facilitate the Accountable Body's obligations under the DWP Funding Agreement.

6. NOT USED

7. SERVICE STANDARDS

7.1 Without prejudice to clause 6 (Service Levels), the Prime Contractor shall provide the Services, or procure that they are provided:

- (a) with due skill, care and diligence, and in accordance with the best practice prevailing in the industry from time to time;
- (b) in all respects in accordance with the Mandatory Policies set out in Schedule 11 (Mandatory Policies) including, its health and safety policies;
- (c) in accordance with all applicable Laws; and
- (d) the requirements of the Agreement (including the Specification).

7.2 Without limiting the general obligation set out in clause 7.1, the Prime Contractor shall (and shall procure that the Prime Contractor's Personnel shall):

- (a) perform its obligations under this Agreement (including those in relation to the Services) in accordance with:
 - (i) all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise and including (without limitation) the Equality Act 2010, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000, the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002, or any preceding, successor or amending legislation concerning the same) and shall fully indemnify the Accountable Body against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach by the Prime Contractor of this obligation;

- (ii) any Mandatory Policy dealing with equality and diversity provided to the Prime Contractor from time to time (including without limitation codes of practice issued for combating discrimination); and
 - (iii) any other requirements and instructions which the Accountable Body reasonably imposes in connection with any equality obligations imposed on the Prime Contractor at any time under applicable equality Law;
- (b) take all necessary steps, and inform the Accountable Body of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal;
- (c) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Agreement. The Prime Contractor shall also undertake, or refrain from undertaking, such acts as the Accountable Body requests so as to enable the Accountable Body to comply with its obligations under the Human Rights Act 1998; and
- (d) comply with the quality standards set out in the Specification, and where applicable shall maintain accreditation with the relevant authorisation body. To the extent the standard of the Service is not specified in the Agreement the Prime Contractor shall agree the relevant standard of the Services with the Accountable Body's authorised Representative prior to the delivery of the Services and the Prime Contractor shall undertake its obligations in accordance with Good Industry Practice. In the event that the Prime Contractor's Tender contains any quality standard which exceeds that detailed in the Specification then this clause 7.2(d) shall be disappplied and the Prime Contractor shall instead comply with the higher quality standard detailed in the Prime Contractor's Tender.

7.3 Where a complaint is received about the standard of Services or about any other matter connected with the performance of the Prime Contractor 's obligations under the Agreement, then the Accountable Body shall be entitled to investigate the complaint in accordance with the monitoring and management procedures contained in Schedule 1 (Specification). The Accountable Body may, in its sole discretion, uphold the complaint and take further action in accordance with clause 30 (Termination for Breach) of the Agreement.

8. HEALTH AND SAFETY

8.1 The Prime Contractor shall promptly notify the Accountable Body of any health and safety hazards, which may arise in connection with the performance of the Agreement (including those at the Accountable Body's Premises of which it becomes aware). The Accountable Body shall promptly notify the Prime Contractor of any health and safety hazards that may exist or arise at the Accountable Body's Premises and that may affect the Prime Contractor in the performance of the Agreement. The Prime Contractor shall instruct the Prime Contractor's Personnel to adopt any necessary associated safety measures in order to manage any such health and safety hazards.

- 8.2 While on the Accountable Body's Premises, the Prime Contractor shall comply with any health and safety measures implemented by the Accountable Body in respect of staff and other persons working on the Accountable Body's Premises.
- 8.3 The Prime Contractor shall notify the Accountable Body immediately in the event of any incident occurring in the performance of the Agreement on the Accountable Body's Premises where that incident causes any personal injury or damage to property that could give rise to personal injury.
- 8.4 The Prime Contractor shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to staff and other persons working on the Accountable Body's Premises in the performance of the Agreement.
- 8.5 The Prime 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 Accountable Body on request.
- 8.6 This Clause 8.6 shall apply where stated in the Contract Particulars. The Prime Contractor must ensure that the transport provided in conjunction with the Services is in compliance with all Laws, regulations and Best Industry Practice, including without limitation:
- (a) the driver and/or escort being subject to a valid enhanced disclosure check for regulated activity (pursuant to clause 15 (Safeguarding Children and Vulnerable Adults) of this Agreement) undertaken through the Disclosure and Barring Service (**DBS**) including a check against the adults' barred list or the children's barred list as appropriate (and which is rechecked a minimum of every three (3) years), a valid licence and all required authorisations to use the relevant vehicle;
 - (b) that each vehicle used in the provision of the Services has current vehicle insurance appropriate to the type of service being provided (including the vehicle being insured for business use);
 - (c) they keep suitable transport records which can be viewed by the Accountable Body as part of the monitoring arrangements referred to in clause 17 (Reporting and Meetings) of this Agreement or at any other time at the Accountable Body's reasonable request. The number of passengers must never exceed the insured or licensed maximum;
 - (d) the vehicles used in the Services (and any additional equipment on the vehicle) are maintained and serviced in accordance with the manufacturer's instructions with full records being kept verifying this and must have a current MOT Certificate if appropriate;
 - (e) the vehicles used in the Service are suitable for the type and condition of passengers to be carried, and having seat belts or personal restraints which conform to the relevant British Standard/EU Standard, and which are used in all instances;

- (f) the vehicles are always driven safely and with consideration to passengers' needs. This includes conforming to all road traffic legislation and never driving whilst under the influence of any amount of alcohol, drugs or medication;
- (g) the driver must always be properly trained in handling the type of vehicle and, other than where a suitable escort is provided, the nature of the passengers to be carried;
- (h) all vehicles must carry a first aid kit that conforms to legislation. Fire extinguishers shall also be carried on the vehicles, and these will be maintained in accordance with the manufacturer's instructions;
- (i) in the event of the breakdown of a vehicle or the sickness of a driver it will be the responsibility of the Prime Contractor to provide a replacement vehicle and/or driver in order to ensure continuation of the Services. Such replacement vehicle and/or driver will be of the standard stipulated within this Agreement;
- (j) children being transported by the Prime Contractor must be securely fastened in a seat or harness appropriate to their age, size and weight. Only seats and harnesses bearing the British Kite Mark or European Regulations Mark (EUR 44.03) will be considered appropriate for use; and
- (k) second hand equipment will not be used unless its history is known and it has full instructions so that it can be fitted and used correctly. The seat or harness must be appropriate for the vehicle in which it is used and be fitted in accordance to the manufacturer's instructions. If Children are to be carried in a four (4) door car then child proof locks must be used.

The Accountable Body shall have the right and the power to undertake spot checks of the drivers, vehicles and/or any documents or registrations relating to the drivers and/or vehicles as may be reasonably required to ensure they are in compliance with the obligations under this Agreement. The Prime Contractor shall provide all reasonable assistance to the Accountable Body in the completion of such checks.

9. NOT USED

10. BUSINESS CONTINUITY

- 10.1 The Prime Contractor shall take reasonable care to ensure that in the performance of its obligations under the Agreement it does not disrupt the operations of the Accountable Body, its employees or any other contractor employed by the Accountable Body. The Prime Contractor shall immediately inform the Accountable Body of any actual or potential industrial action, whether such action is intended by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the Agreement. In the event of industrial action by the Prime Contractor's Personnel, the Prime Contractor

shall seek approval by the Accountable Body to its proposals to continue to perform its obligations under the Agreement. If the Prime Contractor's proposals are considered insufficient or unacceptable by the Accountable Body, acting reasonably, then the Agreement may be terminated with immediate effect by the Accountable Body by notice in writing. If the Prime Contractor is temporarily unable to fulfil the requirements of the Agreement owing to disruption of normal business of the Accountable Body, the Prime Contractor may request a reasonable allowance of time as a direct result of such disruption.

- 10.2 The Prime Contractor shall submit a Business Continuity Plan no later than 3 months of Commencement Date.

CHARGES AND PAYMENT

11. PAYMENT AND INDEXATION

- 11.1 In consideration of the provision of the Services by the Prime Contractor in accordance with the terms and conditions of this Agreement, the Accountable Body shall pay the Charges to the Prime Contractor in accordance with the Payment Plan.
- 11.2 The Prime Contractor shall invoice the Accountable Body for payment of the Charges at the time the Charges are expressed to be payable in accordance with the Payment Plan. All invoices shall be directed to the Accountable Body's Representative. The Prime Contractor shall ensure that each invoice contains all appropriate references and a detailed breakdown of the Services supplied and that it is supported by any other documentation reasonably required by the Accountable Body to substantiate the invoice.
- 11.3 The Accountable Body shall accept and process for payment an electronic invoice submitted for payment by the Prime Contractor where the invoice is undisputed and where it complies with the standard on electronic invoicing.
- 11.4 For the purposes of 11.3, an electronic invoice complies with the standard on electronic invoicing where it complies with the definition in the Procurement Act 2023.
- 11.5 Where the Prime Contractor submits an invoice to the Accountable Body in accordance with clause 11.2, the Accountable Body will consider and verify that invoice within seven (7) days.
- 11.6 The Accountable Body shall pay the Charges which have become payable in accordance with the Payment Plan within thirty (30) days of the date on which the Accountable Body has determined that the invoice from the Prime Contractor is valid and undisputed pursuant to clause 11.5 above. Where the Accountable Body fails to comply with clause 11.5, the invoice shall be regarded as

valid and undisputed seven (7) days after the date on which it is received by the Accountable Body.

11.7 Where the Prime Contractor enters into a Sub-Contract, the Prime Contractor shall include in that Sub-Contract:

- (a) provisions having the same effect as clause 11.5 to clause 11.7 (inclusive) of this Agreement; and
- (b) a provision requiring the counterparty to that Sub-Contract to include in any Sub-Contract which it awards provisions having the same effect as clause 11.5 to clause 11.7 (inclusive) of this Agreement.

11.8 Where any party disputes any sum to be paid by it then:

- (a) the party which issued the invoice (the **Invoicing Party**) shall issue a credit note for the disputed invoice;
- (b) the Invoicing Party shall issue a new invoice for that part of the invoiced sum which is not in dispute (the **Interim Invoice**) to the party which raised the dispute (the **Disputing Party**);
- (c) the Disputing Party shall pay the Interim Invoice in accordance with clause 11.6 above;
- (d) the parties shall determine the dispute regarding the balance of the disputed invoice in accordance with clause 20 (Dispute Resolution);
- (e) provided that the sum has been disputed in good faith, interest due on any sums in dispute shall not accrue until the earlier of thirty (30) days after resolution of the dispute between the parties;
- (f) the Invoicing Party shall issue a further invoice for any amount which it is determined is payable by the Disputing Party through the dispute resolution process in accordance with clause 20 (Dispute Resolution), and the provisions of clause 11.6 above shall apply to such invoice; and
- (g) the Prime Contractor shall not suspend the supply of Services unless the Prime Contractor is entitled to terminate the Agreement under clause 30.4 (Termination for Breach) for failure to pay undisputed sums of money.

11.9 Subject to clause 11.6, interest shall accrue and be payable on the late payment of any undisputed Charges properly invoiced under this Agreement at a rate of 4% per annum above the then-current base lending rate of the Bank of England. The Prime Contractor shall not suspend the supply of the Services if any payment is overdue unless it is entitled to terminate this Agreement under clause 30.4 (Termination for Breach) for failure to pay undisputed charges.

11.10 The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Accountable Body following delivery of a valid VAT invoice. The Prime Contractor

shall indemnify the Accountable Body against any liability (including any interest, penalties or costs incurred) which is levied, demanded or assessed on the Accountable Body at any time in respect of the Prime Contractor's failure to account for, or to pay, any VAT relating to payments made to the Prime Contractor under this Agreement.

- 11.11 The Prime Contractor shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to the Accountable Body pursuant to this Agreement. Such records shall be retained for inspection by the Accountable Body for seven (7) years from the end of the Contract Year to which the records relate.
- 11.12 The Accountable Body may retain or set off any sums owed to it by the Prime Contractor which have fallen due and payable against any sums due to the Prime Contractor under this Agreement, including the Admission Agreement, or any other agreement pursuant to which the Prime Contractor or any Associated Company of the Prime Contractor provides goods or services to the Accountable Body.
- 11.13 The Prime Contractor shall make any payments due to the Accountable Body without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise, unless the Prime Contractor has a valid court order requiring an amount equal to such deduction to be paid by the Accountable Body to the Prime Contractor.
- 11.14 The Charges shall be deemed to include for all inflation and/or reasonably expected legislation impacts for the first two years of the Contract. The Prime Contractor shall be entitled to submit a claim to increase the charges annually from the commencement of year three of the Contract, but any increase shall not exceed the 12-month average of inflation in the preceding 12 months as set out in the Consumer Price Index and shall only include increases to those elements of the Service affected by inflation. Any agreed increase shall be subject to headroom being available in the Budget Cap/s for the period/s in question.

12. NOT USED

STAFF

13. KEY PERSONNEL

This clause 13 shall apply if so stated in the Contract Particulars.

- 13.1 Each party shall appoint the persons named as such in Schedule 3 (Performance Management Framework) as the individuals who shall be responsible for the matters allocated to such Key Personnel. The Key Personnel shall be those people who are identified by each party as being key to the success of the implementation and/or operation of the Services and who shall be retained on the implementation and/or operation of the Services for such time as a person is required to

perform the role which has been allocated to the applicable Key Personnel. The Key Personnel shall have the authority to act on behalf of their respective party on the matters for which they are expressed to be responsible.

- 13.2 The Prime Contractor shall not remove or replace any of the Key Personnel unless:
- (a) requested to do so by the Accountable Body;
 - (b) the person is on long-term sick leave;
 - (c) the element of the Services in respect of which the individual was engaged has been completed to the Accountable Body's satisfaction;
 - (d) the person resigns from their employment with the Prime Contractor; or
 - (e) the Prime Contractor obtains the prior written consent of the Accountable Body.
- 13.3 The Prime Contractor shall inform the Accountable Body of the identity and background of any replacements for any of the Key Personnel as soon as a suitable replacement has been identified. The Accountable Body shall be entitled to interview any such person and may object to any such proposed appointment within fifteen (15) Working Days of being informed of or meeting any such replacement if, in its reasonable opinion, it considers the proposed replacement to be unsuitable for any reason.
- 13.4 Each party shall ensure that the role of each of its Key Personnel is not vacant (in terms of a permanent representative) for more than twenty (20) Working Days. Any replacement shall be as, or more, qualified and experienced as the previous incumbent and fully competent to carry out the tasks assigned to the Key Personnel whom they have replaced. A temporary replacement shall be identified with immediate effect from the Prime Contractor or the Accountable Body becoming aware of the role becoming vacant.
- 13.5 The Accountable Body may require the Prime Contractor to remove, or procure the removal of, any of its Key Personnel whom it considers, in its reasonable opinion, to be unsatisfactory for any reason which has a material impact on such person's responsibilities.
- 13.6 If the Prime Contractor replaces the Key Personnel as a consequence of this clause 13, the cost of effecting such replacement, including any increase in the pay rate, shall be borne by the Prime Contractor.

14. OTHER PERSONNEL USED TO PROVIDE THE SERVICES

- 14.1 At all times, the Prime Contractor shall ensure that:

- (a) each of the Prime Contractor's Personnel is suitably qualified, adequately trained and capable of providing the applicable part of the Services in respect of which they are engaged;
- (b) there is an adequate number of Prime Contractor's Personnel to provide the Services in accordance with this Agreement;
- (c) only those people who are authorised by the Prime Contractor (under the authorisation procedure to be agreed between the parties) are involved in providing the Services; and
- (d) all of the Prime Contractor's Personnel comply with all of the Accountable Body's policies including those that apply to persons who are allowed access to the applicable Accountable Body's Premises.

14.2 The Accountable Body may refuse to grant access to, and remove, any of the Prime Contractor's Personnel who do not comply with any such policies, or if they otherwise present a security threat.

14.3 The Prime Contractor shall replace any of the Prime Contractor's Personnel who the Accountable Body reasonably decides have failed to carry out their duties with due skill and care. Following the removal of any of the Prime Contractor's Personnel for any reason, the Prime Contractor shall ensure such person is replaced promptly with another person with the necessary training and skills to meet the requirements of the Services. The decision of the Accountable Body as to whether any person is to be excluded from being employed or engaged in delivering the Services and as to whether the Prime Contractor has failed to comply with 14.4 below shall be final and conclusive and the Prime Contractor shall indemnify the Accountable Body in respect of all claims, costs, losses and expenses arising from a decision under this clause 14.3.

14.4 The Prime Contractor shall maintain up-to-date personnel records on the Prime Contractor's Personnel engaged in the provision of the Services and, on request, provide information to the Accountable Body on the Prime Contractor's Personnel (including, without limitation, information relating to training and qualifications, health, complaints and disciplinary issues) which the Accountable Body reasonably requests to ensure the Prime Contractor's compliance with clause 8 (health and safety), clause 14 (other personnel used to provide the services), clause 15 (safeguarding children and vulnerable adults) and clause 18 (monitoring). Failure to comply with any such request within twenty-one (21) days of the date of such request shall be deemed a Consistent Failure. The Prime Contractor shall ensure at all times that it has the right to provide these records in compliance with the applicable Data Protection Legislation. The Accountable Body's right to process these records under applicable Data Protection Legislation relates to or arises from the exercise of a public task/official authority and/or an activity in the public interest.

14.5 The Prime Contractor shall use its best endeavours to ensure continuity of personnel and to ensure that the turnover rate of its staff engaged in the provision or management of the Services is at least as good as the prevailing industry norm for similar services, locations and environments.

15. SAFEGUARDING CHILDREN AND VULNERABLE ADULTS

This clause 15 shall apply where stipulated in the Contract Particulars.

- 15.1 The parties acknowledge that the Prime Contractor is a Regulated Activity Provider with ultimate responsibility for the management and control of the Regulated Activity provided under this Agreement and for the purposes of the Safeguarding Vulnerable Groups Act 2006.
- 15.2 The Prime Contractor shall ensure that all individuals engaged in the provision of the Services are subject to a valid enhanced disclosure check for regulated activity undertaken through the DBS, including a check against the adults' barred list or the children's barred list, as appropriate and the Prime Contractor shall monitor the level and validity of the checks under this clause 15.2 for each member of staff.
- 15.3 The Prime Contractor warrants that at all times for the purposes of this Agreement it has no reason to believe that any person who is or will be employed or engaged by the Prime Contractor in the provision of the Services is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
- 15.4 The Prime Contractor shall immediately notify the Accountable Body of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 15 have been met. The Accountable Body's right under applicable Data Protection Legislation to process any information supplied under this clause 15.4 relates to or arises from the exercise of a public task/official authority.
- 15.5 The Prime Contractor shall refer information about any person carrying out the Services to the DBS where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to any service users/children/vulnerable adults.
- 15.6 The Prime Contractor shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that they would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Service Users.
- 15.7 The Prime Contractor will, at its sole cost ensure that:
- (a) the Prime Contractor and all persons involved in any way in providing a service on behalf of the Prime Contractor understand and operate in accordance with the safeguarding policies for Berkshire as may be more specifically described and required in the Specification or in the Mandatory Policies and that they are appropriately trained to recognise abuse;

- (b) all Services provided under this Agreement comply with all relevant Law including (without limitation) all statutes directives regulations orders code of practice and best practice guidance (as amended from time to time) related to the prevention of and protection from abuse issued by (but without limitation) any government department;
- (c) all persons involved in providing a service on behalf of the Prime Contractor cooperate fully with all investigations by the Accountable Body or any person authorised by the Accountable Body (including any Safeguarding Board or other supervisory board in relation to either vulnerable adults or children) to conduct such investigations of any alleged, suspected or actual abuse;
- (d) the Accountable Body is informed immediately of any adult or child protection investigation, concern or adult/child protection strategy arising from or related to the delivery of Services or where they have grounds to believe there has been abuse of a Vulnerable Adult or child, in accordance with the Accountable Body's Safeguarding Adults procedures, or abuse of a child, in accordance with the Accounting Body's Child Protection procedures as may be further described in the Specification; and
- (e) there are robust arrangements for the auditing, monitoring and reporting of activity related to protection from abuse.

15.8 Where in the sole opinion of the Accountable Body, the safeguarding vulnerable adults or safeguarding children policies are invoked, the Accountable Body will be entitled to reasonably withhold any new business until such time as any issue is resolved to the satisfaction of the Accountable Body.

16. TUPE

The parties agree that the provisions of Schedule 6 (TUPE) shall apply to any Relevant Transfer of staff under this Agreement, noting that TUPE does not apply to this Contract, but may apply to its successor.

CONTRACT MANAGEMENT

17. REPORTING AND MEETINGS

17.1 The Prime Contractor shall provide the Management Reports in the form and at the intervals set out in Schedule 1 (Specification).

17.2 The Authorised Representatives and relevant Key Personnel shall meet in accordance with the details set out in Schedule 3 (Performance Management Framework) and the Prime Contractor

shall, at each meeting, present its previously circulated Management Reports and Financial Reports in the format set out in that Schedule.

18. MONITORING

- 18.1 The Accountable Body may monitor the performance of the Services by the Prime Contractor.
- 18.2 The Prime Contractor shall co-operate, and shall procure that its Sub-Contractors co-operate, with the Accountable Body in carrying out the monitoring referred to in clause 18.1 at no additional charge to the Accountable Body.
- 18.3 The Prime Contractor shall in so far as it is able at all reasonable times during the period of this Agreement allow the Accountable Body's Authorised Representative and/or such persons as may be reasonably nominated by the Accountable Body's Authorised Representative reasonable access to review the provision of the Services including viewing records and documents directly relating to the care of a Service User ensuring appropriate confidentiality and complying with the Data Protection Legislation.
- 18.4 This clause 18.4 shall apply where stipulated in the Contract Particulars. On each anniversary of the Commencement Date (or prior to the end of each Programme Year), the Accountable Body shall be entitled to carry out a review of the Agreement and of the Accountable Body's requirements for the Services. As a result of the review, the Accountable Body shall (in its discretion) be entitled to:
- (a) affirm that the Agreement shall continue in accordance with its terms;
 - (b) reduce the Term;
 - (c) exercise the option to terminate the Agreement in accordance with clause 31 (Termination on notice);
 - (d) require a reduction in the volume or scope of the Services (which shall take effect as a variation in accordance with clause 19 (Change control, benchmarking and continuous improvement)) in return for a reduction in the Charges; or
 - (e) require a reduction in the Charges, where there has been a reduction in the Accountable Body's budget for the provision of the Services in return for a proportionate reduction in the volume or scope of the services.
- 18.5 Where clause 18.4 applies, the Accountable Body shall notify the Prime Contractor in writing of the results of the annual review and the Prime Contractor shall take all necessary steps to implement the review within four (4) weeks of receiving such notice (or such other reasonable period as may be specified by the Accountable Body).

19. CHANGE CONTROL, BENCHMARKING AND CONTINUOUS IMPROVEMENT

- 19.1 Any requirement for a Change shall be subject to the Change Control Procedure at Schedule 4.
- 19.2 The Prime Contractor shall have an ongoing obligation throughout the Term to identify new or potential improvements to the Services. As part of this obligation the Prime Contractor shall identify and report to the Accountable Body's Representative quarterly in the first Contract Year and once every six (6) months for the remainder of the Term on:
- (a) the emergence of new and evolving relevant technologies which could improve the Services;
 - (b) new or potential improvements to the Services including the quality, responsiveness, procedures, benchmarking methods, 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 Accountable Body which might result in efficiency or productivity gains or in reduction of operational risk; and
 - (d) changes in ways of working that would enable the Services to be delivered at lower costs and/or at greater benefits to the Accountable Body.
- 19.3 Any potential Changes highlighted as a result of the Prime Contractor's reporting in accordance with clause 19.2 shall be addressed by the parties using the Change Control Procedure.

20. DISPUTE RESOLUTION

- 20.1 Either party may call an extraordinary meeting of the parties by service of not less than five (5) days' written notice and each party agrees to procure that its Authorised Representative together with any other member of Key Personnel requested to attend by the Accountable Body (if any) shall attend all extraordinary meetings called in accordance with this clause.
- 20.2 The members of the relevant meeting shall attempt in good faith to resolve disputes arising out of this Agreement. If any dispute referred to a meeting is not resolved at that meeting then either party, by notice in writing to the other (a **Dispute Notice**), may refer the dispute to senior officers of the parties who shall co-operate in good faith to resolve the dispute as amicably as possible within fourteen (14) days of service of the Dispute Notice.
- 20.3 If the senior officers fail to resolve the dispute in the allotted time, then the Dispute Resolution Procedure shall be deemed exhausted and the parties will attempt to settle the dispute by mediation in accordance with the CEDR Model Mediation Procedure.

- 20.4 Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (**ADR notice**) to the other party to the Dispute, requesting mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than ten (10) Working Days after the appointment of the mediator.
- 20.5 Recourse to this Dispute Resolution Procedure shall be binding on the parties as to submission to the mediation but not as to its outcome.
- 20.6 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute at a future date. Accordingly, all negotiations connected with the dispute shall be conducted in strict confidence and without prejudice to the rights of the parties in any future legal proceedings.
- 20.7 If, with the assistance of the mediator, the parties reach a settlement, such settlement shall be reduced to writing and, once signed by the duly Authorised Representative of each of the parties, shall become binding on the parties. Failing agreement, either of the Parties may invite the mediator to provide a non-binding but informative written opinion. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Agreement without the prior written consent of both Parties.
- 20.8 The parties shall bear their own legal costs of this Dispute Resolution Procedure, but the costs and expenses of mediation shall be borne by the parties equally unless the mediator otherwise directs.

21. SUB-CONTRACTING AND ASSIGNMENT

- 21.1 Subject to clause 21.3, neither party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Agreement without the prior written consent of the other party, neither may the Prime Contractor sub-contract the whole or any part of its obligations under this Agreement except with the express prior written consent of the Accountable Body, such consent not to be unreasonably withheld.
- 21.2 In the event that the Prime Contractor enters into any Sub-Contract in connection with this Agreement it shall:
- (a) remain responsible to the Accountable Body for the performance of its obligations under the Agreement notwithstanding the appointment of any Sub-Contractor and be responsible for the acts, omissions and neglects of its Sub-Contractors;

- (b) impose obligations on its Sub-Contractors in the same terms as those imposed on it pursuant to this Agreement and shall procure that the Sub-Contractor complies with such terms; and
- (c) provide a copy, at no charge to the Accountable Body, of any such Sub-Contract on receipt of a request for such by the Accountable Body's Authorised Representative.

21.3 The Accountable Body shall be entitled to novate the Agreement to any other body which substantially performs any of the functions that previously had been performed by the Accountable Body or any contracting authority as defined in the Procurement Act 2023.

21.4 Any change in the legal status of the Accountable Body such that it ceases to be a contracting authority as defined in the Procurement Act 2023 shall not affect the validity of the Agreement. In such circumstances, the Agreement shall bind and inure to the benefit of any successor body to the Accountable Body.

21.5 Provided that the Accountable Body has given prior written consent, the Prime Contractor shall be entitled to novate the Agreement where:

- (a) the specific change in Prime Contractor was provided for in the procurement process for the award of this Agreement; or
- (b) there has been a universal or partial succession into the position of the Prime Contractor, following a corporate restructuring, including takeover, merger, acquisition or insolvency, by another economic operator that meets the criteria for qualitative selection applied in the procurement process for the award of this Agreement.

LIABILITY

22. INDEMNITIES

The Prime Contractor shall indemnify and hold harmless and keep indemnified the Accountable Body against all actions, damages, actions, judgments, proceedings, costs, sums, claims, demands, liabilities, losses, expenses and any other liabilities whatsoever howsoever caused, whether arising in tort (including negligence) default or breach of this Agreement, to the full extent of that amount to the extent that any such loss or claim is due to the breach of contract, negligence, wilful default or fraud of itself or of its employees or of any of its representatives or Sub-Contractors save to the extent that the same is directly caused by or directly arises from the negligence, breach of this Agreement or applicable Law by the Accountable Body or its representatives (excluding any Prime Contractor's Personnel).

23. LIMITATION OF LIABILITY

- 23.1 Subject to clause 23.5, neither party shall be liable to the other party (as far as permitted by Law) for indirect special or consequential loss or damage in connection with the Agreement which shall include, without limitation, any loss of or damage to profit, revenue, contracts, anticipated savings, goodwill or business opportunities whether direct or indirect.
- 23.2 Each party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the relevant party is entitled to bring a claim against the other party pursuant to this Agreement.
- 23.3 not used.
- 23.4 Subject to clause 23.5, the Prime Contractor's total aggregate liability is unlimited in respect of:
- (a) the indemnities given by the Prime Contractor in:
 - (i) clause 22 (Indemnities);
 - (ii) clause 29.2 (Intellectual Property);
 - (iii) Schedule 6 (TUPE);
 - (b) any wilful default under this Agreement; and
 - (c) any breach of clause 33 (Prevention of bribery and prohibited acts).
- 23.5 Notwithstanding any other provision of this Agreement neither party limits or excludes its liability for:
- (a) fraud or fraudulent misrepresentation;
 - (b) death or personal injury caused by its negligence;
 - (c) breach of any obligation as to title implied by statute; or
 - (d) any other act or omission, liability for which may not be limited under any applicable Law.
- 23.6 Subject to clause 23.4 and 23.5 the parties' liability under this Agreement shall be limited to the amount stated in the Contract Particulars.

24. INSURANCE

- 24.1 The Prime Contractor shall at its own cost effect and maintain with a reputable insurance company a policy or policies of insurance providing as a minimum the levels of cover stated in the Contract Particulars for:
- (a) public liability insurance;
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- (b) employer's liability insurance in accordance with any legal requirement for the time being in force in relation to any one claim or series of claims;
- (c) professional indemnity insurance and shall ensure that all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain appropriate cover; and
- (d) cyber risks.

(the **Required Insurances**) in respect of all risks which may be incurred by the Prime Contractor, arising out of the Prime Contractor's performance of the Agreement, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Prime Contractor.

- 24.2 The Prime Contractor shall give the Accountable Body, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the Required Insurances are in place, together with receipts or other evidence of payment of the latest premiums due under those policies. The Accountable Body will request copies of relevant insurance certificates prior to Commencement and after the date of annual renewal of policies thereafter.
- 24.3 If, for whatever reason, the Prime Contractor fails to give effect to and maintain the Required Insurances, the Accountable Body may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Prime Contractor.
- 24.4 The terms of any insurance or the amount of cover shall not relieve the Prime Contractor of any liabilities under the Agreement.
- 24.5 The Prime Contractor shall hold and maintain the Required Insurances for a minimum of six (6) years following the expiration or earlier termination of the Agreement or such other period as is detailed in the Contract Particulars.

INFORMATION

25. FREEDOM OF INFORMATION

- 25.1 The Prime Contractor acknowledges that the Accountable Body is subject to the requirements of the FOIA and the EIRs and shall assist and co-operate with the Accountable Body (at the Prime Contractor's expense) to enable the Accountable Body to comply with these information disclosure requirements.
- 25.2 The Prime Contractor shall and shall procure that its Sub-Contractors shall:

- (a) transfer the Request for Information to the Accountable Body as soon as practicable after receipt and in any event within two (2) Working Days of receiving a Request for Information;
- (b) provide the Accountable Body with a copy of all Information in its possession or power in the form that the Accountable Body requires within five (5) Working Days (or such other period as the Accountable Body may reasonably specify) of the Accountable Body requesting that Information; and
- (c) provide all necessary assistance as reasonably requested by the Accountable Body to enable the Accountable Body to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIRs.

25.3 The Accountable Body shall be responsible for determining at its absolute discretion whether the Commercially Sensitive Information and/or any other Information:

- (a) is exempt from disclosure in accordance with the provisions of the FOIA or the EIRs; and/or
- (b) is to be disclosed in response to a Request for Information.

25.4 In no event shall the Prime Contractor respond directly to a Request for Information unless expressly authorised to do so by the Accountable Body.

25.5 The Prime Contractor acknowledges that the Accountable Body may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Prime Contractor. The Accountable Body shall take reasonable steps to notify the Prime 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 Agreement) the Accountable Body 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/or the EIRs. The Prime Contractor shall ensure that all Information produced in the course of the Agreement or relating to the Agreement is retained for disclosure and shall permit the Accountable Body to inspect such records as requested from time to time.

25.6 The Prime Contractor acknowledges that any lists or Schedules provided by it outlining Commercially Sensitive Information are of indicative value only and that the Accountable Body may nevertheless be obliged to disclose Confidential Information in accordance with clause 25.5.